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1993 Minnesota 'Spring Swing'

INSURANCE PROFESSIONALS HANDBOOK

Reference for June 1993 Continuing Education Seminar

MINNESOTA DEPARTMENT OF COMMERCE

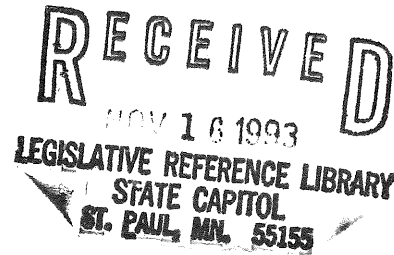
COMMISSIONER BERT J. MCKASY

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Bert J. McKasy
Commissioner of Commerce



June 1993



Dear insurance professional,

Welcome to our "Spring Swing" seminar. Commerce Department staff and I have planned this seminar to provide practical, timely information to licensed insurance professionals such as you.

We will discuss legislation passed during the 1993 session of the Minnesota Legislature, and we will provide you with background on pertinent issues. This booklet is intended as a reference to the topics covered during the seminar.

Finally, this seminar is a way for you to ask questions directly of Commerce Department staff, and for us to benefit by listening to comments from you. I welcome any comments or suggestions you have.

Sincerely yours,

A handwritten signature in black ink that reads "Bert J. McKasy".

Bert J. McKasy
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
133 East Seventh Street, St. Paul, Minnesota 55101

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TABLE OF CONTENTS

	<u>Page</u>
I. Overview of Minnesota Commerce Department	1
A. Background	2
B. Three Divisions	2
1. Enforcement, Licensing and Unclaimed Property	2
2. Insurance and Registration	3
3. Financial Examinations/Banking	5
II. Insurance Regulation: Enforcement Issues	6
A. Life	7
1. Accelerated Benefit Policies	7
2. Charitable Beneficiaries	9
3. Insurable Interest of Corporations	10
4. Speculation in the Life Insurance Market	10
B. Health	12
1. Insurance Alternatives	12
a. Individual Self-insurance	12
b. Group Self-Insurance	12
c. Third Party Administrators	13
d. Health Maintenance Organizations	14
e. Preferred Provider Organizations	14
f. Risk Retention Act	15
g. Integrated Services Networks	16
2. ERISA/MEWA/MET	17
a. Regulation	17
b. Employee Welfare Benefit Plan	17
c. MEWA	20
d. MET	22
3. Medicare Supplement - 1991 Law Changes	23
C. Auto	26
1. Premium Quotes	26
2. Accidental Prevention Course Premium Reduction	26
3. Rental Vehicle Coverage	27
4. Discrimination in Accepting Risks	28

TABLE OF CONTENTS

	<u>Page</u>
D. Homeowners	31
1. Redlining	31
2. Actual Cash Value/Valued Policy	33
3. Insuring to Value/Overinsurance	35
4. Dog Bites/Cancellation	36
E. Claims Practice	36
1. Scope of Provisions	37
2. Prohibited Methods of Obtaining Information	37
3. Notice of Information Practices	38
4. Authorization Forms	38
5. Disclosure of Personal Information	39
F. 1993 Legislative Update	40
G. Statistics	41
III. Insurance Licensing Information	42
A. Licensing Unit	43
B. Licensing Requirements	43
C. Important Points for Insurance Licensees	43
D. Licensing Fees	45
E. License Application Information	45
F. Managing General Agents	47
G. Reinsurance Intermediaries	48
H. Limited Liability Company	48
I. Other Information	49
<i>Exhibits</i>	
Exhibit A - Commerce Licensing Statistical Information	50
Exhibit B-1 - Insurance Renewal Billing	51
Exhibit B-2 - Insurance Continuing Education Summary Report Form	52
Exhibit C - Insurance Agent License Application	54
Exhibit D - Insurance Agent Company Appointment	56
Exhibit E - Insurance Fees Effective 11-1-92	57
Exhibit F - Insurance Agency License Application	58
Exhibit G - Managing General Agent License Application	60

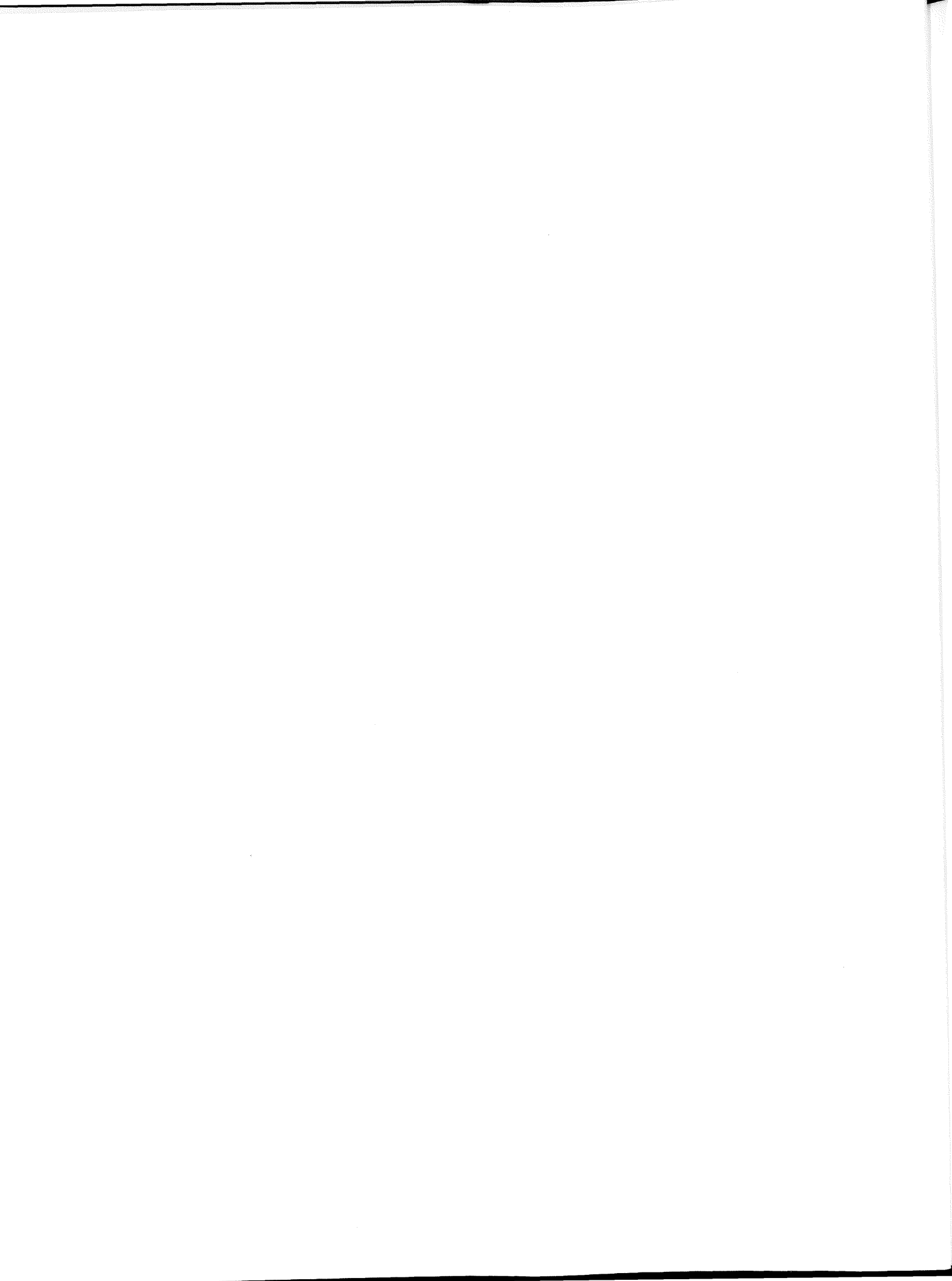


TABLE OF CONTENTS

	<u>Page</u>
IV. Agent Conduct and Responsibility	62
A. Introduction	63
B. Professional Responsibility	63
1. Response to Department Communications	63
2. Testimony and/or the Production of Documents	63
3. Mandatory Complaint Records	63
4. Activity Not Involving the License	64
C. Marketing and Sales Conduct	64
1. Identification	64
2. Misrepresentation of Governmental Affiliation	65
3. Fees for Service	65
4. Suitability	65
5. Privacy of Clients	65
6. Agency Relationships	66
7. Binding Authority	66
8. Medicare Supplement/Long-Term Care Sales	66
9. Rebates Prohibited	67
10. Improper Business Practices	67
11. Advertising	67
12. Insurance in Connection With Loans	68
13. Delivery and/or Removal of Policies	68
14. Duties of Supervising Agents	69
D. Financial Responsibilities	70
1. Receipt of Client Funds	70
2. Handling of Premiums	70
3. Refund Requests	71
4. Loans from Clients	71
E. Claims Handling	72
1. Notification of Claim	72
2. Statements of a Minor	73
F. Surplus Lines	73
1. Surplus Lines Disclosure	73
2. Additional Charges and Fees	74

TABLE OF CONTENTS

	<u>Page</u>
V. Workers' Compensation Assigned Risk Plan	75
A. Introduction	76
B. Administration of the Plan	76
C. Underwriting/Eligibility	77
D. Rates	78
E. Legislative Reform	78
<i>Exhibit A</i> - Assigned Risk Plan Application for Workers' Compensation Insurance	80
VI. Insurance Solvency	84
A. Introduction	85
B. Federal Regulatory Developments	85
C. State Regulatory Developments	88
D. 1993 Accreditation/Solvency Legislation	88
E. Developments in the MN Commerce Department's Exam Procedure	89
1. CAMEL Analysis	89
2. Risk-Adjusted Capital (RA)	90
3. Qualitative Analysis	91
4. Further Review and Taking Actions	91
F. Guaranty Association Developments	94
1. Guaranty Associations	94
2. Property and Casualty	94
3. Life and Health	96
4. 1993 Guaranty Fund Legislation	97
G. Other Legislation	98
VII. Policy Analysis	99
A. Introduction	100
B. Self-Insurance and Third Party Administrators	100
C. Auto Insurance Applications	101
D. MinnesotaCare	101
E. Medicare Supplement	108
F. Minnesota Comprehensive Health Association	112
<i>Exhibits</i>	
Exhibit A - Policy Analysis Files Closed	113

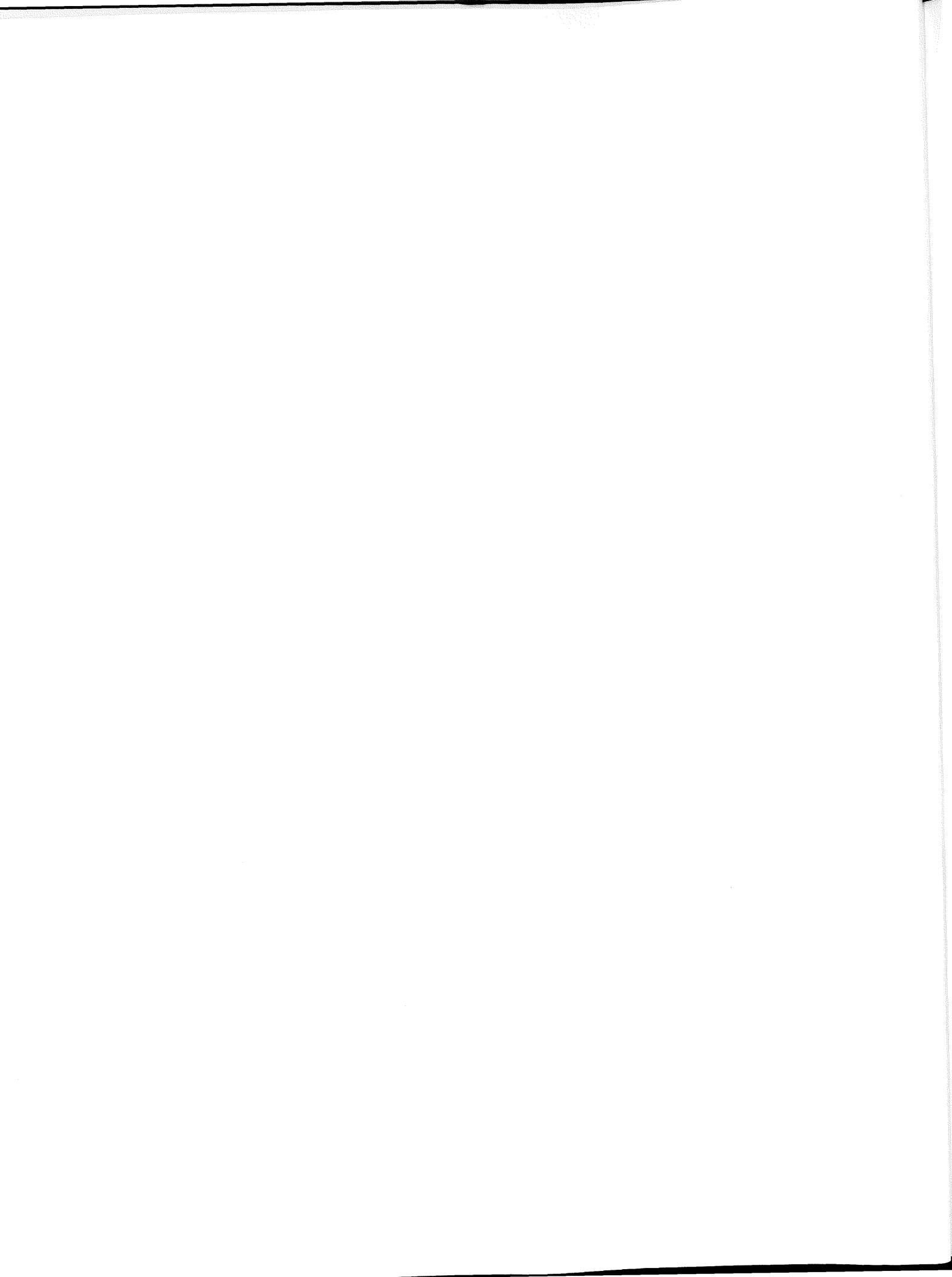
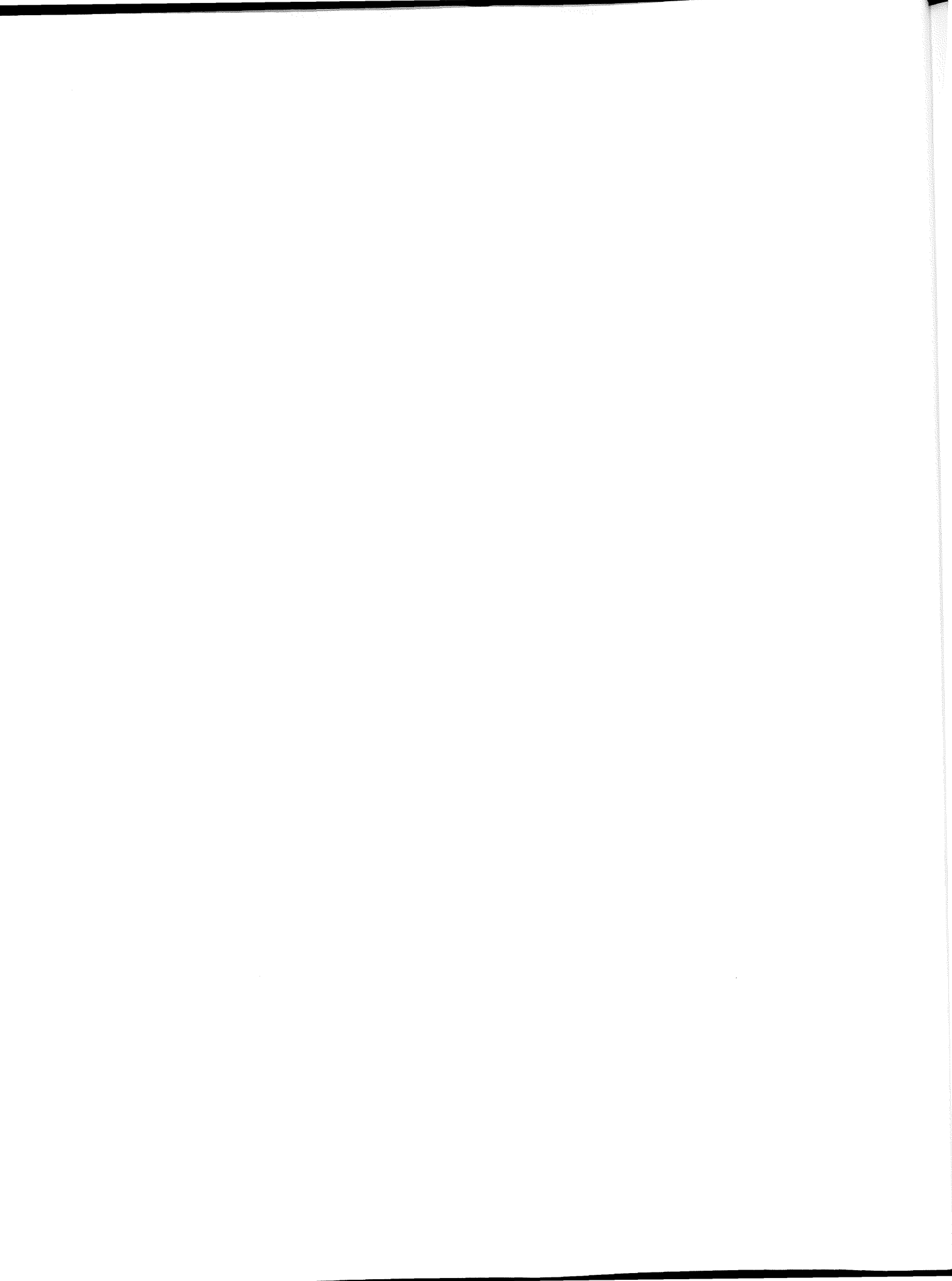


TABLE OF CONTENTS

	<u>Page</u>
Exhibit B - Workers Compensation & No-Fault Self-Insurance Activity	114
Exhibit C - Companies Participating in Small Employer Market . . .	115
Exhibit D - Minnesota Comprehensive Health Association (MCHA) Application	116
Exhibit E - MCHA Premium Rates	122
Exhibit F - MCHA Medicare Supplement Rates	123
 SEMINAR EVALUATION	 124
 QUESTION SHEET	 125



I. Overview of Minnesota Department of Commerce

A. Background

Bert J. McKasy has served as Commissioner since January 1991. The Department of Commerce regulates Minnesota's financial institutions and various business industries including the industries of banking, insurance, securities and real estate and residential building contractors. The principal mission of the Commerce Department is to:

- Enforce state laws and safeguard consumers' rights and investments;
- Resolve conflicts between consumers and industry; and
- Enhance the stability and strength of the financial and other regulated industries.

In 1983, the Minnesota Legislature merged the Banking, Insurance, Securities and Real Estate Departments into a single agency now known as the Department of Commerce. This merger was done to consolidate and better coordinate overlapping regulatory functions.

The Department is self-funding. Its costs are recouped by charging fees for licenses, charters and registrations, and by billing companies for regulatory activities.

B. The Department's three divisions

1. Division of Enforcement, Licensing and Unclaimed Property

Gary A. LaVasseur, Deputy Commissioner. This Division fields calls from the public, investigates complaints against licensees.

Additionally, the Division's Unclaimed Property Section administers the Uniform Disposition of the Unclaimed Property Act.

- a) Each year, the Enforcement Section responds to approximately 60,000 inquiries and complaints. Some complaints are resolved by Division staff within a short time. However, approximately 9,100

complaints per year are referred to enforcement personnel for formal investigation. Investigations typically have resulted in recoveries exceeding \$5 million per year on behalf of consumers. These have included recoveries for insurance complaints and real estate fraud. The commissioner may take enforcement actions, such as issuing cease and desist orders and revoking or suspending licenses, in cases where regulations or rules have been violated. The Enforcement Section can be reached at (612) 296-2488.

b) The Licensing Section licenses insurance adjusters, agents and agencies; real estate appraisers, salespersons, brokers and companies; campground salespersons; notaries; cosmetology operators, manicurists, estheticians, salons, schools and instructors; residential building contractors; debt collectors and agencies; check-cashing firms; industrial loan and thrifts; insurance premium finance companies; motor vehicle sales finance companies, and regulated lenders. In most cases, certain standards of education and professional conduct must be achieved to receive and maintain a license. For licensing information, call (612) 296-6319.

c) The Unclaimed Property Section attempts to locate owners of unclaimed personal property each year. Each spring a newspaper advertising program is conducted in which the names of owners of unclaimed property is listed. Notices are also sent to owners last known address on record. All businesses, insurance companies and financial institutions doing business in Minnesota are required to submit a report listing the names of owners, addresses, types and amounts of property they are holding. Nearly \$45 million worth of property has been returned to Minnesota residents since the program's inception in 1969. The total accumulation of property remaining unclaimed is \$55.2 million. For information, write the Department or call (612) 296-2568.

2. Division of Insurance and Registration

Patrick L. Nelson, Deputy Commissioner. This Division examines the financial condition of companies licensed to sell life policies, health policies, homeowner's policies, auto policies, annuities, pension

investment contracts, retirement accounts and other insurance products in Minnesota. Field examiners visit insurance companies to conduct on-site review of financial and operations records. Analysts study the data to evaluate the financial status of the companies. When appropriate, the commissioner may authorize additional investigations or take administrative action to protect policyholders.

The Division also licenses insurance companies to conduct business in Minnesota. Approximately 1530 insurance companies are licensed. Minnesota is the primary regulator for 214 insurance companies holding assets totaling \$53.6 billion: 61 property/casualty companies, 26 life/health companies, 115 township mutuals, 8 fraternal and 4 non-profits. The Division also monitors approximately 1,309 companies domiciled in other states. For information call (612) 297-5756.

a) The Policy Form Analysis Section approves applications and policy forms that insurance companies use for products sold in Minnesota. No changes may be made to existing forms nor shall new forms be used by an insurer without prior approval. Changes in rates charged also require approval. For information, call (612) 296-3588.

b) The Registration Section reviews registration applications for common stock, limited partnerships, investment company securities, preferred stock, bonds and other debt securities, corporate takeovers, subdivided land and camping memberships, franchises, and combined charitable state campaigns. Applications must meet disclosure requirements and "merit review" standards intended to protect consumers. All securities offered or sold in Minnesota must either be registered or exempted from registration by statute. Interpretive legal opinions may be requested. Call (612) 296-2284.

c) The Petrofund Section provides staff assistance to the Petroleum Tank Release Compensation Board. Reimbursements are made for the cost of cleaning up spills and leaks from tanks containing petroleum products. The Petrofund is funded by assessments on the petroleum industry. Over \$72 million for 2,000 claims have been reimbursed since

Department Overview

the Petrofund was created in 1987. For information, call (612) 297-1119.

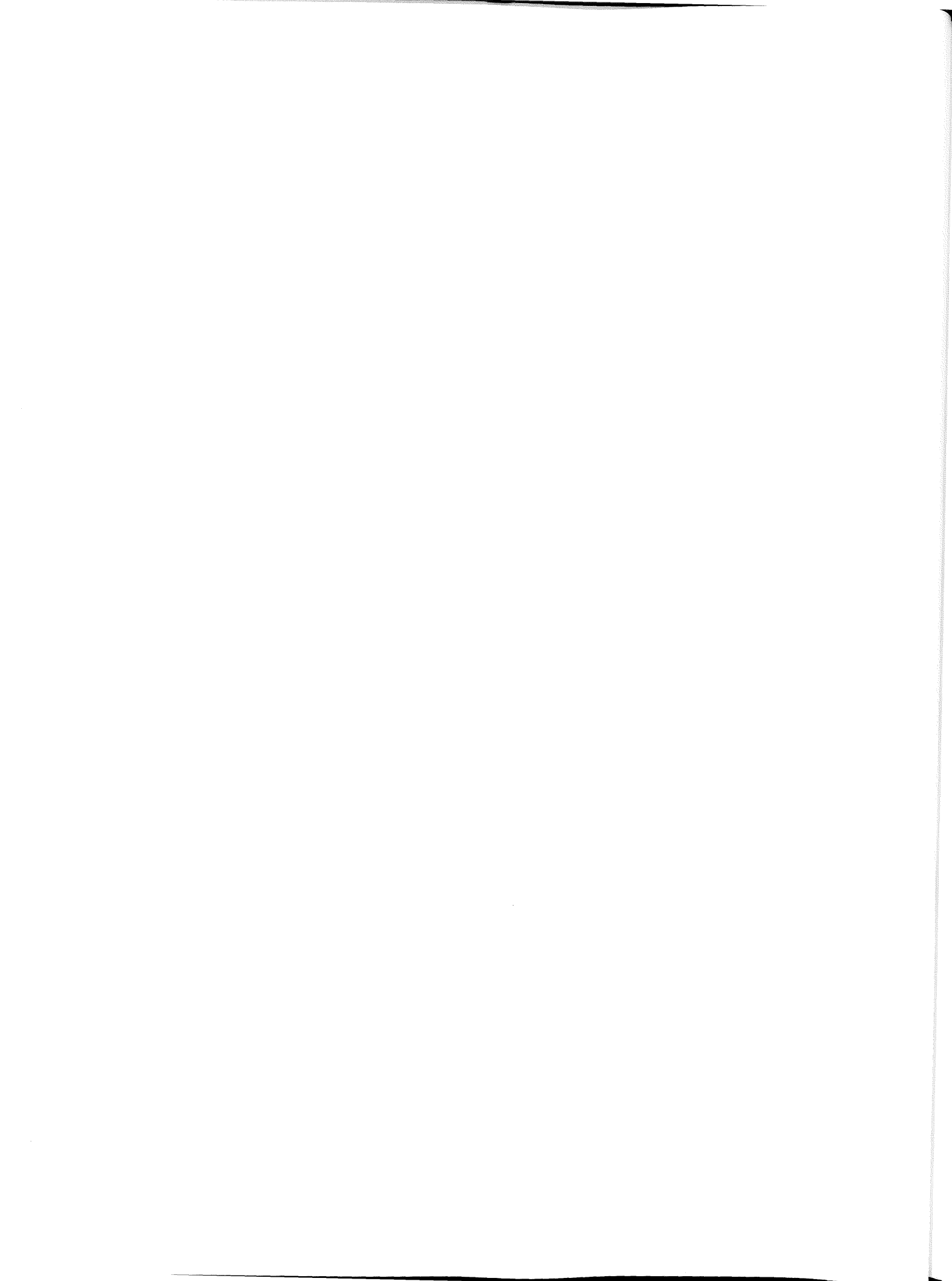
d) The Self-Insurance and Third-Party Administrator Section regulates self-insureds for workers' compensation and No-Fault insurance coverages. This section also licenses Third-Party Administrators and registers employee leasing companies. For information regarding self-insurance call (612) 297-2853. For information on Third-Party Administrators call (612) 296-8592.

3. Division of Financial Examinations for Banking, Credit Unions and Consumer Credit

James G. Miller, Deputy Commissioner. This Division examines state-chartered banks, credit unions and other financial institutions including state commercial banks, detached banking facilities, credit unions, electronic financial terminals, electronic funds transfer companies, deposit-taking industrial loan and thrifts, trust companies, trust service offices, investment certificate companies, savings and loans and savings banks, (although none are currently chartered) debt prorate companies, and safe deposit companies. The Division charters and licenses more than 1,000 financial institutions and financial business operations regulated under Minnesota statutes. The statutes specify the requirements for organizing, operating and regulating financial institutions.

Each institution's financial books and operations records are examined on-site by teams of examiners stationed throughout Minnesota. Additional staff analysis provides the commissioner with up-to-date evaluations on the financial condition of each institution and guidance in taking regulatory action to protect consumers. The Division is one of 25 states accredited as a bank supervisory agency by the Conference of State Bank Supervisors whose membership is the banking commissioners for all 50 states. For information call (612) 296-2135.

II. Insurance Regulation: Enforcement Issues



A. Life Insurance

The Minnesota Legislature has vested the Department of Commerce with the duty to ensure the financial integrity of life insurance companies, to license insurance companies and agents, to regulate the offer and sale of life insurance products to Minnesota residents, and to enforce the Minnesota fair trade practices laws as they pertain to the insurance industry. Although the Department spends considerable time examining policies to be marketed in Minnesota and reviewing the financial condition of life insurance carriers doing business in Minnesota, a significant percentage of staff resources are involved in responding to consumer complaints about life insurance policies. The following discussion is intended to highlight new legislation that has been passed in this area.

1. 61A.072 Accelerated Benefit Policies

Subdivision 1. Disclosure. A life insurance contract or supplemental contract that contains a provision to permit the accelerated payment of benefits as authorized under section 60A.06, subdivision 1, clause (4), must contain the following disclosure: "This is a life insurance policy which pays accelerated death benefits at your option under conditions specified in the policy. This policy is not a long-term care policy meeting the requirement of sections 62A.46 to 62A.56."

Subd. 2. Advertisements. Any advertisement related to a contract or supplemental contract providing for the payment of accelerated benefits must be approved by the commissioner prior to its use. The commissioner shall not approve the advertisement if it is likely to lead a prospective purchaser to believe that it is a long-term care policy.

Subd. 3. Prohibition. (a) No contract or supplemental contract providing for the payment of accelerated benefits may be offered or sold to an individual over the age of 65 years.

(b) This prohibition does not apply to a supplemental contract offered for no additional cost if the offer is made not less than one year after the

effective date of the contract being supplemented. Further, when the original contract is offered or sold, no mention may be made of the availability of the supplemental contract. A supplemental contract offered under this paragraph must meet all other applicable requirements of this section. Violation of the terms of this paragraph is an unfair trade practice of the business of insurance and subjects the violator to the penalties provided by sections 72A.17 to 72A.32 in addition to any other penalty provided by law.

Subd. 4. Long-term care expenses. If the right to receive accelerated benefits is contingent upon the insured receiving long-term care services, the contract or supplemental contract shall include the following provisions:

(1) the minimum accelerated benefit shall be \$1,200 per month if the insured is receiving nursing facility services and \$750 per month if the insured is receiving home services with a minimum lifetime benefit limit of \$50,000;

(2) coverage is effective immediately and benefits shall commence with the receipt of services as defined in section 62A.46, subdivision 3, 4, or 5, but may include a waiting period of not more than 90 days, provided that no more than one waiting period may be required per benefit period as defined in section 62A.46, subdivision 11;

(3) premium shall be waived during any period in which benefits are being paid to the insured during confinement to a nursing home facility;

(4) coverage may not be canceled or renewal refused except on the grounds of nonpayment of premium;

(5) coverage must include preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage.

(6) the contract or supplemental contract shall contain the following disclosure:

"THE ACCELERATED LIFE INSURANCE BENEFITS PROVIDED UNDER THIS CONTRACT MAY NOT COVER ALL NURSING HOME, HOME CARE, OR ADULT DAY CARE EXPENSES. BENEFITS ARE NOT PAYABLE UPON RECEIPT OF RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE YOUR BENEFIT AMOUNT.";

(7) coverage must include mental or nervous disorder which have a demonstrable organic cause such as Alzheimer's and related dementias;

(8) no prior hospitalization requirement shall be allowed unless a similar requirement is allowed by section 62A.48, subdivision 1; and

(9) the contract shall include a cancellation provision that meets the requirements of section 62A.50, subdivision 2.

2. 61A.073 Charitable Beneficiaries

Subdivision 1. Charitable beneficiary or owner permitted. Subject to the terms of the policy, an organization described in section 179(c) of the Internal Revenue Code of 1986, as amended through December 31, 1991, shall have an insurable interest in the life of an individual insured under a life insurance policy, if the organization:

(1) has become the beneficiary or owner of a previously issued policy insuring the life of the individual; or

(2) is the original beneficiary or original owner of a newly issued policy insuring the life of the individual, if the individual signs the application or consents in writing to the issuance of the policy.

Subd. 2. Applicability. This section applies to life insurance policies issued by life companies and fraternal benefit societies.

3. 61A.074 Insurable Interest of Corporations

Subdivision 1. Corporation or trustee. A corporation or the trustee of a trust providing life, health, disability, retirement, or similar benefits to employees of one or more corporations, and acting in a fiduciary capacity with respect to the employees, retire employees, or their dependents or beneficiaries, has an insurable interest in the lives of dependents or beneficiaries, has an insurable interest in the lives of employees for whom the benefits are to be provided. The written consent of the insured is required if the insurance purchase under this subdivision is payable to the corporation or to the trustee.

Subd. 2. Other insurable interests. Subdivision 1 does not limit the right of a corporation or trustee to insure the life of an individual that is otherwise insurable under common law or any statute. This section shall not be interpreted as in any way modifying the common law doctrine of insurable interest, except as expressly provided in subdivision 1.

Note should be taken that 1993 legislation will add annuities to these sections as well as most other sections where life products are defined.

4. Speculation in the Life Insurance Market

Speculation in the life insurance policies (in particular policies held by individuals with AIDS) appears to be the new "hot" investment scheme.

A bulletin issued by NASSA (North American Securities Administrators Association, Inc.) states:

... it is one fraught with serious pitfalls for unwary investors blinded by glib promises of quick, sky-high profits supposedly involving little or no risk. For example, two suspect firms promised "**BIG BUCKS**" and a "**return that is better than 20 percent annually**" to investors willing to "cash out" at a discount the life insurance policy of a person with AIDS in exchange for being named as the sole beneficiary for the full value of the policy. State securities regulators caution that such

investment opportunities should be registered as securities and, even then, may only be appropriate for sophisticated investors willing to risk the loss of all the capital.

The AIDS crisis has spurred the rise in recent years of "living benefits" and "viatical settlement" programs allowing terminally ill patients (most of whom are people with AIDS) to obtain a portion of their life insurance benefits while still living. A legitimate "viatical settlement" company will buy the life insurance policy directly from an insured person with AIDS at a discount that is typically 33 percent of the face value of the policy. For example, a company may pay \$66,000 on a policy with \$100,000 in return, the company is named by the insurer as the sole beneficiary. Upon the death of the insured, the "viatical settlement" firm recovers its initial cash-out payment (\$66,000) and the balance (\$34,000) of the full value of the policy.

"Viatical settlement" firms usually are financed through the support of wealthy backers, institutional investors, bank loans, limited partnership offering, or, in the case of one company, a public stock offering. Legitimate firms rely on their own internal financial resources in order to finance their settlements with persons who have AIDS. Not so a "new breed" of suspect promoters encouraging investors to engage in direct speculation in the life insurance policies of people with AIDS or other terminal illnesses. Rather than risk their own capital, promoters of these schemes encourage an investor to select a terminally ill individual and then "cash out" his or her policy directly. Under this scheme, the full value of the policy supposedly flows directly to the investor, rather than to an insurance company or "viatical settlement" company.

The Department issued a press release on this subject which stated in part that selling investments in life policies is deemed to be a security in Minnesota which must be registered with the Commerce Department. Registering the investment would impose a variety of consumer protections. Some firms marketing these investments in other states fail to tell investors important details. They do not warn about the

Insurance Regulation: Enforcement Issues

consequences of failing to continue premium payments on policies. They misrepresent the unpredictability of the lifespan of the AIDS victims carrying the original policies. They don't tell about tax liabilities, and there is no information about the financial condition of the firm selling the investment,"

This Department, as well as other regulatory agencies on both the state and federal levels, stand ready to take an aggressive stand on ensuring compliance with all regulations pertaining to such investments.

B. HEALTH

1. Insurance Alternatives

The Employee Retirement Income Security Act (ERISA) was enacted in 1974 as a comprehensive federal statute to establish minimum standard for private employee benefit plans.

a. Individual Self-Insurance

A single or individual employer who sets up a benefit plan for his/her employees only, must submit an application to the U.S. Department of Labor. States are strictly prohibited from regulating such plans.

b. Group Self-Insurance

A group of employers may set up a benefit plan to provide benefits to their employees. Such plans are called Multiple Employer Trusts (METs). A MET is regulated by the U.S. Department of Labor and may be regulated by the state in which they are organized. Minnesota regulates such trusts to ensure their solvency and that the benefits they provide are consistent with Minnesota statutes.

Applicants must submit applications, \$1,000 fee, and:

1. Must purchase specific excess coverage with a retention limit between \$25,000 - \$50,000;
2. Must purchase aggregate excess coverage with a retention limit equal to 100% of premiums to be collected;
3. Must purchase a surety bond which requires the surety to pay claims in the event the trust becomes insolvent or otherwise fails to fulfill its responsibilities;
4. Must purchase a fidelity bond to cover persons handling trust funds;
5. Must submit annual certified financial statements and actuarial opinions of outstanding liabilities.

c. Third Party Administrators

Any entity that acts as a vendor of risk management services or who administers, for compensation, a self-insurance or insurance plan must be licensed as a third party administrator (TPA). TPA's are subject to the Minnesota Claim Settlement Act and the Unfair Trade Practices Act.

Applicants must submit application, \$100 application fee; and:

1. Must submit financial information, applicant for renewal license must submit a certified financial statement;
2. Must submit proof of fidelity bond coverage;
3. Must submit proof of workers' compensation coverage for all employees in Minnesota;

4. Must have Minnesota resident agent authorized to act on behalf of the TPA;
5. If TPA plans to handle workers' compensation claims, it must have on staff a licensed adjuster and a claims supervisor with at least three years in adjusting workers' compensation claims.

d. Health Maintenance Organizations (HMOs)

The Health Maintenance Act was enacted in 1973. Faced with the continuation of mounting health care costs, coupled with its inaccessibility to large segments of the population, the legislature determined that there was a need to explore alternative methods for the delivery of health care services, with a view toward achieving greater efficiency and economy in providing these services.

A "health maintenance organization" is a non-profit corporation which provides, either directly or through arrangements with providers or other persons, comprehensive health maintenance services, or arranges for the provision of these services to enrollees for a fee. An HMO is required to provide minimum benefits to its enrollees as stated in Minnesota Statute 62D. HMOs are regulated by the Department of Health, although the Department does assist in their financial review.

e. Preferred Provider Organizations

A preferred provider organization (PPO) is an affiliation of independent providers organized to administer health care services on a negotiated, predetermined fee-for-service basis, often at a discounted rate. A PPO typically institutes cost control measures such as a pre-admission screening, utilization review, and patient care standards. Subscribers are given incentives to use the designated providers.

f. Risk Retention Act

The Federal Liability Risk Retention Act of 1986 allows for formation and operation of risk retention groups and purchasing groups. The Risk Retention Act gives trade associations, professional societies and groups of non-profit organizations the ability to establish national group insurance programs to provide insurance for themselves that may not be available in commercial insurance markets. Minnesota passed its own law in conjunction with the federal act[Minn. Stat. 60E(1992)].

1. Risk Retention Group

A group of persons engaged in similar businesses or activities who establish a special association captive insurance company. The risk retention group then provides liability insurance to their members who have similar needs as a result of their being in similar businesses. A risk retention group must be chartered and licensed as a liability insurance company under the laws of at least one state.

A risk retention group is **not** protected by a State's guaranty fund if it is not licensed in that state.

2. Purchasing Group

A group of persons who wish to purchase insurance on a group basis may form a purchasing group. The purchasing group need not be licensed as an insurance company. A purchasing group must obtain their insurance from an insurance company. However, the insurance company need not be admitted in the state in which the purchasing group is located. Purchasing groups are exempt from state mandated coverages, rates or policy forms. The purchasing group must register with the Insurance Commissioner of each state in which members of the group reside or are being solicited.

A purchasing group may be established by an organization's board passing a resolution authorizing its officers to make arrangements to purchase liability insurance on a group basis.

g. Integrated Service Networks (ISN)

As part of the recent MinnesotaCare legislation (formerly known as Healthright) the Minnesota Health Care Commission was created to plan and effect certain strategies in controlling the spiraling costs of health care. One of the recommendations currently being considered by the Legislature involves the formation of Integrated Service Networks (ISN).

ISNs will be responsible for providing the full array of health care services (from routine primary and preventive care to acute, inpatient hospital care) for a fixed price for the purchaser. This will create incentives for the participating providers and health plans to become more efficient. The formation of ISNs will be voluntary. Providers will not be required by the state to participate in ISNs. The Commissioner of Health will enforce spending growth limits by an overall limit on each ISN, and an all-payer system for non ISN services, in which multiple payers and health plans use a single payment system.

ISNs will compete with each other to provide better quality services at lower prices. Competition will be stimulated by making better information available on the price and quality of each ISN so that consumers and purchasers can more easily compare services and benefits. Purchasing pools will give small groups more clout in the marketplace.

It is expected that consumer education and incentives will empower and motivate consumers to make informed, wise choices about buying and using health care services and to adopt healthy lifestyles that will reduce health care costs. A resource center will be developed to act as a clearinghouse for information on health

Insurance Regulation: Enforcement Issues

care costs and quality and provide technical assistance for consumers, providers, health plans, and employers and other purchasers.

2. ERISA/MEWA/MET

a. Regulation of Self-Insured Employee/Employer Health and Welfare Benefit Plans:

It is a common belief that entities which self-insure health benefits for their employees are subject only to federal regulation and would be exempt from any state insurance laws. While this may be true of a single employer who elects to self-insure health or dental benefits for its employees, state insurance laws may very well apply to multiple employer/employee groups who participate in self-insured health plans.

The first step in deciding whether a self-insured health benefits plan can be regulated by the state is to determine its status under the Employee Retirement Income Security Act (ERISA). Passed by Congress in 1974, ERISA was intended to provide a federal regulatory framework for specifically defined employee welfare benefits plans. To the extent that an employee welfare benefit plan is not clearly and completely exempt from state regulation by ERISA, the plan would be subject to all applicable state insurance laws. In addition, some plans, such as certain multiple employer welfare arrangements (MEWAs) defined under ERISA at 29 U.S.C. §1002 (40) (a), may be subject to both federal and state regulation.

b. Employee Welfare Benefit Plan

The definition of an ERISA employee welfare benefit plan is clear. The plan must: (1) provide health or other benefits specified in ERISA at 29 U.S.C. §1002(1); and (2) be "established or maintained" by an employer or by an employee organization, or both 29 U.S.C. §1003(a).

1. Established or maintained by an employer.

ERISA defines an "employer" as any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity. [29 U.S.C. §1002(5)]. Federal case law establishes that to qualify as a plan established or maintained by an employer it must be the employers and not individual employees who are members of the plan.

Employer control is a key element in determining whether a trust will qualify as a plan established or maintained by an employer or employer group. United States Department of Labor (DOL) Opinions state that to qualify as a plan established or maintained by a group or association of employers, the employer group must have authority to make decisions regarding the plan on behalf of its employer members [DOL Op. No. 84-41A (October 26, 1984)]. Generally, health benefits plans which are open to anyone in a particular trade or profession, and which are not controlled by employer members, are not regarded as plans established or maintained by a group or association of employers.

2. Established or maintained by an employee organization.

In addition to a plan established by an "employer," the term employee welfare benefit plan also includes plans established by certain employee organizations. ERISA defines an "employee organization" as:

Any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with benefit plan, or other matters incidental to employment

relationships; or any employees' beneficiary association organized for the purpose in whole or in part, of establishing such a plan.(emphasis added)

The United States Department of Labor has made the following statements regarding the definition of an employees' beneficiary association:

- (a) The definition of employees' beneficiary association is not the same under ERISA as the definition of employees' beneficiary association under 501(c)(9) of the Internal Revenue Code. DOL Op. No. 83-22A (May 9, 1993); and
- (b) The Department of Labor will apply the definition of employees' beneficiary association developed under the Welfare and Pension Plans Disclosure Act (WPPDA) which preceded and was repealed by ERISA. The definition sets forth the following four criteria for qualification as an employees' beneficiary association.
 - (1) membership is limited to employees of a certain employer or members of one union;
 - (2) the association has a formal organization, with offices, by-laws, or other indications of formality;
 - (3) the association generally does not deal with an employer; and
 - (4) the association is organized for the purpose, in whole or in part, of establishing a welfare or pension plan;

The Department of Labor has repeatedly stated that where membership in a plan is not conditioned upon one's employment

status, but is open to both employers and employees, the plan is not established or maintained by an employees' beneficiary association. Consequently such plans would not meet with ERISA criteria for an employee welfare benefit plan and would not be exempt from state regulation.

c. Multiple Employer Welfare Arrangement (MEWA):

The concept of a "multiple employer welfare arrangement" (MEWA) was added to ERISA in 1983. It is an important concept because health benefit plans that qualify as MEWAs can be regulated by the state.

The term "multiple employer welfare arrangement" is defined in ERISA at 29 U.S.C. §1002 (40)(a) as:

"an employee welfare benefit plan, or any other arrangement (other than an employee welfare benefit plan), which is established or maintained for the purpose of offering or providing any [welfare] benefit ... to the employees of two or more employers (including one or more self-employed individuals) ..."

The United States Department of Labor has interpreted this provision very broadly. Basically, any plan that is offered to employees of two or more employers qualifies as a MEWA. It does not matter whether the employers are connected to the plan in any way. See DOL Op. to Mr. Stephen E. Lehman (March 16, 1988).

There are essentially three categories of MEWAs for purposes of state regulation. The first two categories include MEWAs that qualify as employee welfare benefit plans under title 1 of ERISA. The third category of MEWAs is composed of plans that are not ERISA employee welfare benefit plans, but do satisfy the definition of a MEWA. The three categories are as follows:

1. Fully-insured MEWAs which qualify as employee welfare benefit plans. These are subject to state insurance laws regarding maintenance of specified levels of reserves and specified levels of contributions. 29 U.S.C. §1144 (b)(6)(A)(i).
2. MEWAs which are not fully insured and are employee welfare benefit plans. These are subject to all states insurance laws which are not inconsistent with title 1 of ERISA. 29 U.S.C. §1144(b)(6)(A)(ii).
3. MEWAs which are not employee welfare benefit plans. There is no statutory provision describing the extent of permissible state regulation of these plans. However, based on the DOL opinions discussed below, it is clear that a state can regulate those MEWAs under any applicable state insurance laws.

Department of Labor opinions have established that a plan which is not an ERISA employee welfare benefit plan can be a MEWA.

There are no provisions in ERISA providing for regulation of a MEWA that is not also an employee welfare benefit plan. Since insurance regulation has traditionally been a matter of state law, the federal government has no authority to preempt state insurance law unless a federal statute gives it that authority. ERISA does not give the federal government authority to regulate MEWAs that are not also employee welfare benefit plans. Therefore, the state can regulate these MEWAs.

To summarize, if a plan were an ERISA plan, its status as a MEWA would mean that it could be regulated by the state provided the regulation did not conflict with ERISA. If it is not an ERISA plan, the federal government has no authority to regulate it and the state may regulate it.

There is one exception to the state's unrestricted authority to regulate a plan that is not an ERISA plan but is a MEWA. If an

employer subscribes to a plan as an employer and then offers the plan to his own employees, the Department of Labor might view that small plan covering the employer and his employees as an ERISA plan. See, Donovan v. Dillingham, 688 F.2d 13678, 1374-75 (11th Cir. 1982).

Federal courts have consistently recognized that the state can regulate health benefit programs that are not ERISA plans under any appropriate state regulation, including state regulations regarding insurance companies. See Wisconsin Education Association, 804 F.2d 1059 (8th Cir. 1986).

d. Joint Self-Insured Employee Health Plans (METs):

Under Minnesota law, a plan entered into by three or more employers (who are authorized to transact business in Minnesota) for the purpose of self-insuring their employee health, dental or short-term disability benefits (commonly referred to as multiple employer trust or "MET") would be regulated under Minn. Stat. Ch. 62H(1992). Such joint plans must have a minimum of 250 covered employees. Joint plans covering employers not resident in Minnesota, but who employ Minnesota residents must meet the requirements of Minn. Stat. Ch. 62A as if the portion of the plan covering Minnesota resident employees was treated as a separate plan.

Probably the most important regulatory issues addressed by Chapter 62H are:

- 1) The requirement for runoff insurance.
- 2) The requirement for aggregate and individual stop loss insurance.
- 3) The requirement that plan trustees file annual reports identifying the plan's financial condition, itemization of collection records, and details of all fund expenditure.

Insurance Regulation: Enforcement Issues

- 4) Requirement that the plans comply with the mandated benefit requirements identified in Minn. Stat. §§ 62A and 62E.
- 5) Requirement that the plans comply with the claim settlement regulations identified in Minn. Stat. §72A.17 and §72A.32.

Finally, if a health benefit plan is not exempt from state regulation under ERISA, and would not constitute a multiple employer trust under Minn. Stat. Ch. 62H, it would necessarily be regulated under Minn. Stat. Ch. 60A. et. seq.

3. MEDICARE SUPPLEMENT

New regulations that went into effect July 30, 1992, in nearly all states, U.S. territories, and the District of Columbia generally limit the number of different Medicare Supplement policies that can be sold in any of these jurisdictions to no more than 10 standard benefit plans. Waivers were granted to Minnesota, Massachusetts, and Wisconsin because they already had their own standardization programs for Medigap insurance.

- a. Effective November 5, 1991 both federal and state laws require the following changes on Medicare policies issued after November 5th.

1. Medicare Open Enrollment

Once a person enrolls in Medicare Part B, no insurance company can place a pre-existing condition limitation or insurability requirements on the new Medicare Supplement. In other words the insurance company must issue that individual a Medicare Supplement policy.

A person has six months after they enroll in Part B of Medicare to take advantage of this new law. After the six months period the insurance company can place limitations on the policy or refuse to insure that individual.

Medicare Supplement policies issued prior to November 5, 1992 might not cover an existing illness or injury, during the first six months of the policy; or the insurance company would not be required to offer an individual a Medicare Supplement policy if that individual were sick or injured.

2. New Rules on Changing Medicare Supplement Policies

If a person decides to change Medicare Supplement policies, the new policy shall waive any period of time for pre-existing conditions that were satisfied under the old policy. If they were fully covered under the first Medicare Supplement policy, they will have full coverage under the new policy.

However, the new insurance company may underwrite the new replacement policy. **Thus, the insurance company may choose not to insure a person if they are sick, injured or have a pre-existing condition.**

3. Medicare Policies Cannot Be Canceled

A Medicare Supplement policy or certificate issued after November 5th cannot be canceled or nonrenewed for any reason, other than nonpayment of premium or material misrepresentation. As long as the individual pays the premiums, coverage will continue.

4. Medicare and Medicaid

If a person covered by a Medicare Supplement becomes eligible for Medicaid, the Medicare Supplement may be suspended up to 24 months or until such time that the individual is no longer eligible for Medicaid, at which time the Medicare Supplement may be reinstated without any waiting periods for pre-existing condition limitations.

- b. As part of the recent MinnesotaCare legislation package, Minnesota Statute 62A.31 subd. 1(r) was included to implement community rating for all Medicare Supplement policies.

Community rates are rates that are not based on age or gender. They can be based only on health styles and geographic locations.

Community rates had to be implemented by all insurance companies and HMO's by March 1, 1993. **This will affect all inforce policies and plans and new issues.**

In the metropolitan area (Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, and Washington counties), community rates will have to be fully phased in this year.

In the non-metro, community rates may be phased in a two step process or fully implemented.

The two step process requires each insurer or HMO to first determine their rates, based on Medicare and inflation changes, and then community rate changes are to be calculated. Half of the difference between these two figures can be charged this year, and the remaining amount January 1, 1994.

Community rates are intended to prevent Medicare Supplement rates from increasing, as the seniors become older. Rates in a sense remain level, with the younger seniors pay more in the beginning, but less as they get older.

You should also be aware that Health carriers offering Medicare Supplement policies or plans to Minnesota residents have to make them available to all Minnesota residents, regardless of the individuals age (M.S. 62A.31, subd. 1(h)).

C. AUTO

1. Premium Quotes

- a. The Department is still receiving many complaints regarding inaccurate quotes made by agents. Generally, in these situations, when the insured receives his policy, he discovers that his actual premium is higher than the agent's quote.
- b. Department Response: Under Minn. Stat. Sections 60K.15, 60A.14 and 72A.03 the agent is the agent of the insurer, not of the insured. These statutes, in conjunction with Minnesota Rules part 2790.2100, make the insurer bound by the quote given by its agent.

Of course the insurer would not be held to a quote where the insured did not make full and accurate disclosure of all requested items. However, the complaints that we receive often allege that the agent was given the information and for some reason failed to include it on the application.

2. Accident Prevention Course Premium Reductions

- a. Minn. Stat. Section 65B.38 provides that insurers must give premium reductions of at least ten percent on private passenger automobile insurance to insureds 55 years old or older who have completed an approved accident prevention course. The Department has been asked if the reduction applies to all coverages and if it applies in situations where there are multiple drivers or multiple cars.
- b. Department Response: The statutes require that the reduction must be given on the entire premium. This is meant to include bodily injury, property damage, personal injury protection, comprehensive, collision, uninsured and underinsured coverages.

If the principal driver of the car has completed the course, then the company must give the full 10% reduction on a single car even though there are other household drivers. Where there are multiple cars and multiple drivers, the 10% reduction is available only for those cars principally operated by persons who have completed the course. The Department will continue to address concerns in this area on a case-by-case basis.

3. Rental Vehicle Coverage

a. The Department has received many calls concerning the issue of primacy of coverage for rented vehicles and applicability of the rental coverage provisions for commercial vehicles.

b. Department Response:

Minn. Stat. 65B.49, subd. 5a states in part:

Subd. 5a. Rental vehicles. (a) Every plan of reparation security insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subd. 3, and pickup trucks and vans as defined under section 168.011 must provide that all of the obligation for damage and loss of use to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.011, and rented trucks with a registered gross vehicle weight of 26,000 pounds or less would be covered by the property damage liability portion of the plan. This subdivision does not apply to plans of reparation security covering only motor vehicles registered under section 168.10, subd. 1a, 1b, 1c or 1d, or recreational equipment as defined under section 168.011. The obligation of the plan must not be contingent on fault or negligence. In all cases where the plan's property damage liability coverage is less than **\$35,000**, the coverage available under the subdivision must be **\$35,000**. Other than as described in this paragraph, nothing in this section amends or alters the provisions of the plan of reparation security as to primacy of the coverages in this section.

Minn. Stat. 60A.08, subd. 12 makes the above statute applicable to all commercial automobile liability policies as well.

By the language of this statute if a claim can be made then clearly the insured's policy should pay as outlined in this statute. Where a person (for whatever reason) still decides to accept and pay for the Collision Damage Waiver, the auto rental company should not be making a claim for damages.

This statute also takes precedent over the temporary substitute vehicle language common to most policies in those situations where the loaner is in fact rented and a fee is paid. Coverage for a free loaner remains subject to the existence of comprehensive and collision on the insured's policy.

4. Discrimination in Accepting Risks

Minn. Stat. 72A.20, subd. 23 states in part:

Subd. 23. Discrimination in automobile insurance policies. (a) No insurer that offers an automobile insurance policy in this state shall:

- (1) use the employment status of the applicant as an underwriting standard or guideline; or
- (2) use the applicant's status as a tenant, as the term is defined in section 566.18, subdivision 2, as an underwriting standard or guideline; or
 - (a) make any discrimination in offering or establishing rates, premiums, dividends, or benefits of any kind, or by way of rebate, for the same reason.
- (3) use the failure of the applicant to have an automobile policy in force during any period of time before the application is made as an underwriting standard or guideline;

This provision does not apply if the applicant was required by law to maintain automobile insurance coverage and failed to do so.

An insurer may require reasonable proof that the applicant did not fail to maintain this coverage. The insurer is not required to accept the mere lack of a conviction or citation for failure to maintain this coverage as proof of failure to maintain coverage.

Text of (4) effective January 1, 1993

- (4) No insurer that offers an automobile policy in this state shall use an applicant's prior claims for benefits paid under section 65B.44 as an underwriting standard or guideline if the applicant was 50 percent or less negligent in the accident or accidents causing the claims.

Since automobile insurance is a legal requirement which must be met before one can register or operate a motor vehicle, unfair discrimination in underwriting is particularly abhorrent and in direct violation of public policy.

Unfair discrimination occurs when a policy is declined because of race, color, creed, national origin, compensated physical handicap, marital status, or other factor not clearly related to the risk.

Examples of illegal discrimination in auto underwriting include:

- (1) not writing in a particular neighborhood;
- (2) requiring supporting (non-auto) insurance with the company before application;
- (3) requiring full-time employment and/or several years at the same employer before application;
- (4) requiring off-street parking (or garage) before application;

- (5) writing only people with homeowners insurance;
- (6) not writing welfare clients; and
- (7) refusing to write and/or bind coverage for someone who did not and was not required to have prior coverage.

Examples of legal activity in underwriting auto insurance could include declining risks with:

- (1) history of serious moving violations;
- (2) no current drivers license or conviction of driving on suspended/revoked license;
- (3) drivers license suspension, revocation, or probation;
- (4) history of driving while intoxicated (DWI) or drug abuse;
- (5) high performance (hot rod/racer) autos;
- (6) cancellation in the year prior;
- (7) payment problems documented; and
- (8) less than 2 years' driving experience.

While the preceding lists are not exhaustive, they reflect the types of underwriting standards you as agents may be asked to enforce. It is important to understand the differences between legal underwriting and illegal discrimination. If you are asked to engage in what you feel to be illegal discrimination, you are encouraged to bring this matter to the Department's attention. In such instances, you need not identify yourself. The complaint and supporting information can be sent to the Department anonymously.

It is important to note that companies often charge different rates where loss experience justifies the difference. These factors could not legally be used as a criteria in an underwriting declination. For example, charging a higher rate in an urban area than a rural area or charging a higher rate for insureds who don't have on street parking may be appropriate. Rejecting applicants because they live in an urban area or because they cannot afford off street parking would be an example of illegal discrimination.

The Department recognizes the importance of consistent and fair underwriting, but will take aggressive action against unfair discrimination.

D. HOMEOWNERS

1. Redlining

Minn. Stat. 72A.20, subd. 13 and 14 state:

Subd. 13. Refusal to renew. Refusing to renew, declining to offer or write, or charging differential rates for an equivalent amount of homeowner's insurance coverage, as defined by section 65A.27, for property located in a town or statutory or home rule charter city, in which the insurer offers to sell or writes homeowner's insurance solely because:

- a) of the geographic area in which the property is located;
- b) of the age of the primary structure sought to be insured;
- c) the insured or prospective insured was denied coverage of the property by another insurer, whether by cancellation, nonrenewal or declination to offer coverage, for a reason other than those specified in section 65A.01, subd. 3a, clauses (a) to (e); or

- d) the property of the insured or prospective insured has been insured under the Minnesota FAIR Plan Act, shall constitute an unfair method of competition and an unfair and deceptive act or practice.

This subdivision shall not prohibit the insurer from applying underwriting or rating standards which the insurer applies generally in all other locations in the state and which are not specifically prohibited by clauses (a) to (d). Such underwriting or rating standards shall specifically include but not be limited to standards based upon the proximity of the insured property to an extraordinary hazard or based upon the quality or availability of fire protection services or based upon the density or concentration of the insurer's risks. Clause (b) shall not prohibit the use of rating standards based upon the age of the insured structure's plumbing, electrical, heating or cooling system or other part of the structure, the age of which affects the risk of loss. Any insurer's failure to comply with section 65A.29, subdivisions 2 to 4, either (1) by failing to give an insured or applicant the required notice or statement or (2) by failing to state specifically a bona fide underwriting or other reason for the refusal to write shall create a presumption that the insurer has violated this subdivision.

Subd. 14. Application form refusal. An insurance agent refusing to supply a requested application form for homeowner's insurance with any insurer whom the agent represents or refusing to transmit forthwith any completed application form to the insurer, shall constitute an unfair method of competition and an unfair and deceptive act or practice.

The issue of redlining has been the focus of much attention of the media, state and federal legislators as well as certain grass roots organizations (such as the Association of Community Organizations for Reform Now (ACORN)).

ACORN conducted a study of this issue and released its results in February, 1992. That study prompted further reviews by many individual states and in fact hearings were recently held in Washington,

D.C. (March, 1993) regarding possible federal legislation to monitor, control and correct redlining problems.

Our Department has also begun a review of the issues raised by the ACORN study and the federal hearing. A number of the concerns raised have been reviewed by this Department on a individual basis pursuant to reports filed by the industry in compliance with Minn. Stat. 65A.28. This statute requires homeowner insurers to report each May 1st all metropolitan area cancellations/nonrenewals and declinations by zip code. These reports are kept on file and are open to the public for inspection.

2. Actual Cash Value/Valued Policy

a. Homeowners and the Valued Policy Law

1. The Department has received several inquiries from agents and insureds asking if an insured is entitled to the full policy limits shown on the declaration page of their policy if their home is totally destroyed. This question is more frequent in economically depressed areas of the state because "market values" are often less than "policy limits" because of the depressed economy.
2. Department Response: Minnesota has a valued policy law which is found at Minn. Stat. § 65A.08, subd. 2. It states that:

"In the absence of any change increasing the risk, without the consent of the insurer, of which the burden of proof shall be upon it, and in the absence of intentional fraud on the part of the insured, the insurer shall pay the whole amount mentioned in the policy or renewal upon which it receives a premium, in the case of a total loss, and in the case of a partial loss, the full amount thereof."

Thus, in a case where a house is insured for \$150,000 but has an actual market value of \$100,000 at the time it is totally destroyed, the insurer would have to pay over the full \$150,000. The only exception to this requirement would occur if the insured had a replacement policy. In that case, **the insurer** could choose to replace the property. This option is seldom if ever elected in total loss situations because history has shown that it usually ends up in expenses exceeding the policy limits.

The issue has also arisen as to whether the Valued Policy law applies to mobile/manufactured homes. In most cases, these building/structures tend to depreciate in value as compared to the expected appreciation of a regular home. As many of these homes are written on auto or inland marine type policies (which traditionally use Actual Cash Value (ACV) in any loss settlement), confusion exists as to the applicability of Minn. Stat. 65A.08, subd. 2 and 65A.01.

Minn. Stat. 65A.06 address this issue as follows:

Insurance on automobiles, motorcycles, other vehicles, on property insured by ocean marine policies as defined by section 70A.03, clause (3), against loss or damage by fire, when combined in one policy with insurance against one or more of the hazards mentioned in section 60A.06, subd. 1, clause (1), need not be in accordance with section 65A.01, **(but in no event shall this section be applicable to insurance on buildings or structures)**. (Emphasis added).

While the Department will continue to review this issue, until such time as a court or other regulatory body clearly states that a mobile/manufactured home is not a building or structure, the Department will operate under the premise that the Valued Policy law is applicable to mobile/manufactured homes regardless the form said policy is issued on.

Insurance Regulation: Enforcement Issues

3. Insuring to Value/Overinsurance

a. Overinsuring and Underinsuring

1. The Department is still frequently asked what insureds should do is they feel their property is over or underinsured.
2. Department Response: Minn. Stat. § 65A.09 provides that, "No company shall knowingly issue any policy upon property in this state for an amount which, together with any existing insurance thereon, exceeds the fair value of the property. Any company willfully insuring property for more than its real value shall forfeit to the state, for the benefit of the school fund, double the premium collected on the policy." Therefore, if an insured feels his property is insured for more than the replacement value of the buildings, he should ask the company to decrease the amount of insurance. It may be necessary to do an appraisal to show that the property is overinsured.

Similarly, if the insured feels that his property is underinsured, he should ask the company to increase the coverage. This would be rate and it should be easy to correct through the agent of the company.

b. Limits on Lenders Insurance Requirements

1. The Department receives numerous calls from agents and insureds asking whether mortgage lenders can require a borrower to insure his property for more than the replacement cost of the structures. It is not unusual for land costs to represent 20% or more of the total cost of a new home. Obviously if the house is destroyed the land would still be there. Therefore, the homeowner is often asked to insure his property for more than he/she is actually at risk of losing.

2. Department Response: Minn. Stat. § 72A.31, subd. 1(4) prohibits a lender from requiring insurance coverage which exceeds the replacement cost of the buildings on the mortgaged premises.

4. Dog Bites/Cancellations

The Department has continued to field questions and concerns regarding dog bites and their effect on the possible cancellation/nonrenewal of the insured's policy. This is of particular concern due in large part to the fact that more and more citizens are purchasing dogs as an affordable method of security in these ever increasing violent times (especially in the inner city neighborhoods). It is ironic that steps taken by insureds to lessen the risk of breakins, theft, etc., often come back to haunt them as companies more and more frequently attempt to decline, cancel or nonrenew policies based upon breed of dog, a simple bite (provoked or not), or citing a material change in the risk where a female dog has delivered puppies.

The Department will continue to monitor these situations on a case-by-case basis. We are, however, requiring all companies to provide actual documentation to support any such decisions to decline or cancel/nonrenew policies under these sets of circumstances.

E. CLAIMS PRACTICES

In 1989 Minnesota passed what is known as the Minnesota Insurance Fair Information Reporting Act [Minn Stat 72A.49 - .505(1992)] which sets out certain rights for the consumer as to when, how and why certain personal information can be collected about that individual and outlines certain obligations as to the dissemination and use of that information by the individuals and/or entities requesting such information.

The Department would like to highlight certain portions of the Act and we strongly encourage you to take the time to review the entire Act.

1. Scope of provisions - Minn. Stat. §72A.494

Subdivision 1. Covered policies. The obligations imposed by sections 72A.49 to 72A.505 apply to insurers, insurance agents, and insurance-support organizations that:

- a. collect, receive, or maintain information in connection with insurance transactions that pertains to persons who are residents of this state; or
- b. engage in insurance transactions with applicants, individuals, or policyholders who are residents of this state.

Subdivision 2. Covered persons. The rights granted by sections 72A.49 to 72A.505 extend to:

- a. a person who is a resident of this state and is the subject of information collected, received, or maintained in connection with an insurance transaction; and
- b. a person who is a resident of this state and engaged in or seeks to engage in insurance transaction.

2. Prohibited methods of obtaining information - Minn. Stat. § 72A.493

An insurer, insurance agent, or insurance-support organization must not obtain information or authorize person to obtain information in connection with an insurance transaction by:

- a. pretending to be someone he or she is not;
- b. pretending to represent a person he or she is not in fact representing;
- c. misrepresenting the true purpose of the interview; or
- d. refusing to identify himself or herself upon request.

3. Notice of information practices - Minn. Stat. §72A.494

Subdivision 1. Required. Each insurer or insurance agent shall provide a notice relating to information practices to each applicant or policyholder in the manner and at the time required by this section.

Subd. 3. Timing. (a) In case of an application for insurance coverage, the notice must be provided to the applicant or policyholder no later than the time application is made for the coverage, renewal, reinstatement, or change in benefits.

(b) If personal information is to be collected only from the applicant or from public records, the notice may be provided at the time of delivery of the policy or the certificate.

4. § 72A.501 Authorization forms - Minn. Stat. §72A.502

Subd. 1. Requirement; content. An authorization used by an insurer, insurance-support organization, or insurance agent to disclose or collect personal or privileged information must be in writing and must meet the following requirements:

- a. is written in plain language;
- b. is dated;
- c. specifies the nature of the information authorized to be disclosed;
- d. specifies the nature of the information authorized to be disclosed;
- e. names the insurer or insurance agent and identifies by generic reference representatives of the insurer to whom the person is authorizing information to be disclosed;
- f. specifies the purposes for which the information is collected; and

g. specifies the length of time the authorization remains valid.

Subd. 2. Application. (a) If the authorization is signed to collect information in connection with an application for a property and casualty insurance policy, a policy reinstatement, or a request for a change in benefits, the authorization must not remain valid for longer than one year from the date the authorization is signed or the date the insurer grants or denies coverage, reinstatement, or change in benefits, whichever is sooner.

(b) If the authorization is signed to collect information in connection with an application for a life, disability, and health insurance policy or contract, reinstatement, or request for change in benefits, the authorization may not remain valid for longer than 26 months from the date the authorization is signed.

Subd. 3. Claims. If the authorization is signed to collect information in connection with a claim for benefits under an insurance policy, the authorization must not remain for longer than:

- (1) the term of coverage of the policy, if the claim is for a health insurance benefit; or
- (2) the duration of the claim, if the claim is for a claim other than for a health insurance benefit.

5. Disclosure of personal information - Minn. Stat. §72A.502

Subdivision 1. Requirement. An insurer, insurance agent, or insurance-support organization must not disclose any personal or privileged information about a person collected or received in connection with an insurance transaction without the written authorization of that person except as authorized by this section. An insurer, insurance agent, or insurance-support organization must not collect personal information about a policyholder or an applicant not relating to a claim

from sources other than public records without a written authorization from the person.

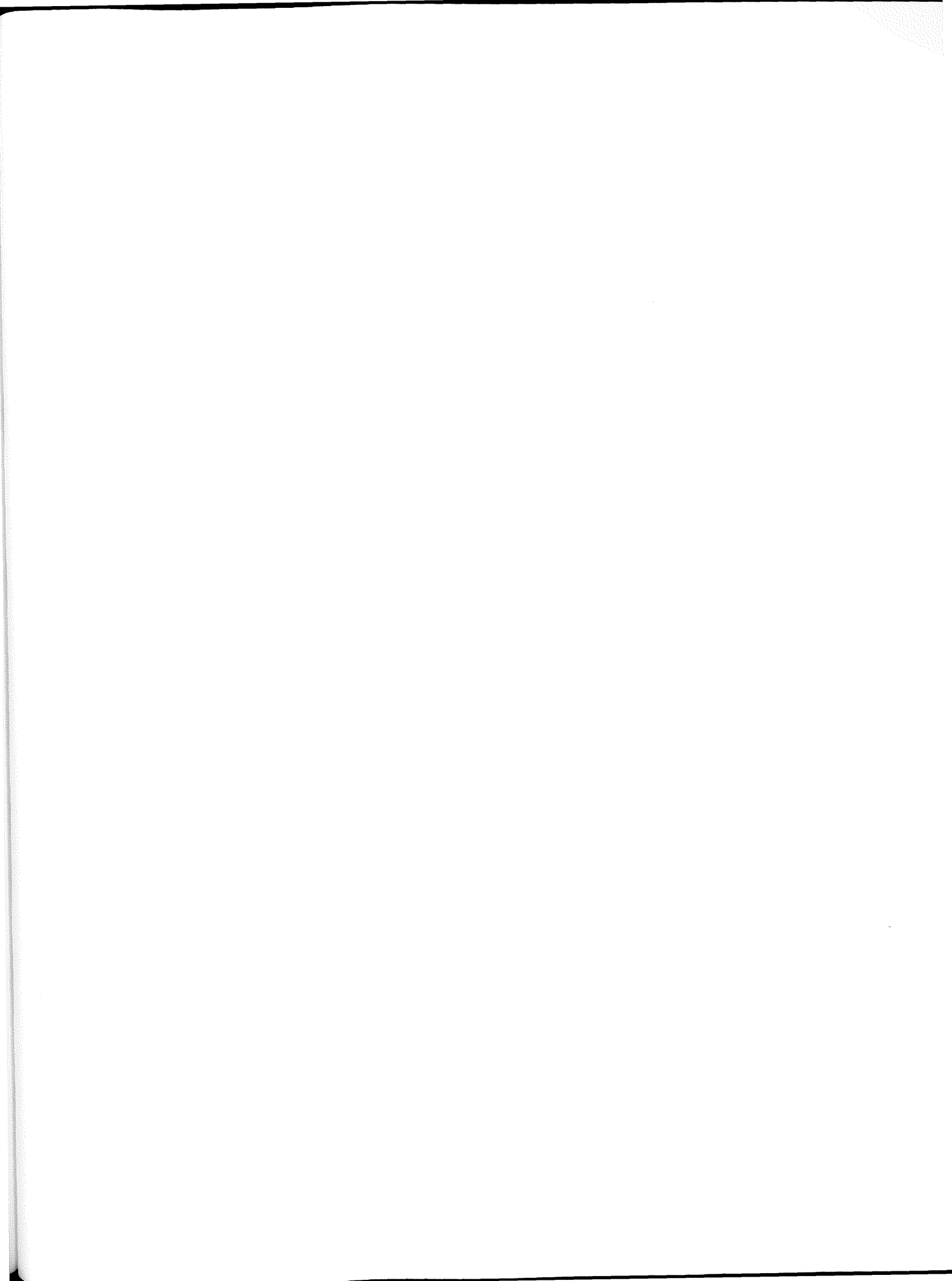
Subd. 4. Regulatory authority. Personal or privileged information may be disclosed without a written authorization to an insurance regulatory authority.

F. 1993 Insurance Legislative Update [*The following amendments to the Minnesota insurance law are anticipated to be passed by the Legislature in the 1993 Session*]

1. **Return of Premium.** This new section of Minnesota Statutes Chapter 59A requires that insurers that return unearned premiums to premium finance companies notify the policyholder, so that the policyholder will know of the possible right to receive part of the refund from the premium finance company.
2. **Cancellation of Group Coverage.** This amendment to Minnesota Statutes Sections 60A.082 further amends 1992 legislation requiring insurers to notify persons covered by group coverage that the group coverage will terminate. This section eliminates the requirement that the insurer annually obtain updated lists of persons covered. This section also provides that requirement does not apply if the group coverage is being replaced by similar coverage.
3. **Suitability of Insurance.** Suitability of insurance for an individual customer is expanded by this section of the 1993 legislation to include all accident and sickness insurance.
4. **Multiple Employer Welfare Arrangements.** This section requires that insurance agents, third-party administrators, and licensed insurers report unlicensed MEWAs to the Commissioner prior to doing business with them. This section is based upon a Model Act of the National Association of Insurance Commissioners.

G. STATISTICAL DATA

	<u>1990</u>	<u>1991</u>	<u>1992</u>
1. NUMBER OF LICENSEES	33,800	33,500	34,700
2. TOTAL NUMBER OF WRITTEN COMPLAINTS	9,973	8,078	9,148
3. TOTAL NUMBER OF PHONE COMPLAINTS	50000 (EST)	55927	60940
4. TOTAL AMOUNT OF MONEY RETURNED TO CONSUMERS AS A RESULT OF DEPARTMENT INTERVENTION	3,728,602	4,128,045	5,038,391
5. TOTAL AMOUNT OF:			
A. FINES	213,850	136,550	424,655
B. OTHER PENALTIES	40,250	22,508	154,050



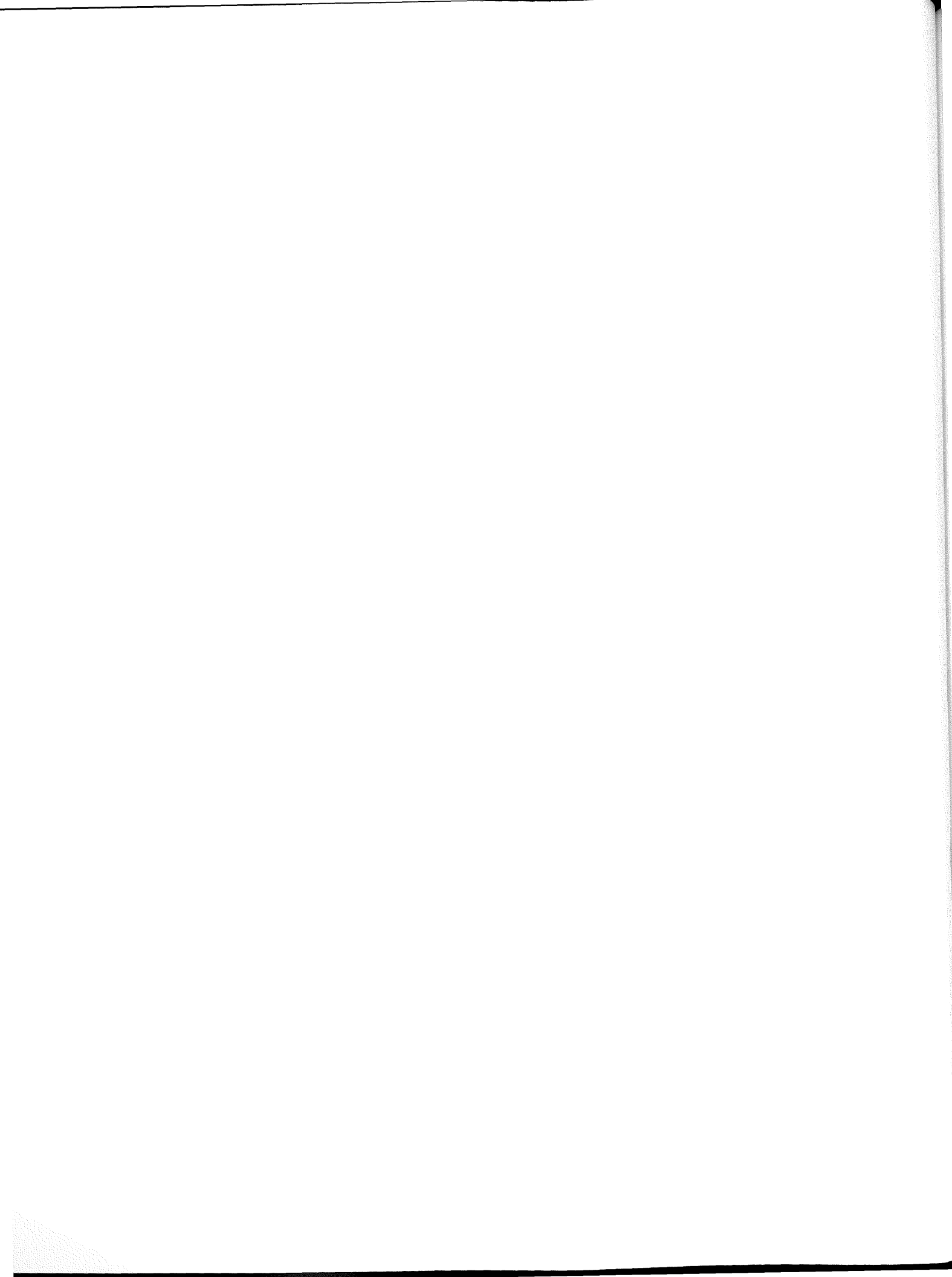
III. Insurance Licensing Information

By

Dennis Poppenhagen
Director of Licensing

and

Sally Reischel
Assistant Director of Licensing
Minnesota Department of Commerce



A. Licensing Unit

The Licensing Unit of the Department of Commerce Enforcement Division processes licensing applications and renewals, and regulates continuing education programs for a number of business industries in Minnesota including insurance (See Exhibit A). Insurance licensing is governed by Minnesota Statutes Chapter 60K (1992) and Minnesota Rules Chapter 2725 (continuing education) and Minnesota Rules Chapter 2795 (insurance agents).

B. Licensing Requirements

Under Minnesota Statute § 60K.02, subd. 1, any person acting or assuming to act as an insurance agent in the solicitation or procurement of applications for insurance or in the sale of insurance or policies of insurance or in any manner aid as an insurance agent in the negotiation of insurance by or with an insurer requires licensure to engage in that conduct in Minnesota.

Minnesota Statute § 60K.14, subd. 3 states in part that no commission or other compensation shall be paid or allowed by any person, firm or corporation to any other person, firm or corporation acting or assuming to act as an insurance agent without a license. However, a duly licensed agent may pay commissions or assign or direct that commissions be paid to a partnership of which the agent is a member, employee or agent, or to a corporation of which the agent is an officer, employee or agent.

C. Important Points for Insurance Licensees

- 1) Timely renewal is October 15. If your completed renewal is not postmarked by October 31, it will be returned for re-application which also requires a company appointment.
- 2) Continuing education of 15 hours must be reported and signed on renewal card. (See Exhibit B-1). The renewal card is important as it

contains a "bar code" which improves our speed and accuracy in addition to your continuing education record.

3) You must sign the renewal or it will be returned causing unnecessary delay and possible lapse of your license.

4) Completed continuing education courses may be reported prior to the renewal period on the Summary Report Form. (See Exhibit B-2).

5) A partnership must file an application for initial licensure which includes a certificate of assumed name. The application fee is \$100.00.

6) A corporation must file an application for initial licensure and a certificate of assumed name if doing business under a name other than the corporate name. The application fee is \$100.00.

D. Licensing Fees

<i>License Type</i>	<i>New</i>	<i>Renewal</i>
Life/Health	\$30.00	\$30.00
Property/Casualty	30.00	30.00
Variable Annuity	50.00	25.00
Travel Baggage	30.00	30.00
Title	30.00	30.00
Farm P & L	30.00	30.00
Bail Bonds	30.00	30.00
Surplus Lines	250.00	250.00
Corporation/ Partnership/ Managing General Agent	100.00	60.00
Duplicates	10.00	-----
Histories/ Certifications	20.00	-----

E. License Application Information

- 1) Current Application Form (See Exhibit C)
 - a. \$30.00 fee per line (\$250.00 for surplus lines).
 - b. Explain any history question(s) marked "yes."
 - c. All questions must be answered.

d. Attach at least one company appointment form with the appointment fee (see "2" below).

e. New applicants must include a certificate of compliance for prelicense education and passing test results.

f. Nonresidents must include certification from their home state (no more than 90 days old at the time of application).

g. Passing test results can be used as a 90-day permit beyond test date if applicant has a valid appointment with a licensed company.

h. Signature must be notarized.

2) Company Appointment Forms (See Exhibit D)

a. Appointment forms must be signed by a company-authorized official.

b. Make sure the NAIC company number is provided.

c. Company Appointment fees are based on Home domicile of Insurance Company, except Kansas which is based on Home Domicile of agent. (See Exhibit E.)

d. Make sure the social security number is provided and correct.

3) Agency Application (See Exhibit F)

a. Required for corporations or partnerships acting as agencies.

b. Available for individual proprietors without charge.

c. Include Assumed Name Filing from the Secretary of State's office (if applicable).

- d. There must be at least one Minnesota licensed agent within the agency. Please provide a list with name and ID No.
 - e. Explain any history questions marked "yes."
 - f. Notarized signature of principal in the agency.
 - g. If a corporation, attach Articles of Incorporation. If a partnership, attach partnership agreement.
 - h. Complete attached Service of Process for agencies located outside of Minnesota.
- 4) Certifications
- a. Make sure fee (\$20.00 each) is correct.
 - b. Provide a self-addressed stamped envelope for prompt return.
 - c. Allow 10 business days processing time.
- F. Managing General Agents (MGA) Minn. Stat. Ch. 60H (1992) (see exhibit G)**
- 1) License must be issued to the contract holder
 - a. Means a person, firm, association or corporation who (1) negotiates and binds ceding reinsurance contracts on behalf of an insurer, or (2) manages all or part of the insurance business of an insurer.
 - b. If an individual, they must first obtain an Insurance Agent's license.
 - c. If a partnership or corporation, they must first obtain an Insurance Agency license.

d. Fee for MGAs is \$100.00 for initial licensure and \$60.00 for renewal.

G. Reinsurance Intermediary MS 60A.70 - 60A.802 (1991)

1) Reinsurance Intermediary Broker Minn. Stat. § 60A.705, Subd. 7 (1992)

a. Means any person who solicits, negotiates or places reinsurance on behalf of an insurer without the authority to bind the insurer.

b. A specific application is required, contact the Department of Commerce Licensing Unit.

c. Fee is \$15.00 for new or renewals.

2) Reinsurance Intermediary Manager, Minn. Stat. § 60A.705, Subd. 8 (1992)

a. Means any person, firm, association or corporation who has authority to bind or manage all or part of the assumed reinsurance business of reinsurer, and acts as an agent for the reinsurer.

b. Same application and fees apply as for Brokers.

H. Limited Liability Company MS 322B (1992)

1) Means a legal entity that falls between a corporation and a partnership. They are set up for tax and liability purposes.

a. Agency application is required.

b. Fees are \$100.00 annually, new or renewal.

I. Other Information

- 1) All licensing forms may be photocopied and may be done on white paper.
- 2) Your comments and questions are welcome.
- 3) Address:
Minnesota Department of Commerce
Licensing Unit
133 East Seventh Street
St. Paul, MN 55101
(612) 296-6319

COMMERCE LICENSING STATISTICAL INFORMATION

Number of licensed professions:	24
Individuals licensed by Department; Active (approximately)	250,000
Insurance Statistics:	
Insurance Agents - Active	36,181
- Inactive	44,152
Insurance Agency - Active	2,929
- Inactive	6,163
Insurance Cos.- Active	1,549
- Inactive	568
Appointments and Terminations in Insurance	619,236
Course Sponsors	829
Education Courses (5,119 are Insurance)	10,990
Phone calls answered daily on the average	600
Phone calls returned daily on average	200

Organizational Structure of Licensing:

- 1 Director
- 1 Assistant
- 1 Secretary
- 1 Receptionist/Public Assistant
- 3 Teams of five persons each

****We are here to help you with your licensing requirements.**

MN DEPT. OF COMMERCE
INSURANCE AGENT RENEWAL
133 East Seventh Street
St. Paul, MN 55101

INSURANCE RENEWAL BILLING

RETURN THIS CARD FOR PROCESSING

** INCREASED FEES REFLECT A 17 MONTH LICENSING PERIOD**

Pre-Sorted
First Class Mail
U.S. POSTAGE
PAID
Permit No. 171
St. Paul, MN

LINES: _____

TOTAL FEES DUE: \$\$ _____

ID#: _____

CE = _____

INSURANCE AGENT RENEWAL BILLING

PLEASE FOLLOW THESE INSTRUCTIONS CAREFULLY TO RENEW YOUR MN INSURANCE AGENT LICENSE. If you have questions, contact the Licensing Unit at (612) 296-6319.

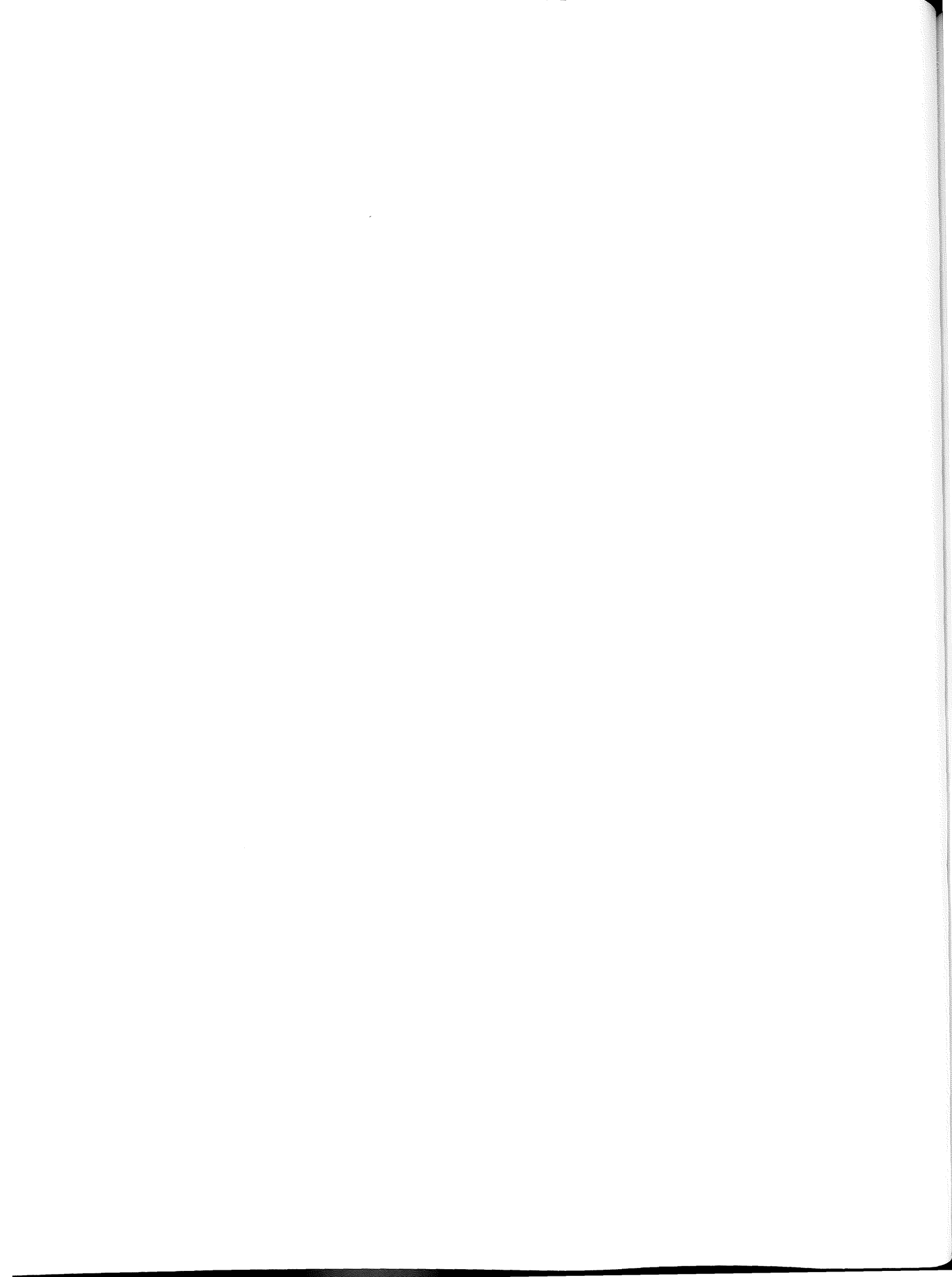
1. THE INCREASED RENEWAL FEE IS REQUIRED TO IMPLEMENT A ONETIME 17 MONTH LICENSE. Upon renewal of this license you will receive a new license which expires 10-31-93, and every 31st thereafter.
2. See the reverse side of this card for your renewal fee and continuing education requirements, "CE."
3. NO CASH ACCEPTED. Make check or money order payable to: DEPT. OF COMMERCE.
4. Make name and/or address changes on the reverse side of this card.
5. RETURN THIS CARD POSTMARKED PRIOR TO MAY 15, 1992 FOR TIMELY RENEWAL EFFECTIVE JUNE 1, 1992. Renewals may be postmarked through May 31, 1992. Attach "INSURANCE AGENT RENEWAL" on your return envelope.
6. If continuing education is due 5-31-92, list completed coursework below, or attach report form.

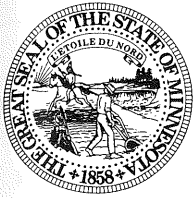
PURSUANT TO MINN. STAT. § 60A.1701, I HEREBY CERTIFY THAT:

I have met the continuing education requirements of Minnesota; OR I qualify as exempt from continuing education; OR I reside in IA, KS, OK, TX, FL, IN or TN and comply with my home state requirement. When audited, I must provide documented proof of compliance. Noncompliance constitutes grounds for revocation, suspension or civil penalty. List completed coursework; attach additional paper if necessary.

DEPT. COURSE NO.	DATE COMPLETED	CREDIT HOURS

X
 Licensee's Signature (Mandatory) _____ Date of Birth _____ Social Sec. Number _____ Date _____





State of Minnesota
 Department of Commerce
 Licensing Unit
 133 East 7th Street
 St. Paul, MN 55101
 (612) 296-6319

INSURANCE CONTINUING EDUCATION SUMMARY REPORT FORM

Check if new address

	License ID #:
Licensee:	SS #:
Address:	Daytime Phone: ()
City, State, Zip:	Courses are being applied toward May 31, 19 ____ requirement.

INSTRUCTIONS: ADDITIONAL INSTRUCTIONS ON REVERSE SIDE OF FORM

1. Licensed insurance agents, resident and nonresident, must comply with continuing education to renew the license. Currently licensed agents must report 15 hours of approved continuing education each year. Licenses which expired with 20 hours due must complete 20 hours of continuing education.
2. Only coursework completed through classroom instruction is acceptable.
3. Company-sponsored or company-affiliated courses may not exceed one-half of the total hours required.
4. The education must be completed between June 1st and May 31st each year.
5. If reporting passing exam results for an approved insurance designation course, a copy of the exam results must be attached.
6. If reporting a course approved for another state's continuing education requirement, see instruction B on the reverse side.
7. Fill in the appropriate box (company sponsored hours or non-company sponsored hours) with the hours for each course you are reporting.
8. Keep a copy of this report form for your records.

LIST ALL COURSEWORK:

DEPARTMENT COURSE NO.	COMPLETION DATE	COURSE TITLE/SPONSORING ENTITY	CO-SPON. HOURS	NON-CO. HOURS
Attach copies of certificates if unable to provide requested information			Sub Totals	
			Total	

CERTIFICATION

I certify that I have completed the course(s) listed above and will furnish to the Department of Commerce, upon request, evidence of having taken any or all of the courses listed on this report. I also certify that I have not reported these course hours on any of my previous reports.

Licensee's Signature _____

Date _____

RETAIN A COPY OF THIS REPORT FOR YOUR RECORDS.

Additional Instructions for Reporting Insurance Continuing Education

- A. For each approved continuing education course completed, enter the **Department Course Number**, **date completed**, **course title and sponsor** and the **number of approved hours** from the Course Attendance Certificate:

Ex:

DEPARTMENT COURSE NO.	COMPLETION DATE	TITLE/SPONSOR	COMPANY SPONSORED	NON-CO. SPONSORED
183999	4-16-87	INSURANCE DIALOGUE/MN DEPT. OF COMMERCE		4

- B. Any general course(s), **completed through classroom instruction**, which has been approved for another States' continuing education requirement, may be reported for the Minnesota continuing education requirement. Indicate the **name of the state** which approved the course(s) in the column entitled "Department Course Number":

Ex:

DEPARTMENT COURSE NO.	COMPLETION DATE	TITLE/SPONSOR	COMPANY SPONSORED	NON-CO. SPONSORED
N. DAKOTA	10-6-87	ADV UNDERWRITING/ABC INS. CO.	5	

- C. Courses approved for **Continuing Legal Education** which are **related** to the insurance industry are acceptable for insurance continuing education. Indicate **"CLE"** in the column entitled "Department Course Number":

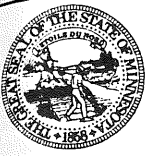
Ex:

DEPARTMENT COURSE NO.	COMPLETION DATE	TITLE/SPONSOR	COMPANY SPONSORED	NON-CO. SPONSORED
CLE	2-21-87	FINANCIAL PLANNING/LEGAL ED SPONSOR		3

Instructor Credit: Approved instructors may report 1.5 hours of continuing education credit for each approved hour of instruction time. A Certificate of Attendance noting "Instructor Credit" should be obtained from the coordinator. To report this type of credit indicate **"instructor credit"** next to the Course Title/Sponsoring Entity."

Individual Credit: A licensee may obtain credit for courses **not previously approved for credit**. Submit a time-framed outline and agenda of the course, along with a \$10.00 processing fee made payable to "Minnesota Commerce Department."

THIS FORM MAY BE REPRODUCED IN ITS ENTIRETY



STATE OF MINNESOTA
 Licensing Unit
 133 E. 7th Street
 St. Paul, MN 55101
 (612) 296-6319

FOR OFFICE USE ONLY

INSURANCE AGENT LICENSE APPLICATION

PID #

The information which you furnish on this form will be used by the Department of Commerce to assess your qualifications for a license. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to grant a license. Disclosure of your social security number is authorized by Minnesota Statutes, Chapter 270A. After issuance of a license, information contained in this application other than social security number is public pursuant to Minnesota Statute, Chapter 13.

INSTRUCTIONS

- To obtain your license, complete (print or type in ink) and submit this form with the appropriate fees (see reverse side) to the Department of Commerce at the above address. Checks or money orders must be made payable to "Minnesota Commerce Department." **WE CANNOT ACCEPT CASH.** Incomplete forms will be returned to the applicant. Keep a copy of all information submitted for your records.
- The applicant must **NOTIFY** the Commissioner **IN WRITING** of **ANY CHANGE** in the information contained in this application within thirty (30) days of the change (e.g., change of name, address, criminal charges, delinquent taxes, etc.).
- If adding a new line to an existing license, please submit a copy of the current license with this application.
- NEW RESIDENT LIFE/HEALTH and/or PROPERTY/CASUALTY APPLICANTS** must submit proof (Certificate of Compliance) that they have passed the approved prelicense classroom education: 30 hours of insurance "Basic Fundamentals" and 15 hours in Life/Accident/Health for a Life/Health license or 15 hours in Property/Casualty for the Property/Casualty license and proof they have passed both portions (Uniform and State) of the written examination.
 If the applicant is requesting the addition of life/health and/or property/casualty to a license, the applicant must submit the examination results and proof they have passed the fifteen (15) hours of classroom prelicense education for the line.
- To apply for a Variable Annuity license, the applicant must currently hold (or concurrently apply for) a Minnesota Life/Accident/Health license and provide proof they have a valid Securities license (a copy of passing NASD examination results is acceptable).
- NEW NONRESIDENT LIFE/ACCIDENT/HEALTH and/or PROPERTY/CASUALTY APPLICANTS** will qualify for a license only if the Letter of Certification (no more than 90 days old) from the state(s) in which the applicant is currently licensed shows that he/she is already licensed for the class(es) of insurance for which application is being made in Minnesota. A nonresident license granted in Minnesota shall terminate automatically when the individual terminates his/her license in the state of residence.
- This application must be accompanied by the Insurance Agent Company Appointment (Form CM-00334-06) unless the applicant is adding Surplus Lines to a Minnesota Property/Casualty license. The Company Appointment must always be accompanied with the appropriate fee(s) which are based on the home domicile of the appointing company — not the home state of the applicant.**
- SURPLUS LINES** may be added to a current Property/Casualty license **only. A COMPANY APPOINTMENT IS NOT NEEDED FOR SURPLUS LINES. A SURETY BOND IS REQUIRED** in the amount of \$5,000 or the largest semi-annual surplus lines premium tax liability incurred by the agent, whichever is greater. We will accept a regular surety bond.
- INSURANCE CONTINUING EDUCATION IS REQUIRED IN MINNESOTA.** Insurance licensees must report completion of 15 hours of continuing education each year. Continuing education is reported on the Insurance Summary Report (INS 2). **Keep all Course Completion Certificates for your records.** The due date for continuing education is printed on the license

A. LINES OF LICENSE: Life/Health Property/Casualty Variable Annuity Farm P & L
 Surplus Lines Travel/Baggage Bail Bonds Title

You do not have to apply for a separate license for Farm P & L, Bail Bonds, Title or Travel/Baggage if you hold or are applying for a Property/Casualty license as these lines of authority are included in the Property/Casualty authority.

B. TYPE OF APPLICATION (check all boxes which apply) **IF ADDING A LINE, DO NOT CHECK "NEW AGENT":**
 New Agent Additional Line Renewal Resident Nonresident

C. AGENT INFORMATION

Last Name	First Name	Middle Initial/Name
Street Address <input type="checkbox"/> check if new address		City
State	Zip Code	Telephone Number (include area code) ()
Social Security Number	Place of Birth (City, State; City and Country if not USA)	MN Tax ID Number (if applicable)
Date of Birth		

D. AGENCY ID Number

Agency ID Number	Agency Name (name in which you do business)	Agency Owner's Name
Street Address		City
State	Zip Code	Business Telephone Number (include area code) ()

E. APPOINTMENT OF ATTORNEY FOR SERVICE OF PROCESS (Nonresident)

KNOW ALL PERSONS BY THESE PRESENT: That in compliance with the laws of the State of Minnesota, I, the undersigned applicant, if a nonresident, do hereby appoint the Commissioner of Commerce of the State of Minnesota, his/her successor or successors, as my true and lawful attorney upon whom may be served all legal process in any action or proceeding in which I may be a party arising out of or relating to the transactions of the license, and do hereby expressly consent and agree that service upon such attorney shall be valid and binding as if due and personal service had been made upon me and that such appointment shall be irrevocable.

F. OFFICE FOR SERVICE OF PROCESS (Resident)

The agent's address is the registered office for service of process (MN Rule 2725.1100).

ALL APPLICANTS MUST ANSWER THE FOLLOWING QUESTIONS. If the answer to any question is Yes, ATTACH A DETAILED EXPLANATION.

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	G. Have you ever been or are you currently licensed as an insurance agent in Minnesota? If yes, please give license number and lines. <input type="checkbox"/> Current <input type="checkbox"/> Former License # _____ Lines: _____
<input type="checkbox"/>	<input type="checkbox"/>	H. Have you ever been licensed in any state other than Minnesota? If YES, provide a list of state(s) and type(s) of license; NONRESIDENTS MUST PROVIDE A CURRENT HOME STATE CERTIFICATION OF LICENSURE/ CURRENT LICENSE HISTORY from the resident state (no more than 90 days old). A new resident must provide a current LETTER OF CLEARANCE (no more than 90 days old) from their previous resident state.
<input type="checkbox"/>	<input type="checkbox"/>	I. Have you ever been the subject of any inquiry or investigation by any division of the Minnesota Department of Commerce?
<input type="checkbox"/>	<input type="checkbox"/>	J. Have you or has any occupational license held by you been censured, suspended, revoked, cancelled, terminated or been the subject of any type of administrative action in any state including Minnesota? (Do not include termination due to noncompliance with educational requirements or nonrenewal of your license.)
<input type="checkbox"/>	<input type="checkbox"/>	K. Have you ever been convicted of or are you currently charged with any criminal offense (felony, gross misdemeanor or misdemeanor) other than traffic violations in any State or Federal Court?
<input type="checkbox"/>	<input type="checkbox"/>	L. Have you ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds or breach of fiduciary duty?
<input type="checkbox"/>	<input type="checkbox"/>	M. Does any individual or organization claim that you as an individual or that any corporation or partnership of which you are or have been a member are indebted to them for overdue and unpaid balance arising out of an insurance transaction?
<input type="checkbox"/>	<input type="checkbox"/>	N. Do you have employees in the State of Minnesota? IF YES, provide proof of workman's compensation insurance (as required by Minnesota Statute 176.181, Subd. 2).
<input type="checkbox"/>	<input type="checkbox"/>	O. If you are a resident of a community or trade area whose borders are contiguous with the borders of Minnesota, and are applying for a Minnesota resident license (pursuant to M.S. 60A.17, Subd. 1 a (b) 1), check "yes" and provide the address of your registered office in Minnesota for Service of Process: Street: _____ City: _____ State: _____ Zip Code: _____
<input type="checkbox"/>	<input type="checkbox"/>	P. Have you been notified by the Commissioner of Revenue, pursuant to Minnesota Statutes 270.72 or 60A.17, Subd. 20, that you currently owe the State of Minnesota any delinquent taxes?

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND THAT I WILL COMPLY WITH THE UNCLAIMED PROPERTY ACT, MN STATUTE, CHAPTERS 345.37 AND 345.39.

Applicant's Signature _____	
Date _____	Personal ID # (unless new agent) _____

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 19____, _____ appeared before me, a Notary Public, and being duly sworn, says that he/she is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to his/her own knowledge.

NOTARY SEAL _____
Notary Public
County: _____ Commission Expires _____

SCHEDULE OF FEES

SEE FEE SCHUDULE



Department of Commerce
 Licensing Unit
 133 E. 7th St.
 St. Paul, MN 55101
 (612) 296-6319

INSURANCE AGENT COMPANY APPOINTMENT

The information which you furnish on this form will be used by the Department of Commerce to process the agent appointment. You are not legally required to provide this information; however, if you fail to do so, the Department of Commerce will be unable to process the appointment. Disclosure of a social security number is authorized by Minnesota Statute, Chapter 270A. This form is considered a part of the agent application. After issuance of a license, information contained in the application other than Social Security number is public pursuant to Minnesota Statutes, Chapter 13.

INSTRUCTIONS

The applicant will be appointed to your company **effective the date** of the authorized representative's **signature** on this form provided that:

- A. The form is properly **completed in its entirety**.
- B. **FOR NEW AGENTS:** If the applicant is working on passing test results, a company appointment is needed. However, **do not submit the appointment until the license application is submitted**.
- C. **FOR CURRENTLY LICENSED AGENTS:** The form and fees **are to be received by** mail or personal delivery to the **Department of Commerce within 30 days** of the date of the authorized representative's **signature**.
- D. The **check or money order** must be made **payable to "MINNESOTA COMMERCE DEPARTMENT;" WE CANNOT ACCEPT CASH**.
- E. **Fees are determined by the state of domicile of the company.** Minnesota-based companies are charged a \$5.00 fee; all others are considered foreign. The fee for a foreign company is \$3.00 or retaliatory (what that state charges Minnesota agents become appointed).
- F. **A COPY** of the completed form should be forwarded to the agent.
- G. An applicant may be appointed for more than one line on this appointment form by *one* company if that company is authorized for those lines in Minnesota. Also, the applicant may represent other companies for one or more of the lines of insurance for which the applicant is qualified, but first must be appointed by each company.
- H. **Company appointments are continuous** and do not require reappointment each year. The appointments are **terminated if:** a) the company cancels the appointment(s) in writing; b) the agent cancels the appointment(s) in writing; or c) the **license** of the agent lapses.

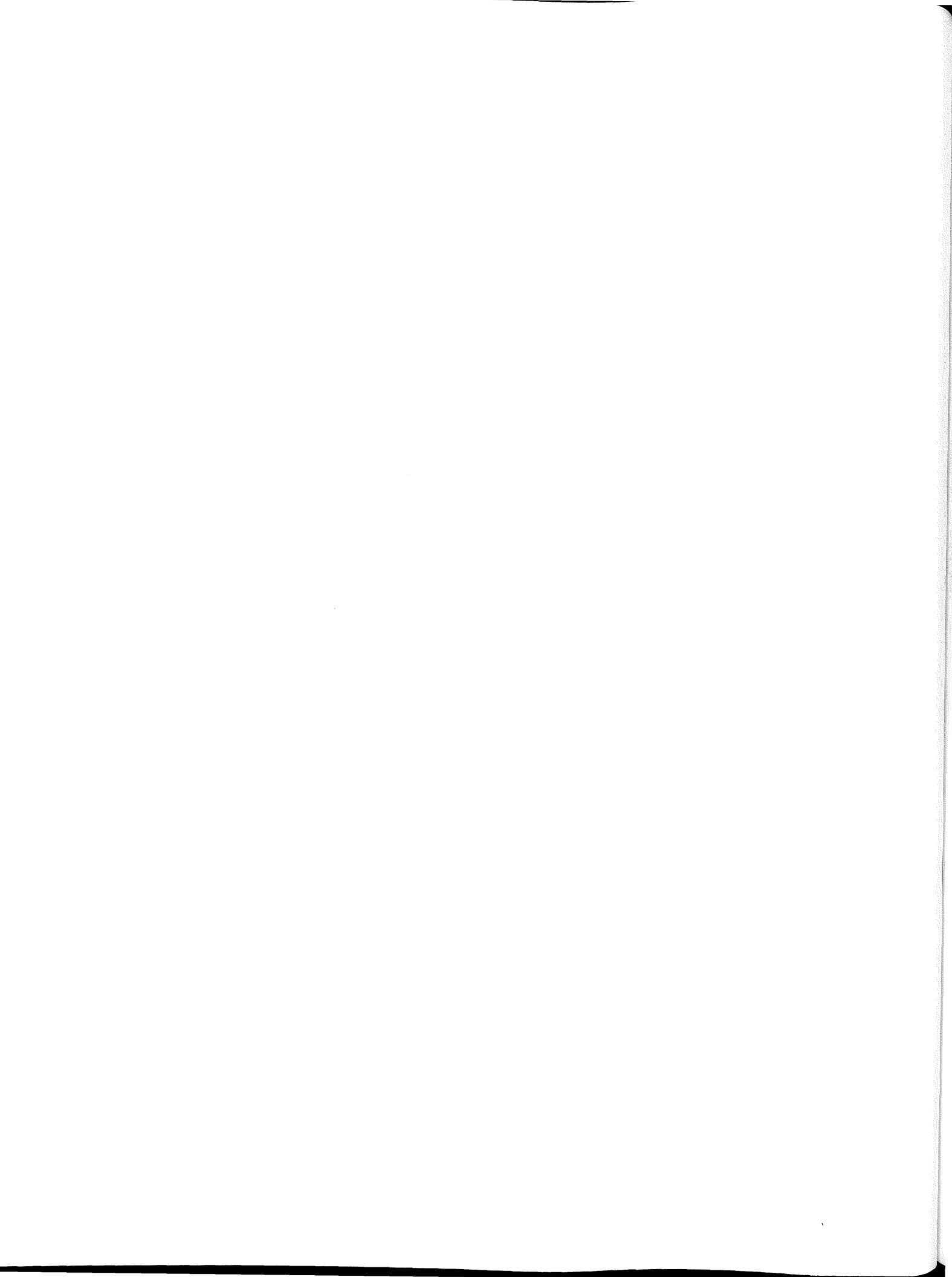
Agent's Last Name	First Name	Middle Initial/Name
<input type="checkbox"/> "X" if new address	Street Address	
	City	State Zip Code
	License Number (Unless New Agent)	Social Security Number

HAS THE AGENT SOLICITED INSURANCE PRIOR TO APPOINTMENT PURSUANT TO MINNESOTA LAW (M.S. 60A.17, Subchapter 1a(f)? YES NO If yes, date: _____ Attach all supporting documents granting permission to solicit.

RESIDENT STATUS <input type="checkbox"/> RESIDENT <input type="checkbox"/> NONRESIDENT	INDICATE INSURANCE CLASSES REQUESTED (check all that apply) <input type="checkbox"/> LIFE/ACCIDENT/HEALTH <input type="checkbox"/> VARIABLE ANNUITY <input type="checkbox"/> FARM & L <input type="checkbox"/> PROPERTY/CASUALTY <input type="checkbox"/> TRAVEL/BAGGAGE <input type="checkbox"/> BAIL BONDS <input type="checkbox"/> TITLE
---	--

I, the undersigned, do hereby appoint the above agent to conduct business on behalf of our company as of the date signed below.

Company Name		
Company's State of Domicile	Company's NAIC Number	
Mailing Address (for forms that must be returned)		
City	State	Zip Code
Typed or Printed Name of Authorized Representative		Telephone Number (include area code) ()
Signature of Authorized Representative X		Date





STATE OF MINNESOTA

EXHIBIT E

OFFICE OF THE COMMISSIONER

DEPARTMENT OF COMMERCE

133 EAST 7th STREET
ST. PAUL, MN 55101
612/296-4026
FAX: 612/296-4328

INSURANCE FEES EFFECTIVE NOVEMBER 1, 1992

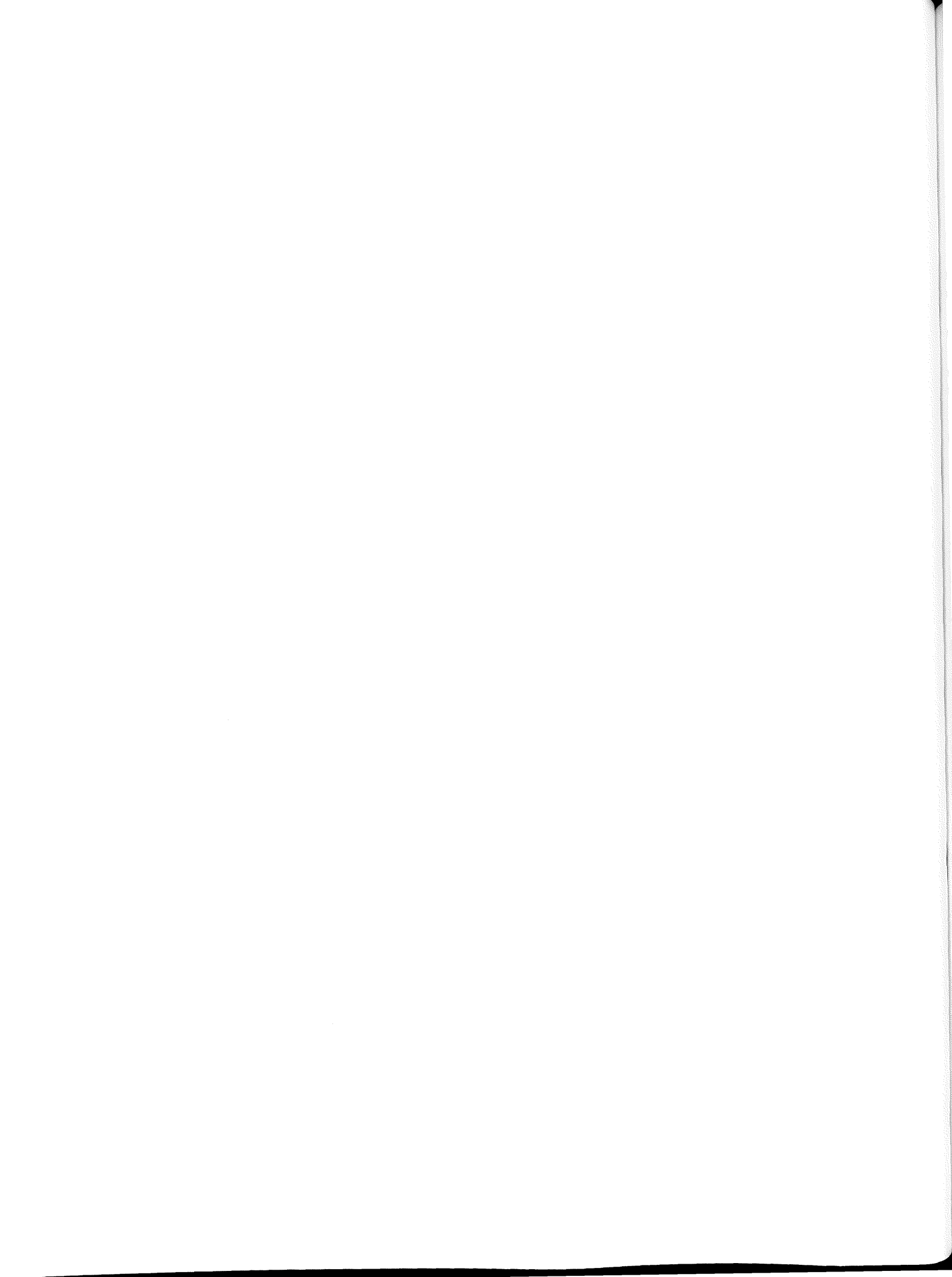
<u>LICENSE TYPE</u>	<u>FEE</u>
Life/Accident/Health	\$30.00
Property/Casualty	30.00
Variable Annuities	50.00
Travel/Baggage	30.00
Title	30.00
Farm P & L	30.00
Bail Bonds	30.00
Surplus Lines	250.00
Adjuster	40.00
AGENCY: Corporation/ Partnership	100.00
Duplicates (Name/Address Changes)	10.00
Certification/History/Appointment Listing, Etc.	20.00

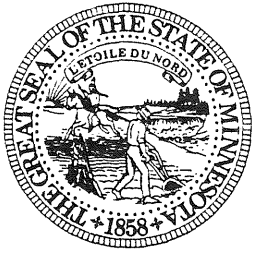
APPOINTMENT FEE SCHEDULE RETALITORY WITH THE STATE OF DOMICILE OF THE INSURANCE COMPANY

Alabama	\$ 7.50	Louisiana	\$10.00	Oklahoma	\$20.00
Alaska	10.00	Maine	20.00	Oregon	5.00
Arizona	3.00	Maryland	5.00	Pennsylvania	3.00
Arkansas	20.00	Massachusetts	3.00	Puerto Rico	3.00
California	19.00	Michigan	5.00	Rhode Island	15.00
Colorado	13.00	Minnesota	5.00	South Carolina	3.00
Connecticut	3.00	Missouri	10.00	South Dakota	20.00
Delaware	15.00	Mississippi	3.00	Tennessee	5.00
Florida	3.00	Montana	10.00	Texas	10.00
Georgia	10.00	Nebraska	5.00	Utah	12.00
Guam	3.00	Nevada	25.00	Vermont	20.00
Hawaii	3.00	New Hampshire	15.00	Virgin Islands	4.00
Idaho	10.00	New Jersey	20.00	Virginia	7.00
Illinois	3.00	New Mexico	30.00	Washington	10.00
Indiana	3.00	New York	3.00	Washington DC	3.00
Iowa	5.00	North Carolina	10.00	West Virginia	25.00
Kansas	10.00	North Dakota	10.00	Wisconsin	5.00
Kentucky	20.00	Ohio	15.00	Wyoming	10.00

PLEASE MAKE ALL CHECKS PAYABLE TO THE MN COMMERCE DEPT.

*** ALL FEES SUBJECT TO CHANGE WITHOUT PRIOR NOTICE ***





STATE OF MINNESOTA
 Licensing Unit
 133 E. 7th St.
 St. Paul, MN 55101
 (612) 296-6319

FOR OFFICE USE ONLY

INSURANCE AGENCY LICENSE APPLICATION

PID #

The information which you furnish on this form will be used by the Department of Commerce to assess your qualifications for an insurance agency license. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to grant a license. Disclosure of tax identification number is voluntary, authorized by Minnesota Statute, Chapter 270A. After issuance of a license, information contained in this application other than tax identification number is public pursuant to Minnesota Statute, Chapter 13.

INSTRUCTIONS

- To obtain your license, complete (type or print in ink) and submit this form with the appropriate fees (see reverse side) to the Department of Commerce at the above address. Check or money order must be made payable to "MINNESOTA COMMERCE DEPARTMENT." WE CANNOT ACCEPT CASH. Incomplete forms will be returned to the applicant.
- The agency may not conduct any activities requiring a license until a license in the name of the agency has been issued by the Department of Commerce.
- The name under which business will be conducted must be exactly the same as the name which appears on your license. If operating under any name other than the exact corporate or partnership name, attach a copy of the Assumed Name Certificate issued by the Minnesota Secretary of State.
- If a corporation, attach a copy of the Corporate Filing issued by the Office of the Minnesota Secretary of State **OR** state of domicile. If incorporated in another jurisdiction WITH MINNESOTA RESIDENT AGENTS, attach a copy of the Certificate of Foreign Corporation issued by the Office of the Minnesota Secretary of State.
- If a partnership, attach a copy of the Articles or Agreement of Partnership.
- If located in another jurisdiction, attach Service of Process.
- Any change of information contained in this application must be submitted to the Department of Commerce in writing within 30 days of the change.
- AGENCIES are NOT APPOINTED in Minnesota. The lines of authority of the agency vary with the lines of authority of the individual agents within the agency.
- If the agency is a corporation or partnership, a Minnesota Insurance Agency License Application is required and a license will be issued. If the agency is an individual proprietorship, an application may be submitted for recording, but a separately printed license will not be issued.

A. Type of License: (check all that apply) <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Individual Proprietorship		B. Domicile of Agency: <input type="checkbox"/> Minnesota <input type="checkbox"/> Other (Indicate state): _____	
<input type="checkbox"/> New <input type="checkbox"/> Renew		Type of Agents: <input type="checkbox"/> Resident <input type="checkbox"/> Nonresident	
C. Agency Name (refer to #3 above) _____			
D. Corporate Name (if applicable) _____			
E. Business Address		Street Address	City
Mailing Address (<input type="checkbox"/> check if new address)		City	
State	Zip Code	Telephone Number (include area code) ()	Tax Identification Number

PLEASE PROVIDE THE FOLLOWING INFORMATION ON AN ATTACHED SHEET: (If not applicable, put N/A)

- List the address of each branch office.
- If a corporation, identify all officers, listing their home address and position within the corporation.
- If a partnership, identify all partners, listing their home address and position in the partnership.
- If an individual proprietorship, name the owner and provide home address.
- Name each officer, partner or owner who currently holds an insurance license in any state, including Minnesota. Provide a list of all states.
- Provide a list of all Minnesota licensed insurance agents working for this agency, including the full name and personal ID number.

- IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH A DETAILED EXPLANATION
- YES NO
- L. Has any agent identified in K above or any license held by an agent identified in K above ever been the subject of any inquiry or investigation by any division of the Minnesota Commerce Department?
- M. Has any agent identified in K above or any license held by an agent identified in K above ever been censured, suspended, revoked, cancelled, terminated or subject to administrative action in any state including Minnesota? If yes, give full details as to date, type of license and reason.
- N. Has any officer, partner, director or owner ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, **other than traffic violations**?
- O. Has the corporation, partnership or any officer, partner, director or owner ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds or breach of fiduciary duty?
- P. Does any individual or organization claim any officer, partner, director or owner of the organization of which you, any officer, partner, director or owner are or have been a member, are indebted to them for any overdue and unpaid balance arising out of an insurance transaction?
- Q. Do you have employees in the State of Minnesota? If yes, provide proof of worker's compensation insurance (as required by Minnesota Statute 176.181, Subd. 2).
- R. Has the corporation or partnership, or any officer or partner with an insurance license, been notified by the Commissioner of Revenue pursuant to Minnesota Statutes 270.72 of delinquent taxes currently owed to the State of Minnesota?

I HEREBY CERTIFY THE ABOVE STATEMENTS TO BE TRUE AND THAT WE WILL COMPLY WITH THE UNCLAIMED PROPERTY ACT, M.S. 345.37 and 345.39.

PARTNERSHIP ACKNOWLEDGMENT

Partner's Signature
Partner's Signature
Date Signed

CORPORATE ACKNOWLEDGMENT

President's Signature
Another Officer's Signature
Date Signed

LICENSED AGENT ACKNOWLEDGMENT, IF OTHER THAN ABOVE

Licensed Agent's Signature
Please Print or Type Name
Date Signed

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 19____, _____ appeared before me, a Notary Public, and being duly sworn, says that he/she is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents are true to his/her own knowledge.

NOTARY SEAL

Notary Public

County: _____ Commission Expires _____

SCHEDULE OF FEES

SEE FEE SCHEDULE

MANAGING GENERAL AGENT
 LICENSE APPLICATION

LICENSE NUMBER

A. TYPE OF LICENSE: (check all that apply) <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Individual Proprietorship		B. DOMICILE OF MANAGING GENERAL AGENT: <input type="checkbox"/> Minnesota <input type="checkbox"/> Other (Indicate State): _____ Type of Agents: <input type="checkbox"/> Resident <input type="checkbox"/> Nonresident	
C. Managing General Agent Name (refer to #3 on reverse side)			
D. Corporate Name (if applicable)			
E. Business Address (<input type="checkbox"/> check if new address)			City
State	Zip Code	Telephone Number (include area code)	Tax ID Number
F. INSURER(S) REPRESENTED:			
Name			
Address		City	Telephone Number

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH A DETAILED EXPLANATION.

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	G. Are you applying as a corporation? If yes, identify all officers, listing their home address and position within the corporation.
<input type="checkbox"/>	<input type="checkbox"/>	H. Are you applying as a partnership? If yes, identify all partners, listing their home address.
<input type="checkbox"/>	<input type="checkbox"/>	I. Are you applying as an individual proprietorship? If yes, name the owner and provide home address.
<input type="checkbox"/>	<input type="checkbox"/>	J. Does any officer, partner or owner currently hold an insurance license in any state including Minnesota? If yes, identify each individual and provide a list of all states.
<input type="checkbox"/>	<input type="checkbox"/>	K. Do you have at least one Minnesota licensed insurance agent working for this Managing General Agent? (refer to instruction 9) Provide a list of all Minnesota licensed insurance agents including their full name and license number.
<input type="checkbox"/>	<input type="checkbox"/>	L. Has any agent identified in K above or any license held by an agent identified in K above ever been the subject of any inquiry or investigation by any division of the Minnesota Commerce Department?
<input type="checkbox"/>	<input type="checkbox"/>	M. Has any agent identified in K above or any license held by an agent identified in K above ever been censured, suspended, revoked, cancelled, terminated or subject to administrative action in any state including Minnesota? If yes, give full details as to date, type of license and reason.
<input type="checkbox"/>	<input type="checkbox"/>	N. Has any officer, partner, director or owner ever been convicted of any criminal offense (felony, gross misdemeanor or misdemeanor) in any State or Federal Court, other than traffic violations?
<input type="checkbox"/>	<input type="checkbox"/>	O. Has the corporation, partnership or any officer, partner, director or owner ever been a defendant in any lawsuit involving claims of fraud, misrepresentation, conversion, mismanagement of funds or breach of fiduciary duty?
<input type="checkbox"/>	<input type="checkbox"/>	P. Does any individual or organization claim any officer, partner, director or owner of the organization of which you, any officer partner, director or owner are or have been a member, are indebted to them for any overdue and unpaid balance arising out of an insurance transaction?
<input type="checkbox"/>	<input type="checkbox"/>	Q. Do you have employees in the State of Minnesota? If yes, provide proof of workers compensation insurance (as required by MN Statute 176.181, Subd. 2).
<input type="checkbox"/>	<input type="checkbox"/>	R. Has the corporation or partnership, or any officer or partner with an insurance license, been notified by the Commissioner of Revenue pursuant to Minnesota Statutes 270.72 of delinquent taxes currently owed to the State of Minnesota?

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE AND THAT I WILL COMPLY WITH THE UNCLAIMED PROPERTY ACT. MINNESOTA STATUTE, CHAPTERS 345.37 and 345.39.

PARTNERSHIP ACKNOWLEDGEMENT

Partner's Signature
Partner's Signature
Date Signed

CORPORATE ACKNOWLEDGMENT

President's Signature
Date Signed

LICENSED AGENT ACKNOWLEDGMENT

Licensed Agent's Signature
Print or Type Name & License Number
Date Signed

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 19____, appeared before me, a Notary Public, and being duly sworn, says he/she is the applicant; that he/she has read the foregoing application and accompanying exhibits, and that the contents thereof are true to his/her own knowledge.

Notary Public Signature _____

County: _____

Commission Expires: _____

NOTARY SEAL

BONDING AND INSURANCE: The Commissioner of Commerce is authorized by Minnesota Statute 60H.03, Subd. to require bonding and errors omissions insurance for Managing General Agents. Should such requirements be established, you will be notified.

The information which you furnish on this form will be used by the Department of Commerce to assess your qualifications for a Managing General Agent license. You are not legally required to provide this information. However, if you fail to do so, the Department of Commerce will be unable to grant a license. Disclosure of your tax identification number is voluntary, authorized by Minnesota Statute, Chapter 270A. After issuance of a license, information contained in this application other than tax identification number is public pursuant to Minnesota Statute, Chapter 13.

INSTRUCTIONS

1. To obtain your license, complete (type or print in ink) and submit this form with the appropriate fees (see fee schedule below) to the Department of Commerce. Check or money order **MUST** be made payable to "MINNESOTA COMMERCE DEPARTMENT". **WE CANNOT ACCEPT CASH**. Incomplete forms will be returned to the applicant.
2. The Managing General Agent may not conduct any activities requiring a license until a license in the name of the Managing General Agent has been issued by the Department of Commerce.
3. The name under which business will be conducted **MUST** be exactly the same as the name which appears on your license. If operating under any name other than the exact individual, corporate, or partnership name, attach a copy of the Assumed Name Certificate issued by the Minnesota Secretary of State. The license is issued under the name you are operating under, therefore, if you are operating under an assumed name, your license will be issued in the **ASSUMED NAME** and **WILL NOT** reflect your corporate name.
4. If a corporation, attach a copy of the Corporate Filing issued by the Office of the Minnesota Secretary of State **OR** state of domicile. If incorporated in another jurisdiction and you have **MINNESOTA RESIDENT AGENTS**, attach a copy of the Certificate of Foreign Corporation issued by the Office of the Minnesota Secretary of State.
5. If a partnership, attach a copy of the Articles or Agreement of Partnership.
6. If located in another jurisdiction, attach Service of Process.
7. Any change of information contained in this application must be submitted to the Department of Commerce in writing within 30 days of the change.
8. A Managing General Agent is required to have in effect a written contract with the insurer for whom it acts in that capacity. A copy of the contract must accompany this application. Requirements for minimum contractual terms are set forth in Minnesota Statute 60H.04.
9. You **MUST** have at least one licensed Minnesota agent (may be a resident or nonresident) in order to obtain a Managing General Agent license.

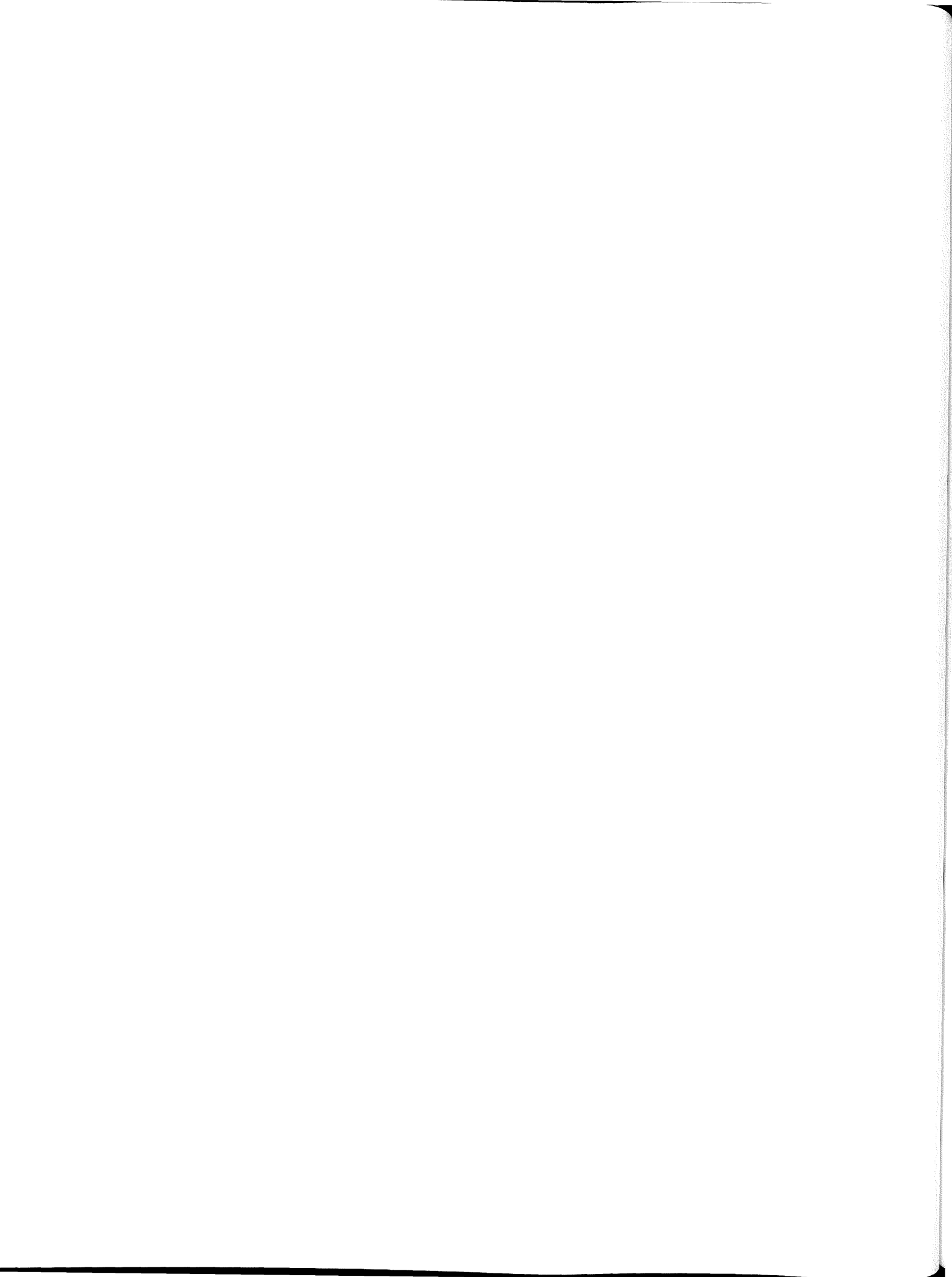
SCHEDULE OF FEES: Check or money order must be made payable to Minnesota Commerce Department.
WE CANNOT ACCEPT CASH.

CORPORATION.....	\$100.00
PARTNERSHIP.....	\$100.00
INDIVIDUAL PROPRIETORSHIP.....	NO FEE
DUPLICATE LICENSE.....	\$10.00

All applications submitted to the Licensing Unit between September 1st and October 31st must include renewal fees of \$60.00 for the next license year which begins November 1st.

THIS FORM MAY BE REPRODUCED IN ITS ENTIRETY

IV. Agent Conduct and Responsibility



A. INTRODUCTION

The requirements that are established for a licensed insurance agents under statutes and regulations are some of the most comprehensive responsibilities and duties for any licensed professional. These requirements have been established to protect the consumers and insurers, as well as to maintain the integrity and professionalism of the insurance agents.

B. PROFESSIONAL RESPONSIBILITY

1. Response to Departmental Communications [Minn. Stat. 45.027, subd. 1(a) (1992)]:

A licensee, certificate holder, or applicant must comply with all of the Department's request for information within the time specified, or if no time is specified, within 30 days of the mailing of the request. The licensee, certificate holder, or applicant must appear before the commissioner when requested. The Department's request for information may be made in writing, by phone, or in person.

2. Testimony and/or the Production of Documents [Minn. Stat. 45.027, subd. 4 (1992)]:

No person is excused from attending and testifying or from producing any documentation or record before the commissioner, or from obedience to a subpoena or order of the commissioner on the grounds that the testimony or evidence required may tend to incriminate that person or the subject of the investigation.

3. Mandatory Complaint Records [Minnesota Rules Part 2795.1500]:

Every agent and agency must compile and maintain a separate complaint file for each agent against whom a complaint, grievance, or allegation is made. The file must contain all written notes, records, correspondence or other documents made or received by an agent or agency relating to customer grievances or allegations that

an agent, agency, or person associated with an agent or agency has engaged in any unfair, false, misleading, dishonest, fraudulent, untrustworthy, coercive or financially irresponsible practice, or has violated any insurance law or rule. The agent or agency must maintain the records for at least six years after the date of the complaint.

4. Activity Not Involving the License [Minn. Stat. 60K.11, subd. 1 (iii) (1992)]:

The commissioner may suspend or revoke an agents license for an act or practice, **whether or not such act or practice involves the business of insurance**, which demonstrates that the licensee is untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act as an insurance agent or agency.

C. MARKETING AND SALES CONDUCT

1. Identification [Minn. Stat. 60K,14, subd, 1 (b) (1992)]:

Before any agent or any person acting on behalf of an agent for the purpose of attempting to sell insurance contacts an individual by phone or in person, the agent or agent's representative must disclose the following information:

- a. The name of the person making the contact or the communication;
- b. The name of the agent, general agency or insurer that the person represents;
- c. The fact that the agent, agency, or insurer is in the business of selling insurance.

The only exception to this requirement is when attempting to sell insurance to a buyer who personally knows the identity of the agent, the name of the general agency, if any, which the agent represents and the fact that the agent is in the insurance business.

2. Misrepresentation of Governmental Affiliation [Minn. Stat. 60K.14 Subd. 1(c) (1992)]:

No agent nor any person acting for an agent may make any representation which would infer, indicate, or give the impression that the agent or agents representative was acting on behalf of a governmental agency.

3. Fees for Services [Minn. Stat. 60K.14, subd. 2 (1992)]:

No agent can charge a fee for services rendered in connection with the solicitation, negotiation, or servicing of any insurance contract unless, before rendering the service, a written statement is provided disclosing the services, amount of fees, that the premiums include a commission, and that the fees are in addition to those commissions. Any fee that is charged must be reasonable in relation to the services provided.

4. Suitability [Minn. Stat. 60K.14, subd. 4 (1992)]:

When recommending the purchase of any life, endowment, annuity, life/endowment, or medicare supplement insurance policy, an agent must have reasonable grounds for believing the customer and must make reasonable inquiry to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstance including but not limited to, the customer's income, the customer's need for insurance, and the values, benefits and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

5. Privacy of Client [Minn. Stat. 60K.14, subd. 6 (1992)]:

Except as otherwise provided by law no insurance agent may disclose or cause to be disclosed to any other person the identity of a person insured through the agent without the consent of the insured. (Thus, the sale or exchange of "mooch lists" constitutes a

Agent Conduct and Responsibility

violation of Minnesota statute exposing the violator to the suspension or revocation of their license.)

6. Agency Relationships [Minn. Stat. 60K.15 (1992)]:

Any person who solicits insurance in the State of Minnesota is the agent of the insurer and not the agent of the insured. Therefore, any representations made by the agent whether written or oral shall be deemed to be made by the insurer. (This provision does not prevent an agent from engaging in a "dual" agency relationship whereby they allegedly represent both the insurer and the insured. Such relationships can be extremely dangerous to the agent in that they will inevitably lead to a conflict of interest.) In most, if not all transactions, it is impossible to represent the "best" interest of both parties. In any subsequent litigation, the court will determine whether the agent has breached his or her duty to either or both the insurer and the insured.

7. Binding Authority [Minn. Stat. 60K.18 (1992)]:

Any insurance agent having expressed authority to bind coverage who orally agrees to provide insurance coverage or to alter an existing insurance agreement shall execute and deliver a written memorandum or binder containing the terms of the oral agreement to the insured within three business days from the time of the oral agreement. (Whenever possible written binders should be documented immediately. Many agent have become entangled in unnecessary litigation because of their failure to document the binding of coverage immediately.)

8. Medicare Supplement/Long-Term Care Sales [Minn. Stat. 62A.40-43, M.S. 62A.56 (1992)]:

No agent shall sell a Medicare supplement plan or long term care policy to a person who currently has a plan or policy in effect unless the agent has complied with the suitability standards of MCAR 2795.0900 and the new plan or policy will not take effect any sooner than necessary to provide continuous benefits during any pre-

Agent Conduct and Responsibility

existing condition period. (In addition, no agent shall replace an existing Medicare supplement plan with another Medicare supplement plan of the same category unless there is a substantial difference in cost favorable to the policyholder or the policyholder has previously demonstrated dissatisfaction with the service of the present carrier.) An agent may replace a Medicare supplement plan with a less comprehensive plan but only if the prospective insured signs an acknowledgement that he or she understands that the prospective insured will receive less benefits under the new policy than under the policy presently in force.

No agent nor insurer shall use a graphic seal or emblem on any policy or promotional literature which would indicate or give the impression that there is any connection, certification, approval or endorsement from Medicare or any governmental body of the agent or product.

9. Rebates Prohibited [Minn. Stat. 72A.08, subd. 1 (1992)]:

No insurer or agent shall offer to pay or allow, by any means, any rebate or premium on a policy as an inducement. Included as a rebate are special favors, advantages in dividends or profit, and gifts of value. An agent can provide free gifts to the general public as a marketing tool, if the gift is given to everyone and not given only if insurance is bought or maintained.

10. Improper Business Practices [Minn. Stat. 72A.20, subd. 18 (1992)]:

No person shall; (a) improperly withhold, misappropriate, or convert any money belonging to a policyholder, beneficiary, or other person; or (b) engage in fraudulent, coercive, or dishonest practices.

11. Advertising [Minnesota Rules Chapter 2790]:

This chapter of regulations has extensive requirements and restrictions in the use and development of marketing material.

Agent Conduct and Responsibility

Advertising materials include all printed, audio visual, descriptive, direct mail, newspapers, magazines, periodicals, radio scripts, television scripts, billboards, circulars, leaflets, booklets, depictions, illustrations, form letters, sales materials, and oral presentations.

The chapter requires that nothing may appear in this material that is not totally accurate. It also requires that all expenses, qualifying events, terms, conditions, restrictions, and limitations be disclosed clearly, conspicuously, in close conjunction, **and in equal prominence so that it is readily noticeable.** Each piece of advertising material must be reviewed by the insurer that is represented by the advertisement. The insurer must approve, date, identify as to the form number and use, and a copy retained at the insurers home office, for at least three years, each piece of advertising.

12. Insurance in Connection With Loans [Minnesota Rules Part 2795.1800]:

No agent shall misrepresent the necessity for obtaining insurance in connection with a loan nor the terms of such insurance. Thus, although a lender may require insurance on certain types of loans (require that a car be insured for liability, comprehensive and collision if it is serving as collateral for the car loan) the lender, its agents or representatives cannot require that the insurance be purchased or acquired from any specific agency or company.

13. Delivery and/or Removal of Policies [Minnesota Rules Part 2795.0400, 2795.0500]:

Any agent who receives policy certificates or other evidence of insurance from an insurer for delivery to an insured must deliver or mail said policies or certificates to the insured within 30 working days of receipt from the insurer unless the insured has agreed in writing that the agent should maintain the policies.

Agent Conduct and Responsibility

Any agent who takes possession of an insured's or a potential insured's insurance policies, certificates, or other documents pertaining to existing or pending insurance, must leave a written receipt for those materials at the time the agent receives the materials. The receipt must contain an itemized list of the materials received, the agent's name, the agent's address and telephone number of the agency or other place where the agent can be contacted. The receipt must also be dated and signed by the agent.

14. Duties of Supervising Agents [Minnesota Rules Part 2795.1100]:

Any agent who employs or contracts with another agent, or engages in a brokering relationship with another agent is considered a supervising agent. All supervising agents are responsible for ensuring that the employed, contracted, or engaged agents:

- a. Are properly licensed in the lines of insurance in which they do business.
- b. Promptly remit all premiums and return premiums, refunds, claim settlements, or other money or things of value in the agent's possession obtained as a result of an insurance transaction and due and payable to any person, firm, or insurer.
- c. Comply with laws and rules of the Department of Commerce.

The supervising agent must also establish, maintain, and enforce written procedures which will ensure the proper supervision of all agent activities. This must include a procedure that sets forth the manner and frequency of the examination of all agents client accounts.

Agent Conduct and Responsibility

D. FINANCIAL RESPONSIBILITIES

1. Receipt of Client Funds [Minnesota Rules Part 2795.1300]:

Any agent who receives funds from a client in connection with an insurance transaction receives and holds those funds in a fiduciary capacity. An agent holding funds of a client must, each month, provide the client with an itemized statement showing the amount of money held.

In addition, any agent holding funds for a client must maintain a separate written record for each client setting forth sufficient information to identify the transaction and the parties thereto. At a minimum, each record must set forth:

- a. the date funds are deposited,
- b. the amount deposited,
- c. the date of each related disbursement,
- d. the check number of each related disbursement,
- e. the amount of each related disbursement,
- f. a description of each disbursement,

All records required to be maintained relating to client funds must be maintained for at least six years and must be available to examination by the commissioner or the commissioner's designee in accordance with the provisions of Minn. Stat. § 45.027 (1992) and Minn. Stat. § 60A.031 (1992).

2. Handling of Premiums [Minn. Stat. 60K.14, subd. 5 (1992)]:

All premiums or money received by an agent from an applicant or insured must be forthwith deposited directly in a business,

checking, savings, or other similar account maintained by the agent or agency, unless it is forwarded directly to the designated insurer.

3. Refund Requests [Minnesota Rules Part 2795.1700]:

Any agent who received a request for cancellation of a policy must make the refund or initiate the refund procedure with the insurer, within ten days of the agent's receipt of the request. An agent who receives a refund from an insurer for the account of, or for delivery to, an insured or former insured must deliver or mail the refund or cause it to be delivered or mailed to the insured or former insured within five days of receipt.

4. Loans From Clients [Minnesota Rules Part 2795.0300]:

No agent shall solicit or accept a loan from an individual with whom the agent came into contact in the course of the agent's business unless the loan agreement is in writing, the lender is provided with a fully executed copy of the agreement or note at the time the loan is made and the terms of the loan are lawful.

No agent shall solicit or accept a loan under dishonest or unconscionable circumstances from an individual with whom the agent came into contact in the course of the agent's business. In determining whether a particular loan was solicited or accepted under dishonest, unfair, or unconscionable circumstances, the following will be considered:

- a. the prior relationship between the agent and the lender;
- b. the lender's age and capacity;
- c. the terms of the loan including the duration, and rate of interest and agent's compliance with those terms;
- d. provisions for collateral for security;
- e. the lender's income and net worth;

Agent Conduct and Responsibility

- f. the involvement or lack of involvement of a family member of the lender or some other neutral third party in the negotiation of the loan;
- g. any prior history of unfair treatment of the lender which the agent knew or should have known about;
- h. indications of high pressure solicitation, coercion, intimidation, or undue influence by the agent in securing the loan;
- i. the agents representation regarding the need for or intended use of the loan;
- j. any other factors which reflect on whether the loan was dishonest, unfair or unconscionable.

Any agent who accepts or who had an outstanding loan from an individual with whom the agent came into contact in the course of the agent's business must immediately compile and maintain for at least six years after the loan has been fully repaid, a list of the individuals from whom the agent has borrowed money together with all documentation relating to the loans and the circumstances under which each was made.

E. CLAIMS HANDLING

1. Notification of Claim [Minn. Stat. 72A.201, subd. 3 (11) (1992)]:

Under the claims practices statutes, insurers have numerous time requirements and restriction in which they must perform various acts. Most of these time periods start with the date the company was notified of the claim. The statutes specifically state that, "Notification of a claim to the agent of the insurer is notice to the insurer." If an agent fails to act immediately to notify the insurer when he/she is notified of a claim, the insurer may exceed these established time requirements and will likely face disciplinary action by the Department.

Agent Conduct and Responsibility

2. Statements of a Minor [Minn. Stat. 72A.20, subd. 25 (1992)]:

No statement or information from a minor obtained by an insurer or a representative of an insurer may be used in any manner in regards to a claim unless the parent or guardian of the minor has granted specific permission for the minor to be interviewed.

F. SURPLUS LINES

1. Surplus Lines Disclosure [Minn. Stat. 60A.202 (1992)]:

A licensee may only place coverage with a surplus lines carrier if the coverage is not available from an admitted carrier.

Within seven working days after binding coverage or informing an insured or applicant that coverage will be provided the licensee must provide the insured or the insured's representative with a policy, written binder, certificate or other written evidence that the insurance has been placed with an eligible or ineligible surplus lines insurer.

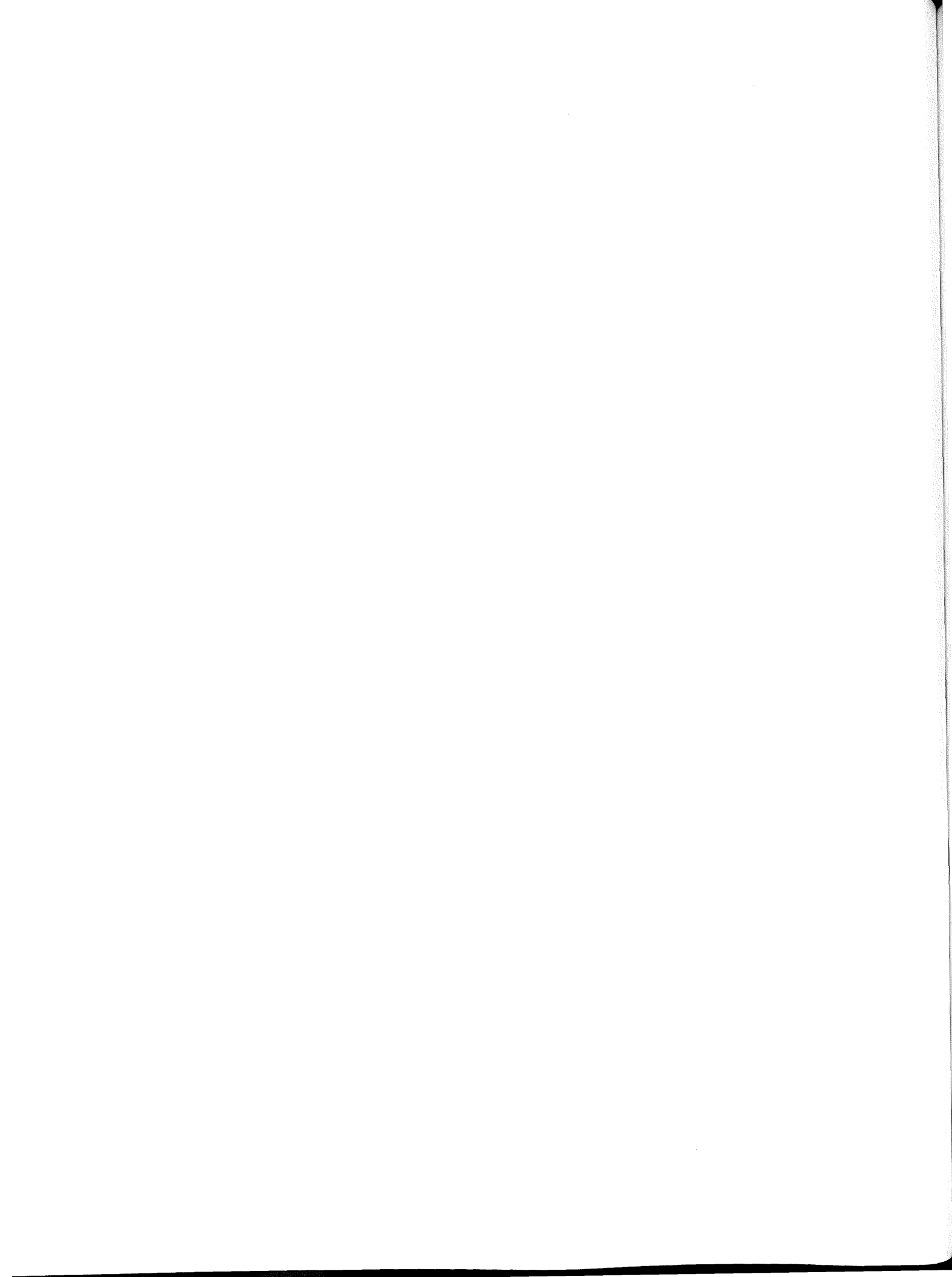
The written disclosure (identified in paragraph 2) must indicate that the coverage has been placed with an eligible or ineligible surplus lines carrier; that the insurer is not licensed in the state of Minnesota and that payment of loss is not guaranteed in the event of an insolvency of the insurer. In addition, in the case of an ineligible surplus lines carrier, the disclosure must also state that the insurer is not licensed by the state nor recognized by the commissioner of commerce as an eligible surplus lines insurer and that in case of any dispute relative to the terms or conditions of the policy or the practices of the insurer, the commissioner of commerce will not be able to assist in a dispute. (See Minn. Stat. §§ 60A.207 and 60A.209 (1992)). It should be emphasized that failure on the part of an agent to make the required disclosures identified at 60A.207 and 60A.209 (1992) may result in the agent becoming liable for any policy benefits if the insurer fails to pay a claim or loss pursuant to the contract provisions.

Agent Conduct and Responsibility

2. Additional Charges and Fees (Surplus Lines)[Minn. Stat. 60A.204 (1992)]:

A surplus lines licensee may charge the insured a fee that reflects **the actual cost incurred in the placement of the insurance**, in addition to the premium charged by the surplus lines insurer, if the cost incurred exceeds \$25. The fee must be clearly disclosed and shall not be excessive or discriminatory. The agent must maintain complete client records and documentation of all fees charged. If a insurer quotes a rate net of commission, the agent may include a commission that is not excessive or discriminatory.

**V. Minnesota Workers' Compensation
Assigned Risk Plan**



A. Introduction

By law, employers are required to provide coverage for injuries to their employees arising out of and in the course of employment. The Minnesota Workers' Compensation Assigned Risk Plan (the "Plan") was established to provide workers' compensation and employers liability coverage to employers who are unable to obtain the coverage from insurers in the voluntary market. Although coverage provided by the Plan is substantially the same as that provided in the voluntary market, the statute requires that rates charged by the Plan generally be higher than rates charged in the voluntary market.

To be eligible for coverage through the Plan, an employer must be rejected by two nonaffiliated insurance companies licensed in Minnesota. There are two types of employers which are commonly rejected by the voluntary market. One type has poor experience based on loss history and, as a result, is considered a high risk by insurers in the voluntary market. The other type of employer has not had many losses and may have a favorable experience but premium level is so small that the business is not particularly desired by voluntary market insurers.

B. Administration of the Plan

Park Glen National Insurance company currently serves as the Plan Administrator. The Plan Administrator provides day-to-day management of the Plan. They also assume primary responsibility for all aspects of the daily operation of the Plan including maintaining coordination among all entities under contract to provide services to the Plan. In addition, the Plan Administrator reviews disputes between policyholders and the entities under contract to provide services to the Plan. The Plan Administrator can be reached at (612) 924-6972 with questions or concerns regarding entities providing services on behalf of the Plan.

The Minnesota Workers' Compensation Insurers Association (MWCIA; aka, the Rating Association) receives and reviews applications for coverage,

checks to see that the appropriate rates have been used, determines whether the correct deposit premium has been submitted, determines whether there is an outstanding debt, issues the experience modification factor or merit rating factor and assigns the application to a servicing carrier for handling. The current servicing carriers are Wausau Insurance Company and Berkley Administrators. They provide policy issuance, auditing, loss control and claims adjusting services.

C. Underwriting/Eligibility

The Plan uses the same classification system, experience rating plan and manuals used by the voluntary market. Additionally, the Plan uses a credit/debit system for employers who are not experienced rated.

Eligible employers may apply for coverage through the Plan by submitting a completed application "EXHIBIT A" and correct deposit premium to the MWCIA. Applications which are not fully completed or do not satisfy the requirements stated on the application may be returned or rejected.

Only agents who are licensed to write property/casualty insurance in Minnesota may place business in the Plan. Agents must have a resident or non-resident license. Contact the Licensing Unit of the Commerce Department at (612) 296-6319 for information on licensure. The current maximum commission for agents who do not charge a service fee is \$3,500. The maximum commission for agents who do charge a service fee is \$1,500.

D. Rates

The rates currently used by the Plan were effective April 1, 1993 and the expense factor is \$85. The Plan has three payment plans:

<u>Annual Premium</u>	<u>Deposit Required</u>	<u>No. of Payments</u>
Under \$2,000	100%	One
\$2,000-\$9,999	50%	3/Quarterly
Over \$10,000	25%	9/Monthly

The MWCIA should be contacted on underwriting questions and for quotes on the cost of coverage through the Plan. They may be reached at (612) 897-1737.

E. Legislative Reform

The 1992 legislature enacted legislation (Laws of Minnesota, 1992, Chapter 510) providing for comprehensive reform in the area of workers' compensation. Major provisions of this legislation relating to the Plan are:

1) **Mandatory Deductibles (Article 3, Section 1):**

Employers, at their option, may select a deductible provision which the employer is liable to pay on each claim. The Plan administers the claim under the terms of the policy and seeks reimbursement of the deductible amount from the employer. The employer receives a reduction in premium according to the option selected. However, failure by the employer to reimburse the Plan for payment of the deductible may result in cancellation of the policy for nonpayment of premium.

2) Medical Cost Containment (Article 3, Section 4):

The Plan must consider utilizing managed care plans certified by the Department of Labor and Industry and is mandated to implement a medical cost containment program.

3) Group underwriting/claims management (Article 3, Section 5):

The Plan must establish a program which groups employers in the same or similar risk classifications for the purpose of group premium underwriting and claims management. This "safety group" program includes extensive safety consultation with group members to reduce and control employee injuries.

4) Safety Assessments; Incentive/Penalty system (Article 3, Section 8):

On-site surveys will be conducted for employers insured by the Plan. Practices and equipment designed to reduce the risk of injury to employees will be recommended to employers.

The Plan will develop a premium rating system which provides for a reduction in premium for employers which follow the safety recommendations. Additionally, the rating system will provide for an increase in premium for employers which do not follow the safety recommendations. However, the premium rating system shall be sensitive to the economic ability of an employer to implement the specific recommendations.

MINNESOTA WORKERS' COMPENSATION ASSIGNED RISK PLAN
APPLICATION FOR WORKERS' COMPENSATION INSURANCE

COVERAGE IS DESIRED

Effective _____ Date _____

Send to: Minnesota Workers' Compensation Insurers Assn., Inc.
7760 France Avenue South, Suite 640
Minneapolis, Minnesota 55435
(612) 897-1737

COVERAGE CANNOT BE BOUND BY ANY AGENT.

This application must be typed or printed and filed in duplicate with the Association.
See rules and procedures on back of application.

Enclose check payable to: MN Workers' Compensation Insurers Association. Payment must be made by certified check, bank draft, money order or agency check. Coverage will not be provided if the correct payment or deposit premium does not accompany the application, if Section IV Premium Calculation is not fully completed; if the Declination requirement is not met; if the application is not signed by applicant and agent; if there is a record of coverage in force in the Association file; or if it is found that the employer applying for coverage owes money for previous coverage or has failed to comply with the audit conditions of any previous contract.

Coverage will become effective (1) 12:01 a.m. the day after the postmark date on the envelope containing the application and deposit premium or (2) 12:01 a.m. the day after receipt of the application and deposit premium if not postmarked or if made by personal delivery or (3) 12:01 a.m. on any future date requested.

The undersigned employer hereby applies for workers' compensation insurance in Minnesota and expressly represents that such insurance is sought in good faith.

I. GENERAL INFORMATION

- 1. Name of Employer (Legal Name including D.B.A.s)
2. Mailing Address (Street) (City) (State) (ZIP) (Phone)
3. Principal Location (Street) (City) (State) (ZIP)
4. Payroll Office Address (Street) (City) (State) (ZIP)
5. Other Minnesota Location (Street) (City) (State) (ZIP)

II. BUSINESS INFORMATION

- 1. Legal Status: [] Sole Proprietor [] Partnership [] Corporation [] Non-Profit Organization
[] Closely Held Corporation [] Professional Association [] Trust [] Other _____

- 2. Board of Directors, Corporate Officers, General Partners, Sole Proprietors

Table with 5 columns: Name, Title, Duties, Percent of Ownership, Approximate Annual Salary

III. INSURANCE RECORD

- 1. Has there been previous workers' compensation insurance coverage in Minnesota? [] Yes [] No

Explain: _____

- 2. Has there been a name change or change in ownership during the past three years? [] Yes [] No

Did you purchase the business, or any part of it, from someone else? [] Yes [] No

If you answered "yes" to either of the above, give previous name, ownership and date

of change/purchase. _____

- 3. Insurance Record - Three Previous Years:

Table with 4 columns: State, Insurance Company, Policy Period (From, To), Premiums Paid

4. Do you (applicant) have a Workers' Compensation Insurance policy in force? Yes No

If "yes", indicate expiration or cancellation date: _____

5. Are there operations in states other than Minnesota? Yes No

If "yes", complete the following:

State _____ Location _____ Insurance Carrier _____ Policy Number _____

Note: The Minnesota Assigned Risk Plan does not provide coverage for permanent out of state operations. Temporary out of state operations are covered only as provided by Minnesota Statute.

IV. PREMIUM CALCULATION
(Coverage will not be provided if this section is not completed)

1. Completely describe business and operations: **(This question must be answered)**

2. Do you lease employees to or from another company? **(This question must be answered)**

- Yes, I (we) lease employees to other companies
- Yes, I (we) lease employees from other companies
- No

3. ***Calculations of Estimated Annual Premium Subject to Insurance Company Audit**

Describe by location the duties of employees or classification	Class Code	Number of Employees	TOTAL REMUNERATION BASIS		
			Total Remuneration	Rate	Premium
Clerical Office	8810				
Outside Salesperson – No Product Delivery	8742				
Drivers Chauffeurs Helpers	7380				
<u>Total Estimated Annual Premium</u>	<u>Minimum Deposit Required</u>	<u>Payment Basis **</u>	<u>Total Premium</u>		
under \$2,000	100%	-----	Experience Modification		
\$2,000 – \$10,000	50%	3 quarterly	Standard Premium		
over \$10,000	25%	9 monthly	Plus Expense Constant		
			Total Estimated Annual Premium		
			Deposit Premium Percentage		
			Deposit Premium		

4. Are the payroll amounts listed above lower than those appearing on your most recent policy or audit? **(This question must be answered)** Yes No

If "yes", please provide documentation verifying the payroll amounts listed above. The MWCIA will verify the payroll amounts by class. Coverage may be refused if adequate documentation is not provided.

5. Is premium being financed through a premium finance company? **(This question must be answered)** Yes No
If "yes", please provide a copy of the premium finance agreement.

6. Do you use independent contractors? **(This question must be answered)** Yes No
If "yes", you must maintain documentation which supports that they are, in fact, independent contractors. If such documentation is not available, or if the servicing contractor for the Assigned Risk Plan finds evidence of an employment relationship, then premium may be charged as if the individuals were employees.

*Subject to change according to rules governing the Minnesota Workers' Compensation Assigned Risk Plan.
**See #4 on back page for explanation of payment options

V. DECLINATION SECTION

IMPORTANT

To obtain workers' compensation coverage through the Minnesota Workers' Compensation Assigned Risk Plan, you must have been rejected coverage by two non-affiliated companies licensed to write workers' compensation in the State of Minnesota. The rejections must be in writing and must have been obtained less than 60 days prior to the date this application is submitted. The rejections must contain both the name of the insurance company and the representative declining coverage. Note: If you are currently insured, one of the rejections must be from your present insurance company. The letters of rejection must be submitted along with this application or coverage will not be bound.

VI. ELECTIONS AVAILABLE UNDER THE LAW

(Coverage will not be provided for excluded individuals unless they are listed in this section)

READ CAREFULLY

Minnesota Workers' Compensation law (MS 176) excludes from coverage certain persons such as sole proprietors, partners, certain executive officers of family farm or closely held corporations, and their spouses, parents and children (regardless of age). An election may be made to provide coverage for those excluded by completing the information below.

The following named individuals who are subject to the election of coverage are to be covered by this policy. List only the individuals who elect coverage.

Name of Person to be Insured	Title or Relationship	Duties	Estimated Remuneration or Draw – included in Section IV

Has the estimated remuneration, subject to minimums and maximums, of the above named individuals been included in Section IV? Yes No

VII. STATEMENTS AND AGREEMENTS

(Coverage will not be provided if this section is not completed)

I (we) have read this application for the granting of coverage to employers unable to secure it for themselves and subscribe to the Minnesota Workers' Compensation Assigned Risk Plan in its entirety, and hereby declare myself (ourselves) bound by its provisions, and by all provisions of the Standard Workers' Compensation and Employer's Liability Policy. I (we) will comply with all reasonable safety recommendations that the servicing contractor makes with a view to reducing the hazards to which my (our) employees are exposed. I (we) hereby agree to pay promptly all premiums when due with the understanding that failure to do so shall constitute authority for the Servicing (Insurance) Contractor to cancel coverage.

I (we) understand the law regarding the election of coverage for Workers' Compensation Insurance.
I (we) understand excluded individuals will not be covered by this policy unless named under Section VI.

I (we) hereby certify the above statements are true and correct, and there are no outstanding premiums due the Plan.

I (we) hereby designate _____
Name of Insurance Agent or Agency

as agent of record for this insurance. I (we) understand that the agent is not acting as an agent of any company for the purpose of this insurance and has no authority to bind such insurance.

I (we) also understand that the agent is not an agent of the Assigned Risk Plan for purposes of state law.

X _____
Signature of Sole Proprietor, Partner or Corporate Officer Date

(See last page for agent's signature)

VIII. STATEMENT OF AGENT OF RECORD

I _____ do hereby certify that I am a licensed insurance agent of the State of Minnesota.

(Print or Type in Name of Agent)

Name of Agency

Street Address of Agency

City

State

ZIP Code

Telephone Number

Federal Employers I.D. Number _____ or Social Security Number _____

Are you charging a service fee on this policy? **(This question must be answered)** Yes No

If so, the fee must be mutually agreed to in writing by both the agent and the insured. A separate agreement must be prepared for each policy year that a fee is charged.

X _____
Signature of Insurance Agent Date

Note: If non-resident agent you must attach a copy of your Minnesota non-resident license or you will not be recognized as agent of record and no commission will be paid.

MINNESOTA WORKERS' COMPENSATION ASSIGNED RISK PLAN
RULES AND PROCEDURES

PLEASE READ CAREFULLY

1. Applications will not be accepted by FAX machine.
2. Only Minnesota statutory workers' compensation coverage and employers' liability coverage will be provided. USL & H coverage is available. Other States and Voluntary Compensation Coverages are not available.
3. Payrolls and classifications included in the Premium Calculation Section of the application are subject to review by Association staff. Payrolls should be indicated for each classification. If the proper classifications cannot be determined, Association staff will classify the employer on the basis of the description of operations as stated on the application, and prepare a premium quotation for the applicant or agent. Final premium will be determined by premium audit upon expiration of the policy.
4. For policies of \$2,000 – \$10,000 the employer shall have the option of paying 50% or 100% of that amount as the deposit premium. For policies of \$10,000 or more, the employer shall have the option of paying 25%, 50% or 100% as the deposit premium. If 50% of premium is paid, the remainder shall be paid in three equal quarterly installments. If 25% is paid, the remainder shall be paid in nine equal monthly installments.
5. The servicing contractor may issue the policy on an interim reporting basis, which requires the insured to submit monthly or quarterly payroll report forms. Requests to have the policy issued on an interim reporting basis will be honored in accordance with the guidelines established.
6. Agents are not agents of the Assigned Risk Plan and cannot issue certificates of insurance.
7. Commissions on Minnesota Workers' Compensation Assigned Risk Plan policies are as follows:

<u>Policy Premium</u>		<u>Commission</u>
under \$1,000	–	5%
\$1,000 to \$5,000	–	4%, but not less than \$50
\$5,000 to \$10,000	–	3.5%, but not less than \$200
over \$10,000	–	1%, but not less than \$350

Commission maximum of \$3,500 per policy if no service fee is charged.

Commission maximum of \$1,500 per policy if a service fee is charged.

Commissions are subject to change without notice.

8. In the event the policy is terminated or a change is made which results in a return premium to the insured, the agent will be required to return the unearned commission portion of such return premium.
9. If you have questions about the rules governing the Assigned Risk Plan, or would like additional information, please contact the Minnesota Workers' Compensation Insurers Association at (612) 897-1737.

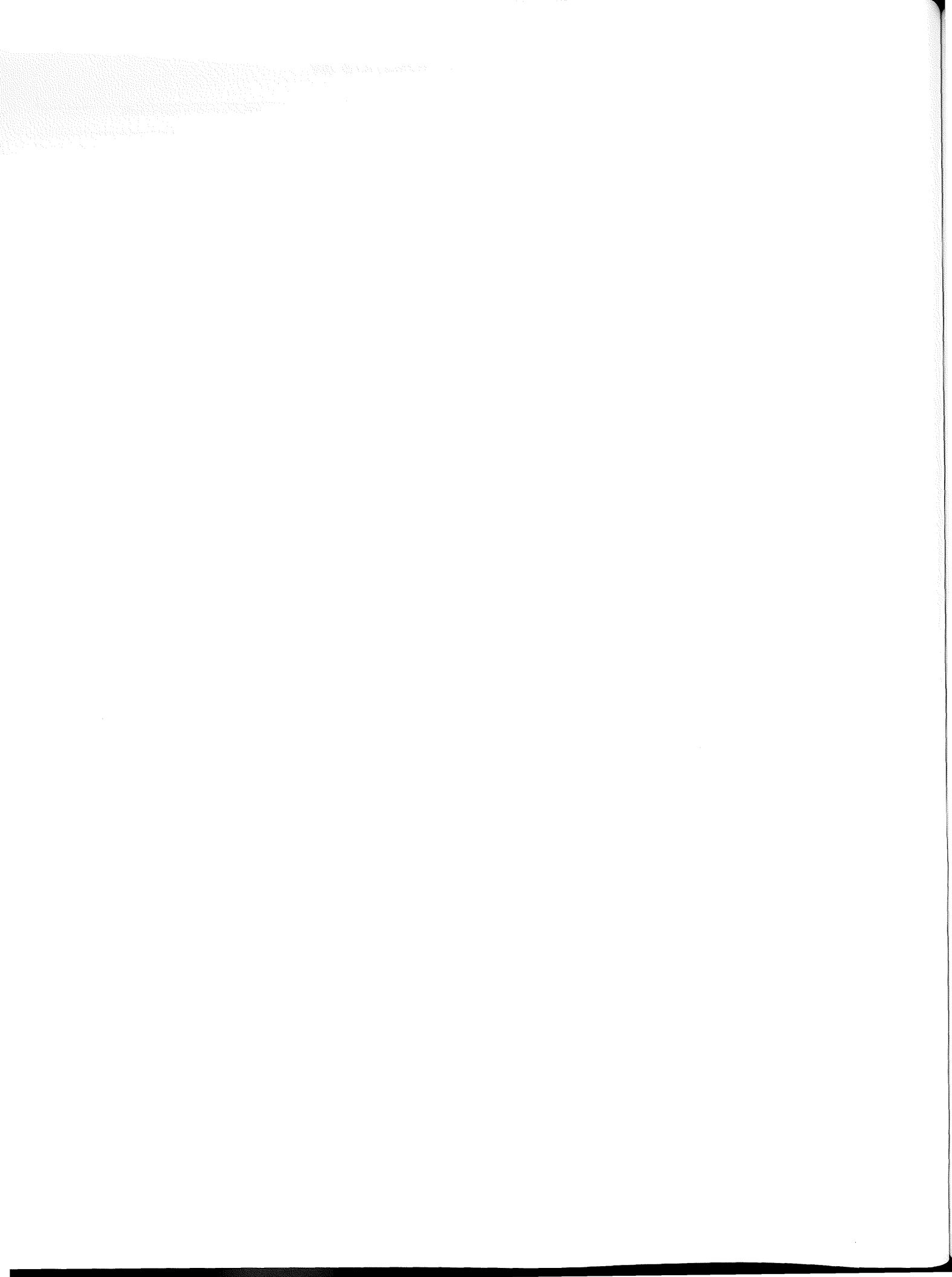
VI. Insurance Solvency

By

Patrick L. Nelson
Deputy Commissioner

and

Charles Nettell
Assistant Commissioner
Minnesota Department of Commerce



A. Introduction

Regulation of insurance by the states has never been stronger and is improving at a rapid pace.

Two years ago, Executive Life was put into rehabilitation by the California insurance commissioner. Then came Mutual Benefit and several other insurers. Thousands of Minnesotans had hundreds of thousands of dollars tied up in these insolvent companies. To its credit, Minnesota already had anticipated some of these industry problems and had begun the first steps toward making the necessary changes in law. The insolvencies of Executive Life and others compelled us, along with regulators in other states, to look hard at how we monitor and react to solvency problems, mindful that not all insolvencies can be prevented. The department undertook major special projects to assess the condition of Minnesota's domestic insurance industry. And the insolvencies compelled us to rethink the protections available for the Minnesota policyholders of failed companies.

At the federal level, members of Congress responded to the insurance solvency problem, too, suggesting that some federal role might be appropriate in the regulation of the insurance industry.

B. Federal Regulatory Developments

1. Most recently, on March 9, Reps. Kennedy (D-MA) and Gonzales (D-TX) introduced H.R. 1257, the "Federal Insurance Administration Act," which has been referred to the Committee on Banking, Finance and Urban Affairs. The following day, Rep. Dingell (D-MI) introduced H.R. 1290, the "Federal Insurance Solvency Act of 1993," which has been referred to the Committee on Energy and Commerce.

The timing of these bills suggests that the long-running jurisdictional feud between Chairmen Gonzalez (Banking) and Dingell (Energy and Commerce) and their committees has not abated. In fact, some suggest Rep. Dingell introduced his bill March 10 only because of the

preemptive strike launched by the introduction of the Kennedy-Gonzalez legislation.

2. The Kennedy-Gonzalez bill, H.R. 1257, would establish the Federal Insurance Administration (FIA) as an independent agency within the executive branch. The FIA would continue to administer the federal crime and flood insurance programs. Title II of H.R. 1257 would have the FIA certify foreign insurers and reinsurers before they could do business in the United States. The next title encompasses Rep. Gonzalez' idea of allowing insurers to have access to the Federal Reserve's discount window as a source of liquidity. Title IV appears to follow from Rep. Kennedy's recent hearing on "redlining." The FIA would be required to collect data from insurers on where they write policies, similar to the data-disclosure requirements of the Home Mortgage Disclosure Act. The bill also would give consumers the right to know why they had been turned down for insurance, which is similar to the credit reporting requirements.
3. Rep. Dingell's bill, H.R. 1290, is similar to H.R. 4900, which he introduced last year. Once again, he would establish the Federal Insurance Solvency Commission (FISC), an independent agency based on the Securities and Exchange Commission, to regulate the financial condition of insurers and reinsurers. Both H.R. 1290 and last year's version would create a two-tiered regulatory structure, but unlike H.R. 4900, the current proposal would direct FISC to establish national solvency standards for *all* insurers. In last year's bill, the states would have been free to regulate companies that preferred state certification. Thus, H.R. 1290 would require the states to enforce national standards even on companies opting for state regulation.

This year's Dingell bill also provides for federal certification of reinsurers and would again establish the National Insurance Protection Corp. (NIPC) to protect the policyholders of federally certified insurers that become insolvent. Federally certified insurers would be required to join. As outlined in H.R. 1290, NIPC will be pre-funded through risk-based assessments on member insurers. Insurance agents and

Insurance Solvency

brokers would register with the National Association of Registered Agents and Brokers, a nationwide self-regulatory organization supervised by FISC. H.R. 1290 would set federal standards and procedures for the rehabilitation and liquidation of insurance companies. State-regulated companies would also be rehabilitated or liquidated in U.S. district court.

4. The reaction of National Association of Insurance Commissioners (NAIC) to these bills was swift. NAIC President Steven T. Foster:

"What the chairmen of the Banking Committee and the Energy and Commerce Committee have done is introduce competing visions of how to establish a new layer of federal bureaucracy for the regulation of insurance. One would think the experience of the 1980s -- when cumbersome federal bureaucracies . . . proved themselves inadequate to the task of regulating banks and thrifts -- would have cured policymakers of the temptation to superimpose a new federal bureaucracy upon an existing state-based regulatory system. Sadly, it would appear that some had not yet learned that painful and costly lesson."

The specter of preemptive federal legislation, along with a growing need for states to address the solvency problems developing in the insurance industry, prompted states to strengthen their regulatory standards and procedures.

Minnesota has been in the forefront nationally in addressing solvency problems, such as with our development of a risk-adjusted capital formula for life companies. The NAIC is the driving force nationally to encourage and lead the way for more effective regulation by the states. The NAIC's centerpiece is the Financial Regulation Standards and Accreditation Program.

C. State Regulatory Developments

The Financial Regulation Standards were established by the NAIC in 1989 as baseline standards for solvency regulation by the states. Under the Accreditation Program, established in 1990, states are reviewed by independent auditors to determine compliance with NAIC standards in the areas of laws and regulations, financial examination procedures, and personnel policies.

Currently, 18 states are accredited by the NAIC, and many more will be reviewed for accreditation this year. The leverage to encourage states to become accredited is an NAIC rule beginning in January 1994 under which accredited states will not accept financial examination reports from unaccredited states. That would put insurance companies domiciled in an unaccredited state at a disadvantage, because in order to do business in accredited states they would have to undergo and pay the costs of additional examinations.

Minnesota, the 11th state to become accredited by the NAIC, received its accreditation in June of last year. This significant milestone was a result of several years of determined effort.

D. 1993 Accreditation/Solvency Legislation

The accreditation standards adopted in the 1991 solvency bill need to be updated periodically to reflect the continual refinement of accreditation standards enacted by the NAIC. The accreditation update bill has been introduced during Minnesota's legislative session as SF 1446.

The central feature in the legislation is a change to the holding company act that regulates extraordinary dividends. The major provisions are:

- Extraordinary dividend will be those in excess of (A) the greater of the prior year's earnings, or (B) 10 percent of capital and surplus.
- All non-extraordinary dividends must be paid out of unassigned funds.

- Advance notice is required for all dividends.
- Department of Commerce will review annually all dividends paid by domestic companies in relation to their earnings and financial position.

E. Developments in the MN Commerce Department's Exam Procedure

1. CAMEL analysis.

Our desk audit unit is the "cornerstone" of our financial solvency surveillance process. Review begins with the annual statement information. When the annual statement is filed with our department, it is also filed on computer diskette. The Department of Commerce has developed a database of all insurers authorized to sell insurance in Minnesota using the diskette filings.

Our computer system takes the raw numbers and manipulates them into 35 ratios that we have identified as important in the analysis of a company. These ratios are grouped into five areas. We call this our CAMEL system of rating. CAMEL is an acronym for:

- Capital.
- Assets.
- Management.
- Earnings.
- Liquidity.

What comes out of this computerized analysis for each company is a composite rating between 1 and 5, with 1 being the best. This annual CAMEL rating is one of several tools used by department staff to determine whether the company needs more aggressive analysis or supervision.

Other tools used in determining the financial condition of an insurer: its four-year trend in CAMEL ratings, its risk-adjusted capital ratio, number of NAIC IRIS ratios that are out of norm, ratings by agencies such as A.M. Best, Moody's, and Standard & Poor, the last

internal Department of Commerce rating assigned, date and results of the last on-site examination, and any regulatory actions already taken against the company.

2. Risk-adjusted capital (RAC).
 - a) Minnesota was one of the first states to develop a RAC formula for life insurance companies, and we are one of only a handful of states currently using it.
 - b) Risk-adjusted capital is a formula approach used to determine the amount of capital the company should have. The amount of capital for a life company is based on the company's asset risk, interest risk, and insurance risk. A risk factor, or percentage, is assigned to each category, and the percentage is applied to the annual statement dollar amount for that category. When added together, this amount is compared to the actual capital of the company. If actual adjusted capital is 100 percent of the target amount or higher, then it is likely the company has enough capital for its risks. Anything under 100 percent would prompt questions by a regulator, with under 75 percent prompting a much more aggressive analysis.
 - c) The NAIC has developed a risk-based capital (RBC) formula that is along the same lines as the Minnesota RAC formula. All life companies will have to file the RBC with the NAIC during the filing of the 1993 annual statement, which occurs in the spring of 1994.

Since companies will have to compute the RBC anyway, and because the NAIC is considering making the RBC Model Act a standard for accreditation, Minnesota will move from its RAC formula to RBC beginning next year. This is important for companies because the Model Act requires mandatory action at certain levels of risk-based capital.

3. Qualitative analysis.

Until now we have been talking about quantitative analysis. The ratios and mathematical rankings are mechanically determined and compared to results of all like companies that do business in Minnesota.

Beginning with the next step, qualitative analysis enters the scene. Many of the next steps involve judgment. Investment policies, for instance, must conform to statutory concentration limits of their state of domicile, but within that a company may have significant philosophical differences. One way may work better for a given company than another. In addition, different approaches may be needed if losses have begun to deplete capital.

4. Further review and taking actions.

- a) If a company is identified for further review, the analyst begins a physical review of required filings, including:
 - The annual statement itself because it includes many narratives and detailed exhibits of a company's activities.
 - Quarterly statements for recent changes.
 - The CPA report, including the footnotes.
 - Enforcement actions.
 - Market conduct practices, because slow claims paying can be a sign of financial difficulty.
 - SEC filings for public companies. They include more real estate information and disclosure.
 - Rating agencies' analysis, which include a history of mergers and assumptions.
 - The actual items involved in the RAC calculation.
 - Actuarial opinions of a company's loss reserves.
 - The latest examination report.
- b) The next major step involves our Supervisory Action Review Committee. SARC reviews the results of any company with a CAMEL rating of 3, 4 or 5. The committee recommends

appropriate actions to the Commissioner. Some companies are simply monitored more frequently, or they may be asked to report monthly on the progress of certain areas.

For a foreign company doing business in Minnesota, the Commissioner may restrict the amount of business it writes in Minnesota. The Commissioner also may revoke or suspend its Minnesota license.

For a Minnesota domestic company, remedial action may be taken to strengthen the financial condition of the company. In many cases, this is accomplished through informal meetings with company officials. For more serious cases, the 1991 solvency legislation authorizes the commissioner to undertake administrative supervision, in which the company's management is actively supervised by the commissioner. In early 1992, State Fund Mutual was put under administrative supervision after major investment losses threatened the solvency of the company. Ultimately, the commissioner also may seek court action such as seizure orders, rehabilitation or liquidation.

- c) More importantly for a domestic company, this review process allows us to "target" our on-site examinations by field examination staff. The targeting is used:
- To determine the frequency of on-site examinations.
 - To identify areas of the company the exam should concentrate on.

This is a somewhat radical departure from the past. Historically, a field exam was done every three years whether the company needed it or not. Generally, the exam was a "comprehensive" exam, meaning the examiners looked at every item in the annual statement, and ignored the fact that an independent CPA had already performed many of the same procedures.

Now a company may expect that we'll show up at different intervals, "spot-lighting" certain areas for intensive exam, reviewing other areas in a cursory way, or relying on the external audit more heavily.

- d) Once the field exam has been completed, the report results are channelled back to the SARC committee through the analysts, and we have a circular, ongoing process. Each time annual statements are filed and analyzed, new companies may be added to our Watch List, while those that have improved may be taken off.
- e) Many of the reports filed with the Commerce Department are public information, including annual statements, CPA reports, and SEC filings. These reports are available at the Department or from the company. Department staff cannot interpret the filings for you, and any questions you have should be directed to the company.

The results of the review process performed internally by the Department are classified by statute as non-public information. The ratios we use and the numbers assigned are not "ratings" as in A.M. Best's ratings. They are internal rankings for purposes of further analysis, and change continually.

The statutes classify as public information these actions by the commissioner: rehabilitation, liquidation, suspension of license, and revocation of Certificate of Authority. Other restrictions by the commissioner are not public, except to the extent the company may be required to inform its agents or policyholders.

Making public the results of analysis could be damaging and even life-threatening to a company which otherwise stands every chance of working out of its problems.

- f) Given the complexity of the industry, there are few things that can stand alone as an indicator of a company's health or soundness.

Insurance Solvency

In addition to the complex analysis required, regulators are paying more attention than ever to the basics: adequate capital, adequate reserves, and adequate liquidity.

F. Guaranty Association Developments

1. Guaranty associations are the safety net for consumers. The unprecedented failures of Executive Life and other insurers have made guaranty associations more visible than ever. In Minnesota, state law for years prohibited using the existence of the guaranty associations as a sales inducement. Now, however, a notice of guaranty association coverage limits is a required part of every insurance transaction.

In Minnesota there are two guaranty associations: one for property and casualty insurance, and the other for life and health insurance. Both are mandated by state law.

2. Property and casualty.

The property and casualty association is known as MIGA, which stands for the Minnesota Insurance Guaranty Association. Companies licensed to sell P & C insurance in Minnesota are required to participate in MIGA. This includes township mutuals and farmers mutual fire insurance companies, as well as the traditional insurers. The member companies run the association subject to the statutory requirements.

They are also assessed by their association to pay any amounts needed for claims. What each company is assessed is determined in proportion to the premium the company wrote in Minnesota in the preceding calendar year. The amount that companies can be assessed in one year is capped at 2 percent of annual premiums.

MIGA has five separate accounts for five different areas of property and casualty insurance, each of which is assessed separately from the other:

- Automobile insurance.
- Township mutuals.
- Fidelity and surety bonds.
- Worker's compensation insurance.
- An account for all other insurance.

For the public, the important questions regarding MIGA are: Who is covered? And for how much?

Residents are defined as the typical person who lives here and makes this their principal home, but also includes persons whose principal place of business is located in this state at the time of the insured event. This would mean someone could leave the state or live across the border but have their business in Minnesota and be covered. Also covered are persons whose principal place of business is in the states contiguous to Minnesota (Wisconsin, Iowa, North and South Dakota) but who maintain substantial business in Minnesota.

The amount covered is limited to \$300,000. That includes unearned premiums as well as claims for damages or other types of coverage. In general, you can assume that if the claim would be covered under the policy, then it will be covered by the guaranty association subject to these dollar limits.

MIGA does not cover any life insurance or accident and sickness insurance. MIGA also does not cover title insurance, mortgage guaranty insurance, financial guaranty or any other form of insurance offering protection against investment risk.

The Guaranty Association is activated when an insurer is declared insolvent. The commissioner will place the troubled insurer under some form of statutory control, including rehabilitation, which tries to get the company back on its feet, or liquidation. In those instances, a

court order is usually obtained that halts or restricts the company from paying claims. At that time the Guaranty Association's obligation to pay may be triggered, and policyholders are notified about the procedures and deadlines for filing claims.

3. Life and health.

The Life and Health Guaranty Association is the one that has had the most publicity recently because of the insolvencies of Executive Life and Mutual Benefit. This association was created in 1977 and has not paid out much money since then. Its structure is similar to MIGA except there are only three accounts:

- Life.
- Annuities.
- Accident and health.

The annual assessment on companies is limited to 2 percent of annual premiums.

Coverage applies only to persons who live in Minnesota at the time of insolvency. Cash value is covered up to \$100,000, and death benefits are covered up to \$300,000. These limits would be for each person covered by the policy, so if multiple persons are covered by one policy, then the limits on a per policy basis will be adjusted accordingly.

One of the major coverage issues relates to guaranteed investment contracts. GICs are basically the insurance industry's equivalent of a certificate of deposit, where a certain amount of money is placed with the insurer for a specified period of time and a particular interest rate is guaranteed. These are used extensively to fund pension, profit sharing and similar programs. Hundreds of millions of dollars of employee funds were invested in Executive Life GICs. The failure of Executive Life raised significant issues involving questions such as: Who is covered (employer, employee, or plan trustee?). Are

employees who don't live in Minnesota covered? And how much is covered?

In response to these questions, the department has taken the position that an individual's investment in an employer-sponsored GIC is covered by the Minnesota Guaranty Association if the individual is a resident of Minnesota. This excludes employees of Minnesota-headquartered companies who do not live in Minnesota. The residency of the employer or trustee does not determine coverage; what counts is the residence of the employee.

4. 1993 Guaranty Fund legislation.

Legislation was introduced this session to clarify and update the Guaranty Association statutes regarding individual policies, GICs and other insurance products. The bill which was negotiated with Commissioner McKasy provides for the following increased limits and other provisions.

- \$300,000 life insurance death benefit
- \$100,000 life insurance cash value

- \$300,000 annuity benefits in payment
- \$100,000 annuity cash value

- \$300,000 structured settlement annuities

- \$300,000 health insurance

- \$100,000 cash value for each employer sponsored retirement/deferred compensation plan subject to a \$7.5 million maximum for any plan.

- GIC's over \$7.5 million not assessed for guaranty fund.

- \$300,000 if no other limit specified.

- Enhanced commissioner's authority to determine when hardships exist so expedited payments can be made.
- Commissioner has authority to reject an annuity or life insurance product that offers an interest rate that will jeopardize the insurers solvency.

G. Other legislation

1. \$402 million WCRA refund to Minnesota employers.

In November, Commissioner McKasy issued a Bulletin to all licensed worker's compensation insurers, instructing them to refund to Minnesota employers \$100 million in excess funds which they had recently received from the Worker's Compensation Reinsurance Association. Several insurers threatened to bring legal challenges, which would tie the matter up in court and unreasonably delay the process of refunding the money to employers.

To accomplish the refunds as quickly as possible, I suspended the Bulletin and received commitments from the Governor's office and the four key legislative leaders to pass legislation during the 1993 session to mandate the refunds.

In February, the WCRA announced its intention to turn an additional \$302 million over to insurers. Bills in the Legislature would require that the total of \$402 million be refunded to employers, as well as any future excess funds from the WCRA. Refunding the \$402 million would be calculated according to each employer's pro rata share of its insurance carrier's total worker's compensation premiums earned in 1991. As of this writing the bill had not yet passed. The oral presentation will update the status.

VII. Policy Analysis

by

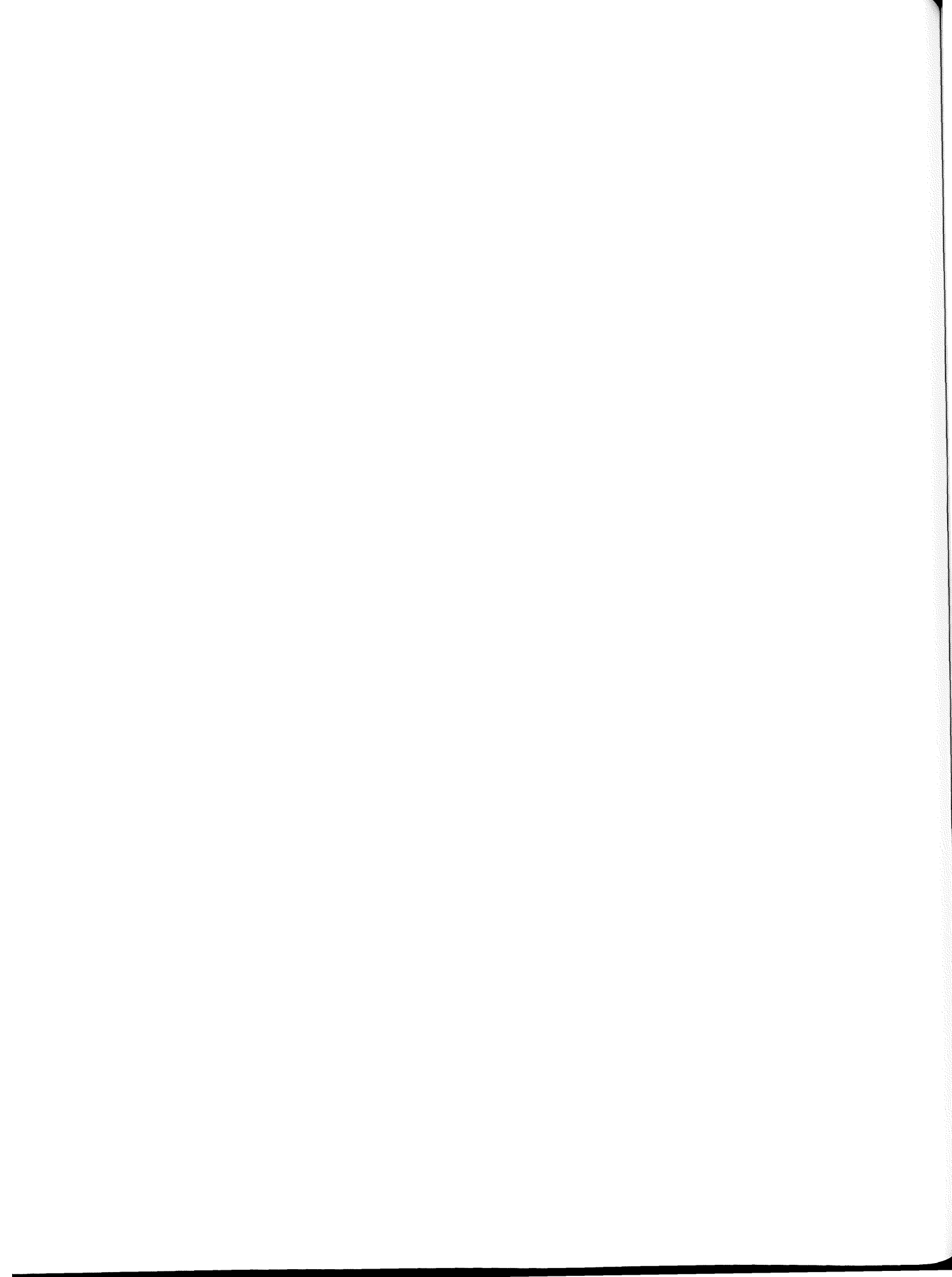
Mel Boynton
Director of Policy Analysis

Tom Baker
Self-Insurance Coordinator

Bill Kyle
Property and Casualty Supervisor

John Gross
Commerce Analysis Supervisor

Charles Ferguson
Commerce Analyst



A. Introduction

The Policy Analysis Division reviews over 13,000 insurance policy and rate filings each year for compliance with law. Exhibit A attached indicates the annual file volume for the last three years by line of coverage. The division oversees self-insurance activities in workers compensation and no-fault along with licensing third-party administrators.

With the recent passage of MinnesotaCare and the history of specific requirements for many types of insurance (such as Medicare supplements and long term care), the activities of policy analysis have steadily grown.

You may wish to contact Life and Health Supervisor John Gross (612) 296-6929 or Property and Casualty Supervisor Bill Kyle (612) 296-2656 if you have any questions.

B. Self-Insurance and Third Party Administrators

The Department of Commerce regulates self-insureds for Worker's Compensation, No-Fault Insurance, Vendors of Risk Management Services (Third Party Administrators) and Employee Leasing Company registration.

The department has seen a dramatic increase in the number of companies requesting to become self-insured for workers compensation, individually or through a group association. Some 512 companies are now covered by self-insurance for workers compensation. The contact persons for Worker's Compensation Self-Insurance applications are Tom Baker (612) 297-2853 and Virginia Hogan at (612) 297-4815.

The department also has jurisdiction for those companies who seek to become self-insured under the Minnesota No-Fault Act (auto). There are 27 companies self-insuring for No-Fault. The contact persons for automobile self-insurance are Mary Lou Houde at (612) 296-8592 or Tom Baker at (612) 297-2853.

The individual or company seeking to contract work from a Self-Insurer must first become licensed as a Third Party Administrator. As self-insurance has grown in the state, so has the number of licensing applications at the Department. Currently, there are 173 Third Party Administrators licensed in Minnesota. The contact person for the licensing of Third Party Administrators is Mary Lou Houde at (612) 296-8592.

We are also responsible for the registration of Employee Leasing companies. The contact person for Employee Leasing registration is Marie Douglas at (612) 297-7035.

Exhibit B reflects the increase in self-insurance in Minnesota.

C. Auto Insurance Applications

While most auto insurance applications are proper and routine, we have heard of cases where one or both of the following were not given to the applicant:

1. A copy of the surcharge disclosure statement; and
2. The statutory guaranty association notice. The notice no longer needs to be signed by the applicant as long as the company keeps reasonable records to show the insured has received a copy.

Auto insurance applicants can no longer be refused coverage if it can be reasonably shown that the applicant did not need previous auto insurance. This means an agent cannot refuse to bind, nor refuse to place coverage with their standard auto carrier (M.S. 72A.20, Subd. 23(c)).

D. MinnesotaCare

1. Small Group Reform

Historically, most Minnesota employers have made health care coverage available to their employees. Most Minnesota employers who

have five or more employees offer some health care coverage to their employees. However, as the size of the group becomes smaller, the less likely that the employer will provide health care coverage. Only 33% of the employers with one to four full-time employees provide health care for their employees.

Obviously, it is apparent that many small employers find it difficult to provide this coverage for a number of different reasons, not the least of which is the cost. Minnesota law requires HMOs and insurance companies to provide coverage for more than thirty specific treatments and procedures. Even though many of Minnesota's small employers would like to provide a portion of the coverage for their employee's health care, these mandated coverage makes this prospect prohibitive.

To make it easier for small employers to offer health care coverage, the 1992 MinnesotaCare Act offered reforms to the small group insurance market. It includes provisions that could have a significant impact on businesses employing two to twenty nine employees. To be eligible there must be a minimum of 75% participation on the part of the employees and the employer must pay at least 50% of the cost of the coverage. To qualify, an employee must work at least twenty hours per week and can be excluded from coverage for a pre-existing condition for twelve months (18 months if a late entrant).

The benefit package coverages a limited number of services and providers. It is comprehensive in nature, but does not include all of the current mandated benefits. The benefit packages emphasize preventive or primary care and utilize either copayments or deductibles. The copayment and deductible plans are described later. Any health carrier doing business in the small group market must make either benefit package available to any small employer.

Underwriting restrictions were created for the small group market. The small employer benefit packages are guaranteed renewable. Health carriers may only use case characteristics and demographic composition of the small group and the health status of the employees as the basis for

Policy Analysis

setting rates. In addition, gender based rates will no longer be allowed, resulting in males and females being rated equally. Obviously, should a group become ineligible because of an increase or decrease in the number of employees, or because of a failure to pay premiums, the coverage can be non-renewed.

Rate bands will be imposed on the small group market. Health carriers must offer premium rates to small employers that are no more than 25% above or below the index rates that are charged to small employers for the same or similar coverage. The variations must be based on health status, claims experience, industry of the employer, and duration of coverage. Additionally, an age based variation of up to plus or minus 50% of the index rate, and no more than three geographic regions may be charged to the small employer. Health carriers must achieve loss ratios of 75% in 1993, increasing to 80% in 1998.

A reinsurance association has been created to spread the risk resulting from these plans throughout the industry. Participation in the association is mandatory for those carriers doing business in the small employer market unless the carrier elects not to participate. Health carriers may transfer up to 90% of the risk above the threshold of \$5000. For cases where eligible charges exceed \$55,000, a carrier may transfer 100% of the risk.

Exhibit C is a list of the 48 health carriers who will offer the copayment and deductible plans.

2. Private Employers Insurance Program

MinnesotaCare addressed the issue of purchasing pools in its creation of the Private Employers Insurance Program (PEIP). This program allows private employers of any size to pool their employees and resources for the purpose of purchasing health care coverage. This program becomes effective July 1, 1993. Acceptance into the pool will be guaranteed and the pool will use the same rate bands as those imposed on the small group market. This program is administered by

the Department of Employer Relations (DOER), and you may contact them at (612) 296-0633.

3. Individual Insurance Reform

Under MinnesotaCare, individual health benefit plans issued to small employers and individuals must now comply with small employer premium rate restrictions. All individual health forms (except disability income, per diem, dental or vision, accident only, long-term care and Medicare) must be guaranteed renewable. However, guaranteed issue is not required. As will small employer reform new loss ratio standards will be required, 65% in 1993, increasing to 70% in 1998.

Individual health policies must be portable, requiring credit to be given for satisfying a prior plan's preexisting condition limitation. Additionally, health carriers must offer individual coverage to anyone previously covered under their group health benefit plan, as long as continuous coverage is maintained. Finally, dependents for all health plans must include a full-time student under the age of 25.

4. Copayment Type Plan

Lifetime Maximum	\$500,000
Coinsurance	20%
Annual Out of Pocket	\$3,000 Individual 6,000 Family

Benefits subject to coinsurance after copayment:

Outpatient hospital, emergency room, urgent care center, or similar facility per visit \$50 copayment

Outpatient visits other than those above \$15 copayment
per visit

Home Health Agency/Private Duty Nursing \$15 copayment

Inpatient Hospital \$300 per admission

Drug Coverage 50% up to a
separate annual
out of pocket
expense \$1000/
individual 100%
thereafter

Child Health Supervision/
Prenatal Services 100% Not subject to
deductible or
coinsurance

Covered Benefits

- * Inpatient and Outpatient Hospital (limited to semi-private room) excluding chemical dependency and mental health.
- * Physician and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions.
- * Diagnostic X-rays and laboratory tests.
- * Ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier.
- * Services of a home health agency if the services qualify as reimbursable services under Medicare and are directed by a physician or qualify as reimbursable under the health carrier's most commonly sold health plan for insured group coverage.

Policy Analysis

- * Services of a private duty registered nurse if medically necessary, as determined by the health carrier.
- * The rental or purchase, as appropriate, of durable medical equipment, other than eye glasses or hearing aids.
- * Child health supervision services up to the age of 18, as defined in section 62A.047.
- * Maternity and prenatal care services, as defined in sections 62A.041 and 62A.047.
- * Inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined in sections 62A.041 and 62A.047.
- * Inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9- codes 295 to 299.
- * Ten hours of outpatient mental health diagnosis or treatment for illnesses or conditions on above.
- * Sixty hours per year of outpatient treatment of chemical dependency.

5. Deductible Type Plan

Lifetime Maximum	\$500,000
Annual Deductible	\$500/Individual \$1000/Family
Coinsurance	20%

Policy Analysis

Annual Out of Pocket	\$3000/Individual \$6000/Family
Drug Coverage	50% up to a separate annual out of pocket expense \$1000/individual 100% thereafter
Child Health Supervision/ Prenatal Services	100% Not subject to deductible or coinsurance

Covered Benefits

- * Inpatient and Outpatient Hospital (limited to semi-private room) excluding chemical dependency and mental health.
- * Physician and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions.
- * Diagnostic X-rays and laboratory tests.
- * Ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier.
- * Services of a home health agency if the services qualify as reimbursable services under Medicare and are directed by a physician or qualify as reimbursable under the health carrier's most commonly sold health plan for insured group coverage.
- * Services of a private duty registered nurse if medically necessary, as determined by the health carrier.
- * The rental or purchase, as appropriate, of durable medical equipment, other than eye glasses or hearing aids.

Policy Analysis

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- * Ten hours of outpatient mental health diagnosis or treatment for illnesses or conditions on above.
- * Sixty hours per year of outpatient treatment of chemical dependency.

E. Medicare Supplements

1. Standardized Policies

We have two standardized Medicare supplement policies in Minnesota, the Extended Basic and Basic. The Extended Basic is very comprehensive in coverage, while the Basic is limited in coverage. However, six different riders may be offered with the Basic policy. Thus, the consumer can design their own personal coverage, depending on their health needs.

Both policies must be offered and explained, before the policy is sold or issued.

2. Medicare Select

Minnesota is one of 15 states that can offer a Medicare Select Medicare policy. Medicare Select policies will pay the coverage found in a Basic plan, and the Parts A and B deductibles and 100% of physician charges if covered services are obtained through a preferred provider network. If you go OUTSIDE of the network for non-emergency services, Medicare Select may deny payment, pay less than full benefits, or pay full benefits if outside the state of Minnesota.

3. Open Enrollment

If a consumer is enrolling in Medicare Part B for the first time, they would qualify for a six month open enrollment period. During this period, the insurance company or HMO cannot underwrite or apply preexisting condition provision to the policy.

4. Community Rating

Minnesota enacted legislation this year requires all Medicare supplement rates to be community basis, and not on age or gender. However, rates can be based on healthy lifestyle, behaviors and geographic location.

5. Comparison of the Extended Basic and Basic coverages

a) **BASIC COVERAGE**

Basic policies (the least comprehensive) must provide the following coverage:

- 1) 100% of part A hospitalization expenses and co-payments. Basic policies do not cover the \$676 Medicare part A deductible per illness.
- 2) Pay Medicare Part A skilled nursing care co-payments.

- 3) Pay the Medicare blood deductible of 3 pints.
- 4) Pay the Medicare approved Part B co-payments, but not the annual \$100 deductible.
- 5) 100% of the cost of immunization and routine screening procedures for cancer.
- 6) 80% of "emergency" foreign travel care.

b) **OPTIONAL RIDERS TO "BASIC" COVERAGE**

Six riders may be added to the BASIC plan, letting you personally design a medigap policy that fits your own needs.

- 1) Part A Inpatient Deductible - This extra benefit rider covers the \$676 deductible for Medicare approved hospital expenses.
- 2) Part B. Annual Deductible - This extra benefit rider covers the \$100 deductible for Medicare approved outpatient and physician services.
- 3) 80% or 100% of Usual & Customary - This extra benefit rider is offered at two alternative levels (80% or 100%) and pays the usual and customary medical expenses (typically, a doctor bill) above those approved by Medicare.
- 4) Prescription Drugs - This extra benefit rider covers at least 50% of the cost of prescription drugs not covered by Medicare.
- 5) Preventive Medical Care - This extra benefit rider pays up to \$120 per year for physicals, hearing tests, cholesterol and diabetes screening and thyroid function tests.
- 6) At-Home Recovery - This extra benefit rider pays up to \$1,600 per year for short term, at home assistance with activities of

Policy Analysis

daily living (bathing, dressing, personal hygiene, etc.) following hospitalization.

c) **EXTENDED BASIC COVERAGE**

Extended Basic policies offer the most comprehensive coverage. It is even more comprehensive than a "Basic" policy with all optional riders. Extended Basic policies must provide all coverage provided by Basic policies, plus the following coverage:

- 1) Pay 100% of the \$676 Medicare Part A deductible per illness;
- 2) Pay 100% of \$100 Medicare Part B deductible and pay the 20% of Part B Medicare Approved charge;
- 3) Pay 80% of the cost of prescription drugs.
- 4) Pay 80% of hospital and medical expenses not paid by Medicare, including foreign travel.
- 5) Have a \$1,000 annual limit on money you must pay out of your own pocket on covered medical expenses - thereafter policy pays 100%.
- 6) Pay 100% of the cost of immunization and routine screening procedures for cancer; and
- 7) Pay the preventive medical care and at-home recovery benefits.

6. Cost Comparison Guide Available

The Commerce Department has produced a Medicare supplement insurance rate comparison guide. It explains Medicare benefits, the standardized policy benefits, shopping tips and specific cost comparisons. Copies may be obtained by calling the department at (612) 296-2488.

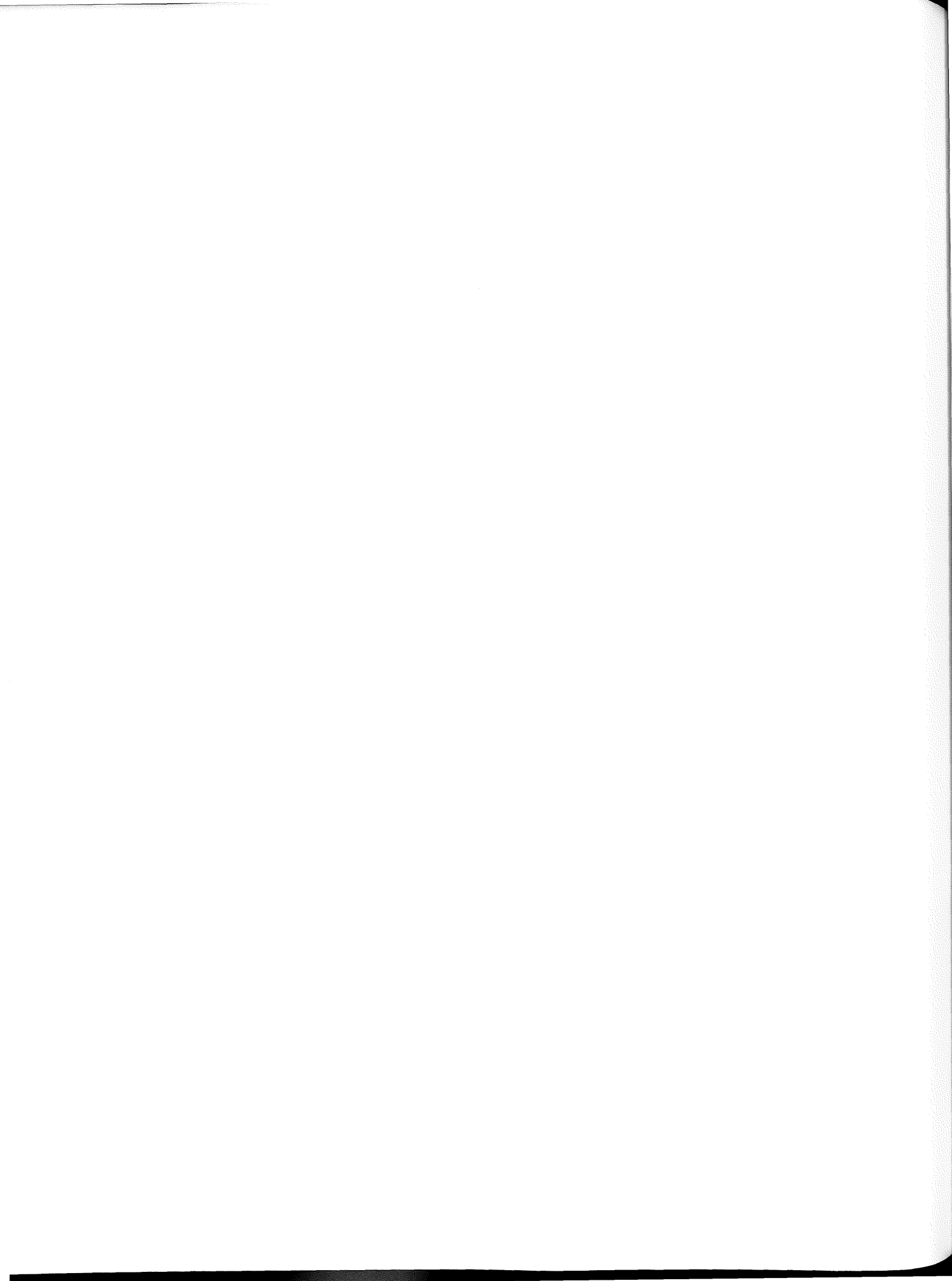
Policy Analysis

F. Minnesota Comprehensive Health Association

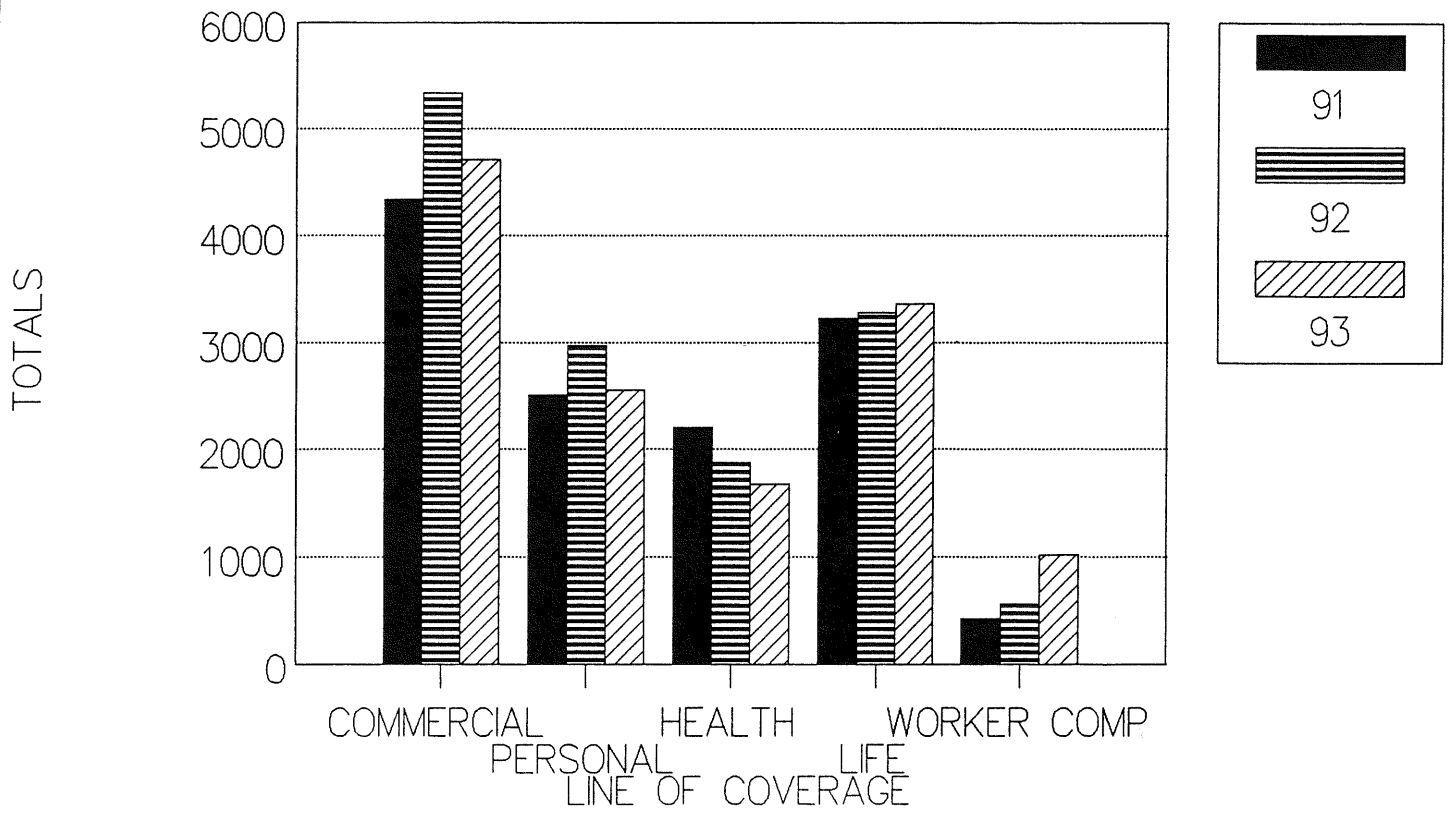
In 1976, the legislature established the Minnesota Comprehensive Health Association (MCHA) to meet the needs of those rejected for voluntary health insurance.

The MCHA plan now includes some 34,000 Minnesotans and its operation is supervised by the Department of Commerce.

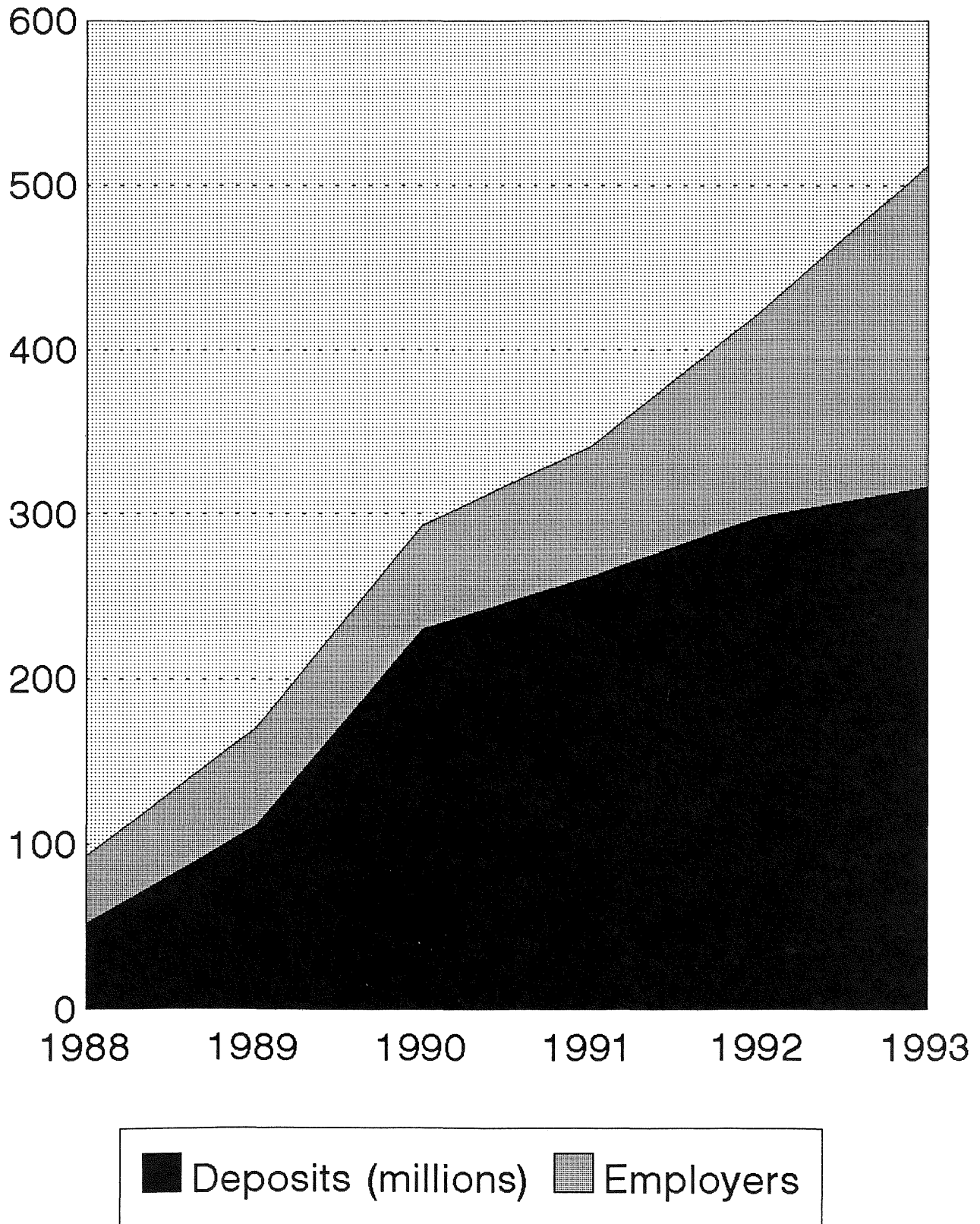
Exhibits D and E describe MCHA eligibility, benefits and rates for qualified plans. Exhibit F are the rates for MCHA Medicare supplements.

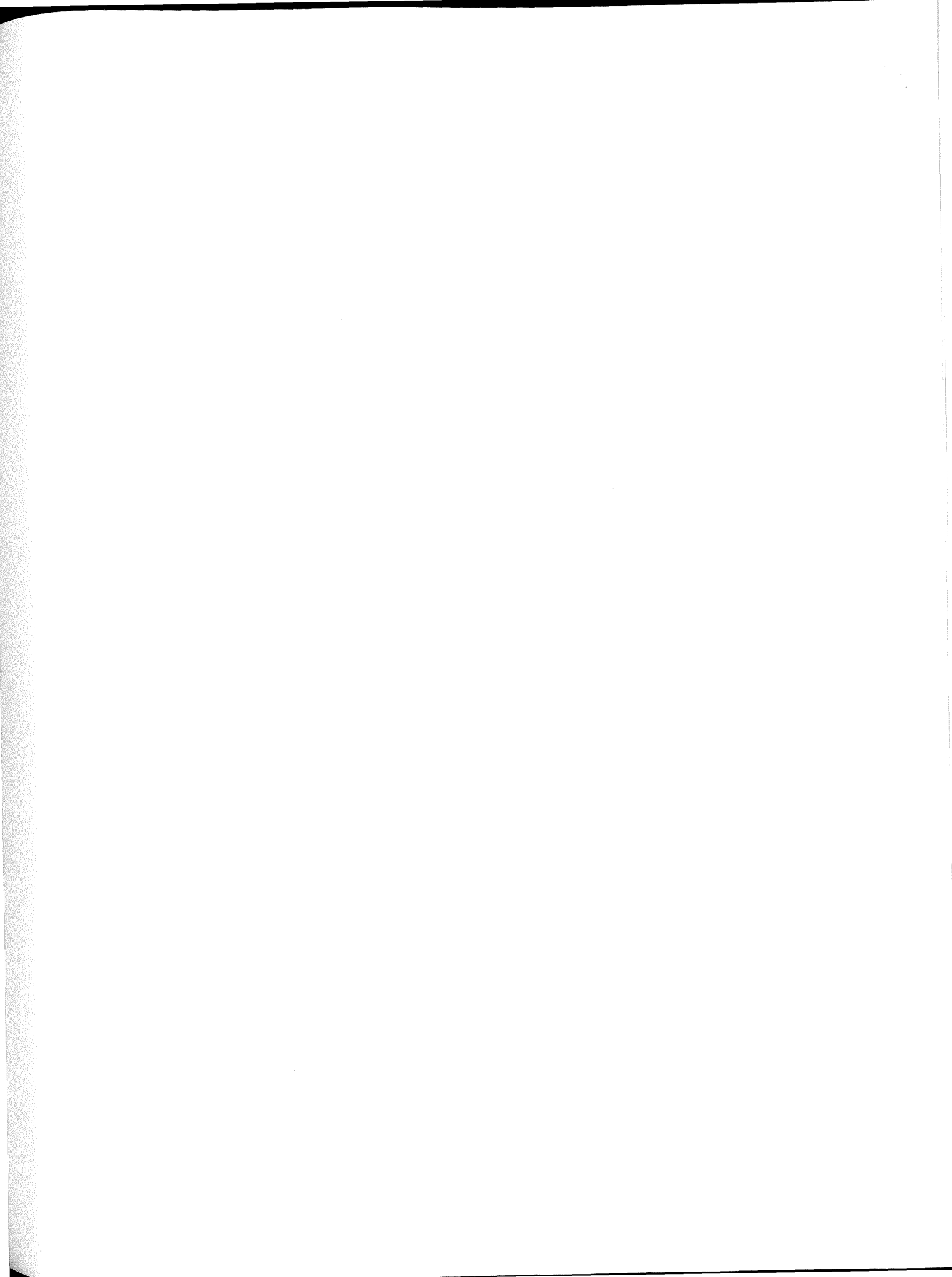


POLICY ANALYSIS FILES CLOSED BETWEEN 5/1/91 AND 5/1/93



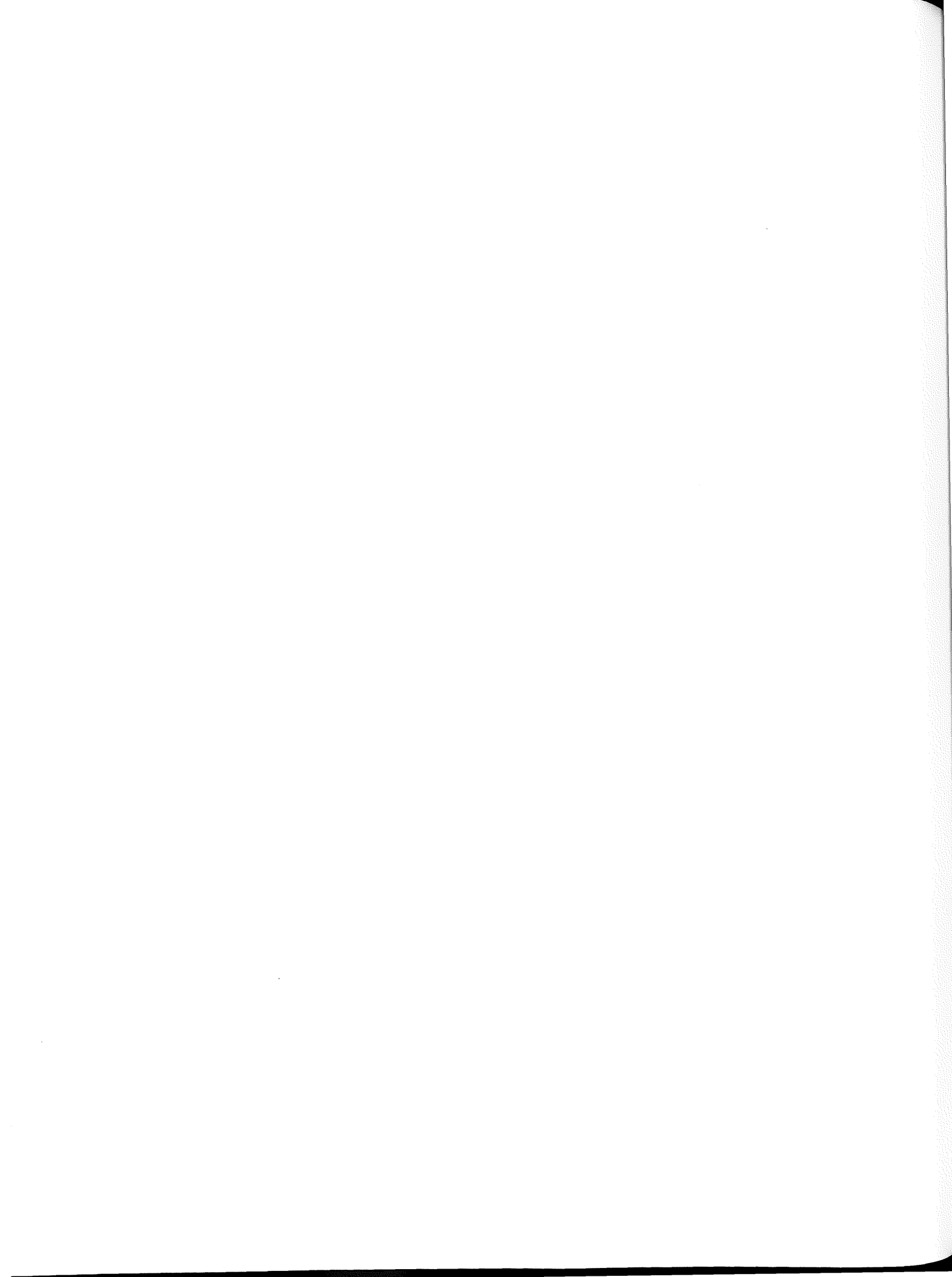
Workers Compensation & No-Fault Self-Insurance Activity





Companies Intending to Continue to Participate in the Small Employer Market

- 1 Aetna life Ins Co
- 2 Anthem Life Ins Co of Indiana
- 3 Blue Cross and Blue Shield of Minnesota
- 4 Blue Plus
- 5 Business men's Assurance Co of America
- 6 Celtic Life Ins Co
- 7 Colonial Life Ins Co of America
- 8 Continental Life and Accident Co
- 9 CUNA Mutual Ins Society
- 10 EPBLife Ins Co
- 11 Employers Health Ins Co
- 12 Epic Life Ins Co
- 13 Farm Bureau Life Ins Co
- 14 Farmland Life Ins Co
- 15 Federated Mutual Ins Co
- 16 Fortis Benefits Ins Co
- 17 Group Health, Inc
- 18 GroupCare, Inc
- 19 Guardian Life Ins Co of America
- 20 HMO Midwest
- 21 Home Life Financial Assurance Corporation
- 22 John Alden Life Ins Co
- 23 Kanawha Ins Co
- 24 Life General Security Ins Co
- 25 Lincoln National Life Ins Co
- 26 Med Centers
- 27 Medica Choice
- 28 Medica Primary
- 29 Midwest Assurance Co
- 30 New England Mutual Life Ins Co
- 31 New York Life Ins Co
- 32 Nippon Life Ins Co of America
- 33 North American Life and Casualty
- 34 Pan-American Life Ins Co
- 35 Phoenix Home Life Mutual Ins Co
- 36 Physicians Ins Co
- 37 Pioneer Life Ins Co of Illinois
- 38 PM Group Life Ins Co
- 39 Principal Mutual Life Ins Co
- 40 Security Life Ins Co of America
- 41 Sentry Life Ins Co
- 42 TMG Life Ins Co
- 43 United Health and Life Ins Co
- 44 United of Omaha Life Ins Co
- 45 United States Life Ins Co
- 46 United Wisconsin Ins Co
- 47 United World Life Ins Co
- 48 Woodmen Accident and Life Co



**COMPREHENSIVE HOSPITAL
AND MEDICAL - SURGICAL
EXPENSE COVERAGE**

THROUGH THE

**Minnesota Comprehensive Health Association
(MCHA)**

**STATE PLAN COVERAGE
of Qualified Plans with a
Choice of \$500 or \$1,000 Deductible,**

**For Minnesota Residents Who Are Unable To
Obtain Standard Health Coverage**

**NOTE: The eligibility definitions and the application procedures described in this brochure
are required by the law under which the Association operates.**

Prepared by Minnesota Comprehensive Health Association
Under the Supervision of the Department of Commerce
State of Minnesota

The 1976 Minnesota Legislature enacted a law to assure the availability of minimum benefits of hospital and medical-surgical expense coverage to all qualified Minnesota residents. To administer the program, the law provided for the creation of an association comprised of all insurers, fraternal, nonprofit health service plan corporations, health maintenance organizations and self insurers in the state. The association is known as the Minnesota Comprehensive Health Association (MCHA). The coverages offered are described in summary in this brochure. A complete description of coverage may be obtained by referring to the policy.

STATE PLAN COVERAGE AVAILABLE

Qualified Plan Number 1: Provides for coverage of 80% of the allowed charge for prescription medications after a calendar year deductible of \$200 per person per year has been satisfied. Provides for coverage of 80% of the allowed charges for all other covered expenses after a calendar year deductible of \$800 per person per year has been satisfied. After out-of-pocket covered expenses, including the deductible, reach \$3,000 in a calendar year for a covered person, 100% of the allowed charge for covered expenses is payable during the balance of that calendar year — subject to a maximum lifetime benefit of \$500,000 per covered person. Coverage terminates at age 65. (Exception may be authorized by MCHA for an Insured who is not eligible under Part A and Part B of Medicare.)

Qualified Plan Number 2: Same as Qualified Plan Number 1 except the per covered person prescription medication deductible is \$100, and the medical expense deductible is \$400.

WHO IS ELIGIBLE

Any qualified Minnesota resident is eligible if he or she is currently and has been a resident of Minnesota for the six months immediately preceding the receipt by MCHA (or its Writing Carrier) of a completed certificate of eligibility and who meets the enrollment requirements of Minnesota Statutes section 62E.14. and has:

1. Been refused health coverage or has been offered coverage at a higher than standard premium, or has been offered health coverage with a requirement of a restrictive rider or preexisting conditions limitation on a Qualified Plan the effect of which is to substantially reduce coverage from that received by a person who is considered a standard risk, as determined by MCHA, by one Association member within six months of the date a complete application is received by MCHA (all insurance carriers writing health insurance in Minnesota are Association members) or;
2. Been treated within the last three years for one of the presumptive conditions (see the list under Definitions in this brochure or see the enrollment form) or;
3. Been an employee who was voluntarily or involuntarily terminated or laid off from employment and unable to exercise the option to continue coverage under 62A.17. This option must be exercised within 60 days of termination or lay-off; or
4. Reached age 65 or over and is not eligible for the health insurance benefits of the federal Medicare program.

If you are eligible for coverage under Qualified Plan Number 1 or Qualified Plan Number 2, you may also obtain coverage for your eligible dependents (spouse and children).

BENEFITS

(Subject to Preexisting Condition limitation. See item #1 under **What Isn't Covered**)
(Benefit percentage will be less if nonparticipating providers are used. Consult Article II, section A of the policy.)

Covered expenses include the allowed charge for:

1. Hospital services;
2. Professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a physician or at his direction;
3. Prescription drugs;

4. Services of a nursing home (as defined in the policy) for not more than 120 days in a year if the services would qualify as eligible services under Medicare;
5. Services of a home health agency if the services would qualify as eligible services under Medicare;
6. Use of radium or other radioactive materials;
7. Oxygen;
8. Anesthetics;
9. Prosthesis (other than dental);
10. Rental or purchase, as appropriate, of durable medical equipment other than eyeglasses and hearing aids;
11. Diagnostic X rays and laboratory tests;
12. Oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with extraction or repair of teeth;
13. Services of a physical therapist;
14. Transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition; or a reasonable mileage rate for transportation to a kidney dialysis center to receive treatment, services or articles related to kidney dialysis;
15. Opinion of a second physician on surgical procedures to cost \$500 or more in physician, laboratory and hospital charges, (repetitious diagnostic tests will not be covered);
16. Routine check-ups (including diagnostic tests, immunizations, injections and inoculations) during the first 18 months of a covered person's life, but not more than 4 check-ups in the first 6 months of life, and 4 check-ups from 6 months of age to 18 months of age;
17. Routine cancer screening;
18. Mental health care services;
19. Chemical dependency services;
20. Ventilator-dependent services;
21. Prenatal and well-baby care services;
22. Phenylketonuria (PKU);
23. Reconstructive surgery;
24. Scalp hair prostheses;
25. Temporomandibular Joint Syndrome (TMJ) and Craniomandibular Joint Syndrome (CMJ);
26. Cleft lip and palate; and
27. Ambulatory surgical centers.

WHAT ISN'T COVERED

Covered expenses do not include the cost of:

1. Any expenses incurred or services received for a sickness, injury or prescription medication which was diagnosed or treated within 90 days immediately prior to the date coverage began. Treatment means the management

and care of a patient for the purpose of combatting disease or disorder. It includes medical and surgical care, diagnostic workups, giving medical advice and the prescription, dispensing or purchase of prescription drugs.

Coverage will be furnished for such illness for expenses incurred or services received six months after the date coverage began. You may be eligible for a waiver of the six-month exclusion of preexisting conditions if you were covered by a health benefits plan that was cancelled for reasons other than your request, material misrepresentation, or failure to pay the premiums.

In this case, you are allowed a limited amount of time after cancellation of the prior coverage in which to apply for coverage through MCHA and qualify for a waiver. Please call (612) 456-5290 if you feel you may be eligible for a waiver and would like additional information.

2. Care for injury or disease covered by Worker's Compensation or similar law, or for which benefits are payable under another policy or plan of accident and health care coverage, Medicare or any other governmental program, except as provided payable under Medicare had you been enrolled in Part A and Part B of Medicare;
3. Treatment for cosmetic purposes other than surgery for the repair of an injury or birth defect;
4. Care which is primarily for custodial or domiciliary purposes which would not qualify as eligible services under Medicare;
5. Confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician; provided, however, that if the institution does not have semiprivate rooms, its most common semiprivate room charge shall be considered to be 90 percent of its lowest private room charge;
6. That part of any charge for services or articles rendered or prescribed by a physician, or other health care personnel which exceeds the allowed charge as defined in the policy;
7. Services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles;
8. Routine physical examination (except as described in item #16 under **Benefits**), dental care, eyeglasses, hearing aids, physician examinations to determine the need for eyeglasses or hearing aids, illness or injury due to acts of war, and care for mental illness while not confined in a hospital in Minnesota (refer to actual policy for details).
9. Care received before the effective date of the policy;
10. Services or articles for a covered person who has received \$500,000 in benefits under all of the MCHA Qualified Plan Number 1 and Number 2 policies under which he/she has been insured;
11. Outpatient private duty nursing;
12. Services or articles which are not medically necessary;
13. Diagnostic admissions for diagnostic tests that can be performed on an outpatient basis;
14. Surgery or treatment which is of an experimental nature; and
15. Marital, family or other counseling or training services; recreational or educational therapy or forms of non-medical self-care or self-help training and any related diagnostic testing; services of the clergy that are rendered during the course of their normal practice as a member of the clergy.

The above benefits, limitations and exclusions are only a partial listing. A complete description may be obtained by referring to the specific provisions of each policy.

DEFINITIONS

Covered Expenses:

The allowed amount for the medically necessary services and articles as outlined in the policy (subject to any applicable policy provisions).

Deductible:

Covered expenses equal to the deductible shown on the Declaration Page of the policy. For a covered person to satisfy the deductible in a calendar year, that covered person must incur out-of-pocket expenses, in such calendar year, equal to the deductible amount. Children's health services (as identified in the policy) are exempt from our deductible.

A separate prescription drug deductible exists.

Eligible Insured Person:

An individual who is a resident of Minnesota at the time of application for enrollment and (a) is qualified by having been a resident of Minnesota for six consecutive months immediately preceding the date of receipt by MCHA (or its Writing Carrier) of the completed certificate of eligibility and (b) who otherwise meets any other enrollment requirements.

Eligible Dependent or Dependents:

The Insured Person's spouse under age 65, unmarried dependent children under age 19, or children under age 25 if a full time student in an educational institution and financially dependent upon the Insured Person; excluding a spouse or child who has applied for an individual state plan policy or who is on active duty in any military, naval or air force of any country.

Participating Providers:

These providers have signed contracts with the writing carrier to give quality health services at favorable prices. When you choose these providers you receive the most benefits for the least amount of expense and paperwork.

Nonparticipating Providers:

These providers have not signed contracts with the writing carrier. Any payment MCHA makes for services provided by nonparticipating providers will be made directly to you. You are responsible for any difference between the allowed amount and the provider's billed charges.

Preadmission Notification:

Prior notification that the insured person or the insured person's nonparticipating provider are required to give MCHA for hospital or other facility inpatient confinements of covered persons. This requirement is waived for participating providers. Failure to give MCHA such notification will result in the insured person being required to pay a \$250 inpatient deductible.

Preexisting Conditions:

A health condition for which a person was diagnosed or treated during the 90 days immediately preceding the effective date of coverage.

Presumptive Conditions:

Acquired Immune Deficiency Syndrome (AIDS)
Angina Pectoris
Ascites
Chemical Dependency
Cirrhosis of the Liver
Coronary Insufficiency
Coronary Occlusion
Cystic Fibrosis
Friedreich's Ataxia
Hemophilia

Hodgkin's Disease
Huntington's Chorea
Juvenile Diabetes
Leukemia
Metastatic Cancer
Motor or Sensory Aphasia
Multiple Sclerosis
Muscular Dystrophy
Myasthenia Gravis
Myotonia

Open Heart Surgery
Parkinson's Disease
Polycystic Kidney
Psychotic Disorders
Quadriplegia
Stroke
Syringomyelia
Wilson's Disease

CAUTION

The MCHA Plans provide attractive benefits. But, the MCHA recommends careful consideration of the following:

1. Even though your current health policy or contract may have some coverage restrictions, its price-benefits combination may still represent your best health coverage buy.
2. The law creating MCHA provides that the premium rates charged by MCHA may be directly related to the premium rates charged by the five health insurers with the largest number of persons covered in each type of plan. Therefore, as the average premium rates of these health insurers increase, so may the MCHA premium rates increase.
3. No benefits are payable during the first six (6) months on expenses connected with any condition, illness or injury that was diagnosed or treated (including the prescription of drugs), during the 90 days preceding the effective date of coverage (unless specifically waived by amendment to the policy by MCHA).
4. Coverage can be continued for each covered person only while he or she remains a Minnesota resident.
5. This brochure is not a policy. It is intended only as a brief summary of benefits and policy provision. Policy terms, conditions and provisions will control in all instances.
6. Referring agents are not authorized to interpret, amend, or alter the terms of the State Plan insurance policy, nor are referring agents authorized to bind MCHA in any way.

HOW TO APPLY

A Certificate of Eligibility and Enrollment Form must be completed. One of these procedures may be followed:

1. Send the completed form with a copy of the underwriting action taken by the Underwriting Department of one member of the Association, or authorized Representative of a Minnesota licensed health insurer or health plan. Leave the Attending Physician's Statement blank. The underwriting action must indicate that coverage was refused, or offered at a higher than standard premium, or offered with restrictive riders that limit benefits for specific conditions, or eliminates coverage for preexisting conditions for longer than two years; or,
2. Send the completed form including the Attending Physician's Statement which certifies that the proposed insured has one of the "Presumptive Conditions" listed on the form; or,
3. Send the completed form including the notice of termination of a Medicare supplement plan; or,
4. Send the completed form including the notice indicating the proposed insured has been terminated or laid off from employment and unable to exercise the option to continue coverage under Minn. Stat. 62A.11 and including the date this event occurred; or,
5. Send the completed form indicating the proposed insured is over age 65 and not eligible for health insurance benefits of the federal Medicare program.

You may also apply through any Minnesota licensed health insurance agent. They are familiar with the MCHA program and can help you with your enrollment even though they cannot legally bind MCHA in any way.

Also, an agent can help you to compare MCHA benefits and premiums with any other insurance you may have.

Once you have submitted a Certificate of Eligibility and Enrollment Form that complies with all requirements, you will be advised by the Association within 30 days whether it has been accepted or declined. A policy of insurance will be issued to applicants who are accepted. Approved coverage becomes effective on the date that MCHA receives your complete Eligibility and Enrollment Form and any additional required information (see 1-5 above), except that when you qualify for a waiver of the preexisting condition limitation, coverage becomes effective as of the cancellation of your prior coverage.

An initial quarterly premium payment is required before coverage can begin. Make your check payable to MCHA.

For enrollment forms and quarterly premium rates, contact a licensed health insurance agent, or:

MCHA
P.O. Box 64566
St. Paul, Minnesota 55164
(612) 456-5290

**MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION
QUALIFIED PLAN PREMIUM RATES
MCHA PREMIUMS ARE BILLED QUARTERLY**

Effective July 1, 1993

**Qualified Plan Number One
(QP-1-\$1,000 Deductible)**

	Male or Female	
	<u>Quarterly</u>	(Monthly)
Under 15	\$178.86	\$ 59.62
15-29	\$182.31	60.77
30-34	\$205.29	68.43
35-39	\$231.30	77.10
40-44	\$272.34	90.78
45-49	\$320.94	106.98
50-54	\$370.83	123.61
55-59	\$430.17	143.39
60-64	\$514.41	171.47
65+	\$585.39	195.13

Dependent Children

	<u>Quarterly</u>	(Monthly)
One child:	\$178.86	\$ 59.62
2 or more children	244.02	81.34

**Qualified Plan Number Two
(QP-2-\$500 Deductible)**

	Male or Female	
	<u>Quarterly</u>	(Monthly)
Under 15	\$229.44	\$ 76.48
15-29	\$261.30	87.10
30-34	\$282.09	94.03
35-39	\$319.89	106.63
40-44	\$353.46	117.82
45-49	\$410.88	136.96
50-54	\$474.27	158.09
55-59	\$548.13	182.71
60-64	\$654.66	218.22
65+	\$765.76	255.25

Dependent Children (Regardless of Number)

	<u>Quarterly</u>	(Monthly)
One child:	\$229.44	\$ 76.48
2 or more children	342.93	114.31

Premiums are established for the insured person and the insured person's spouse based on the age of the insured person and the age of the insured person's spouse as of the 1st of the month following the age change. Premiums are otherwise subject to change on 31 days notice.

MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION
 MEDICARE SUPPLEMENT RATES
 MCHA PREMIUMS ARE BILLED QUARTERLY

Effective July 1, 1993

	Male or Female <u>Quarterly</u> (Monthly)	
1. Extended Basic Medicare Supplement	\$502.02	\$167.37
2. Basic Medicare Supplement	\$130.11	\$ 43.37
Part A Deductible Rider	\$ 58.80	\$ 19.60
Part B Deductible Rider	\$ 21.00	\$ 7.00
Additional Part B Rider for 80% of U & C	\$ 89.52	\$ 29.84
 Total Basic Medicare Supplement plus all Riders	 \$308.49	 \$102.83

"Spring Swing" Seminar Evaluation

Please complete this evaluation and return to a staff member or mail to:

Bert J. McKasy
Commissioner of Commerce
133 East Seventh Street
St. Paul, Minnesota 55101-2362

Thank you.

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Location: _____
_____ Insurance
_____ Real Estate
_____ Building Contractor

I found today's seminar to be:

<u>Very helpful</u>		<u>Somewhat helpful</u>		<u>Not helpful</u>
1	2	3	4	5

The most beneficial segment was (please comment):

The least beneficial segment was (please comment):

Your suggestions for improvement:

If you have a question you would like addressed, please write your question below and pass to a Commerce Department representative.

QUESTION

If you have a question you would like addressed, please write your question below and pass to a Commerce Department representative.

QUESTION