MINNESOTA SENATE

RESEARCH REPORT

Insurance Regulation

Property and Casualty Insurance And Minnesota Options

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Senate Counsel & Research

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Insurance is regulated by the states. Each state has to control its own unique maze of stock companies, mutual companies, multi-lined insurers, township mutuals, re-insurers, insurance rating organizations, insurance support organizations, and insurance agents. Some of these companies are international, others exist within narrow township boundaries. The regulation of these entities can be somewhat complex.

Insurance is an area of intense regulation because of its peculiar nature, and because of the public interest involved. Insurance is an unusual, complex commodity because it involves cash payments today in return for potential claims paid weeks, months, or years hence. And because in the modern world almost everyone needs insurance, the public is necessarily concerned.

Regulation takes many forms. Rates are regulated, sometimes tightly, sometimes loosely. States restrict the trade practices of the companies and agents who sell insurance. Solvency is audited by states, using national and state guidelines.

In Minnesota, property-casualty insurance is regulated in a different way than accident-health insurance. This report concentrates on property-casualty insurance, but an appendix discusses accident-health regulation.

In the past few sessions, bills were introduced and considered that would change the way Minnesota regulates property-casualty insurance companies. These bills and amendments await further action. This research report outlines the current structure of insurance regulation, and discusses Minnesota legislative options.

A. HOW REGULATION IS STRUCTURED

Insurance companies have a long history in the United States, and states have had the primary role in their regulation from the start. Before discussing how Minnesota regulates this industry, we will briefly examine how the entire system of regulation fits together.

1. Why Is Insurance Regulated?

Insurance is a promise to provide protection against certain unpredictable losses in the future, in return for a specific set of predictable payments. While for individual customers the occurrence of the accident or insured loss is impossible to predict, the entire group of customers' losses may be predicted with actuarial calculations.

The separation between the premium payment and the possible return is one major reason for regulation; we need to make sure that insurance companies are around to pay their claims when accidents happen and claims are filed. It does no good to pay premiums for twenty years to a company that goes broke just before your big fire.

There are other reasons for regulating the insurance industry:

--We need to make sure that an insurance policy sold today can pay off claims sometime down the road. The state has an interest in keeping insurance companies solvent, and an obligation to notify other states if a Minnesota based firm is in danger of going bankrupt.

--The state must prevent consumer fraud by insurance companies. If benefits are offered, eligible insured people should receive those benefits, without excessive wrangling and legal costs. This is the state enforcement function.

--The state has an obligation to see that rates are not arbitrary or excessive. Insurance is not a luxury in modern society; it is a necessity. To get a home loan, homeowner's insurance is required. Minnesota requires auto insurance before a car can be driven.

--If someone is denied insurance because he or she is black, or live in the "wrong neighborhood," this is discrimination. If someone is denied insurance because he or she has had several accidents, or has overdue bills, this is risk classification. States have a responsibility to see that legal risk classification does not lapse into illegal discrimination.

--Consumers lack knowledge with which to judge insurance contracts. Even in states like Minnesota, which require policies to be written in clear English, the result is hardly understandable to a casual reader. States must regulate because the insurance market suffers from imperfect information.

--Society benefits when people have insurance, because private insurance pays for many costs that society might otherwise have to bear. In the economist's language, positive externalities exist. Therefore states have an incentive to see that insurance is available.

--Finally, the state has the responsibility to encourage competition in the insurance markets. As in other industries, unrestrained monopoly power in the insurance industry would be burdensome to consumers.

2. Why Are States the Regulators?

To all appearances insurance is a form of interstate commerce. Insurance involves contracts and payments which cross state lines, and companies whose interests span the nation. Interstate commerce is regulated by the federal government. However, the 50 states have traditionally regulated the insurance industry.

In 1869, in the case of Paul vs. Virginia, the Supreme Court determined that "issuing a policy of insurance is not a transaction of commerce". This exempted insurance from the commerce clause of the constitution, and allowed states to continue their fledgling efforts to regulate insurance companies.

In 1944, in the case of U.S. vs. South-Eastern UnderwritersAssociation, the 1868 decision was reversed by the Supreme Court and insurance was deemed to be commerce. This reversal threatened to overturn the longstanding state-centered method of insurance regulation, allowing Congress to take over.

The states are still primary in regulating insurance because of the McCarran-Ferguson Act, Public Law 15, passed by Congress in 1945, which responded to the Court and reaffirmed the states' primary role. However, Congress can now decide to take over insurance regulation at any time simply by repealing McCarran-Ferguson.

Congress has recently considered federal regulation of insurance. However, the prospect does not appear imminent. It is not clear if federal regulation would be stringent or lenient, as bills have been drafted for both positions. If federal regulation were unobtrusive, some insurance companies might prefer it over state regulation.

3. Why Is Insurance Exempt From Antitrust?

The McCarran-Ferguson Act restored state primacy over insurance regulation. McCarran-Ferguson also gave insurance companies a partial exemption from antitrust laws.

McCarran-Ferguson section 2(b) states: "No act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any state for the purpose of regulating the business of insurance..." In practice, this means that state regulation preempts federal regulation, including the federal antitrust statutes. According to an opinion from the Minnesota Attorney General's office, federal antitrust laws do not apply to insurance practices that are regulated by the states. Essentially, if the states say companies can do something, they can do it.

Supreme Court cases have affirmed this principle, found in McCarran-Ferguson. If state regulation exists, it preempts federal regulation. However, there is a loud and extensive debate as to just how clear the legislative authorizations must be, for an exemption to be provided. It is uncertain just what practices state language can exempt, and whether a state can re-instate some of the federal laws by tightening language.

The existing antitrust exemption is not universal. The Sherman Antitrust Act still applies for boycotts, coercion, or intimidation conducted by insurance companies. A number of court cases have attempted to define these terms, and to determine the extent to which they limit insurance company activities.

There are two reasons offered for exempting insurance from antitrust provisions. First, insurance is regulated by the states. If states want to prohibit an activity, they have the power to do so. Therefore, the federal laws are not necessary.

Second, companies need to share data, a violation of antitrust laws, in order to remain solvent. Insurance involves selling a future payment in return for a current premium. However, nobody knows how much those future payments will be. Insurance companies need information in order to predict these future costs and reserve money to pay them.

If the amount of collected premiums and investment earnings are not enough to meet unexpected expenses, insurance companies may go broke. To avoid this companies share data. The exemption from the Sherman Act allows them to send their data to rating organizations, which combine data from many companies and share the data among the companies. Small companies need shared data from the industry more than large companies, because they have too few clients with which to accurately predict losses.

Insurance rating organizations, such as Minnesota's Insurance Services Office (ISO), exist to share data and help companies set rates. Companies send data on their claims to the ISO, which compiles them into industry-wide loss figures. These loss figures allow large and small companies to better predict their future losses.

Those who wish to remove the antitrust exemption argue that insurance rates include excessive profits, and work against competition. They accuse companies of over-reserving for losses, tucking away tidy sums of money that will eventually turn up as profit. There are those who feel that the large amounts of data provided by insurance companies are a smoke screen; that companies can avoid the hard questions by creating large numbers of meaningless facts.

Some experts think that the antitrust exemption can be limited by tightening and clarifying state regulations, and by stating the state's willingness to hold insurance companies liable for antitrust laws. Yet the conclusion of a 1974 National Association of Insurance Commissioners report still holds,

> "In general, through statutory exemptions or court decisions, state antitrust laws have only limited, if any, applicability to the insurance business. The current status of the law does not, however, answer the question what role should state antitrust laws play in overseeing competition under the insurance open competition rating laws."

4. How Might Property-Casualty Rates Be Regulated?

There are a number of ways that states currently do regulate insurance. For simplicity, these ways may be boiled down into two basic methods: "file-and-use" states, like Minnesota; and "prior approval" states. However, before we describe these, a quick discussion of all possibilities might be instructive.

Insurance policies are roughly divided into two kinds of insurance, called lines of insurance. The property-casualty line provides coverage for property and other belongings, including auto insurance, home owners insurance, liability insurance, and other kinds of property-centered policies. The accident-health line covers health and medical needs. Most efforts to re-regulate Minnesota insurance center on property-casualty insurance.

States choose among three basic categories of rate regulation. These three categories are of course subject to many possible modifications. The general categories:

> Open Competition States: Basically, these states do not regulate insurance rates. The company may use whatever rate it chooses.
>
> File-and-Use States: In these states insurance rates may be immediately put into effect without prior state approval, but the continued use of the rate may be challenged, or rejected, by the state insurance regulator. In Minnesota, the Commissioner of the Department of Commerce may challenge the rates if they are deemed excessive, inadequate, or unfairly discriminatory (70A.04).

Prior Approval States: Such states must approve proposed rates before they can be implemented. Insurers may appeal the decisions of the Commissioner.

Most states use some combination or variation of these systems, choosing one method for auto insurance, another for dram shop insurance, another for commercial lines. Thirty states used prior approval for some lines of insurance, according to a 1986 study of the National Conference of State Legislatures. And thirty-four used some form of file-and-use regulation. Five states had a no-filing system, but at least one of these, California, has since changed regulatory schemes via Proposition 103.

Although a number of states use a mixture of these systems, most allow one regulatory framework to predominate. Minnesota is predominantly a file-and-use state, but has slightly different procedures for workers compensation insurance, property-casualty, reinsurance, township mutuals, and specialized lines such as aircraft insurance.

B. MINNESOTA PROPERTY-CASUALTY REGULATION

When someone testifies that Minnesota is a file-and-use state, or when the percentage of health insurance premiums that must be paid out in benefits is mentioned, the average listener looks out the window, doodles on a pad, or perhaps hums softly. Insurance can be boring, because it is full of jargon. Minnesotans spend several hundred million dollars per year on this boring necessity, and it turns out that the industry helps a lot of people, and sometimes hurts some as well.

While Minnesota regulates different lines of insurance in different ways, all regulation shares a preference for a competitive market of rates, set by the companies, within reasonable bounds.

If the Minnesota Department of Commerce deems rates "excessive, inadequate, or unfairly discriminatory," it has courses of action it may take to challenge those rates. In addition, the Department has the right to require data on proposed rates from the companies.

1. Rate Setting

Property-casualty insurance includes auto insurance, homeowner's insurance, fire insurance, and other property-related policies. The property-casualty insurance line is regulated by what has been described as a "nearly pure" file-and-use system.

Minnesota's file-and-use system is based on the following principles:

> Competition: If a competitive market exists, the rates are acceptable. The market will regulate the rates, and the state should stay out.
>
> State Burden of Proof: The state has the burden of proof when it feels that a given rate is excessive, inadequate, or unfairly discriminatory.

Each year companies share their loss data by sending it to the Insurance Services Office (ISO). The ISO compiles the data and establishes "pure premium" levels. A pure premium level is the amount of premium needed to exactly cover expected losses. Until recently, insurance rating organizations also suggested figures that companies might want to charge for business expenses.

The pure premium figures serve as a base. To this figure, companies add the cost of guarantee associations, administrative costs, salaries, various expenses, and profit. The resulting rate is filed with the state.

Within 60 days the Department of Commerce must approve the rate, or disapprove it as misleading or violative of public policy. In addition to challenging all rates when filed, if a 25 percent increase over existing rates is filed at any time, the Commissioner may hold a Chapter 14 administrative hearing to determine if the rate is excessive.

There is a great deal of confusion over the meaning of these rates. A filed rate--say for fire insurance--is not the same as the customer-specific rate. The customer-specific rate is adjusted for the actual experience of the individual buying the insurance. If you have had fires in the past, you pay more than the filed rate. If you buy insurance with an investment provision, you may pay more or less. If you buy large amounts of insurance you should be able to bargain for lower rates than smaller purchasers.

2. Department Actions

When the property-casualty rates are filed with the Commerce Department, the state has a narrow and circumscribed legal path to follow if it deems a rate excessive, inadequate, or unfairly discriminatory.

According to Minnesota Statutes 70A.04 (2), "Rates are presumed not to be excessive if a reasonable degree of price competition exists at the consumer level with respect to the class of business to which they apply." In other words, the state must prove that inadequate competition exists before it can challenge a given rate. If the market is competitive, all rates are allowable.

These standards were enacted in Minnesota in 1969. The 1969 rating law changes were influenced by reports from the National Association of Insurance Commissioners, which suggested that states move toward competition as the best regulator of the insurance market.

Because the competition clause proves to be a hard standard to meet, Minnesota's law was amended to provide an easy test of competitiveness. Irrespective of other proofs, the amendment provides that if less than five insurers write more than 75 percent of the market, a reasonable amount of competition is presumed **not** to exist. This has come into play in a recent medical malpractice rate challenge, where only two companies essentially share the entire Minnesota market.

This competition clause has proven difficult for the Department of Commerce. Many lines of insurance are provided by large numbers of companies, and therefore appear very competitive. Two recent Department studies have shown that a wide variety of rates can be found in the auto and homeowners markets. Even with the recent addition of the "fewer than five" rule, proving a lack of competition has been difficult. .

If competition exists, or its absence is unproven, state regulation is thwarted. However, if competition is proven not to exist, the state must then prove that the rate is excessive, that rates "are likely to produce a long-run profit that is unreasonably high in relation to the riskiness of the class of business, or if expenses are unreasonably high in relation to the services rendered". (70A.04)

These are appropriate but, in practice, difficult standards with which to judge rates. In a Chapter 14 administrative hearing the Department of Commerce must present evidence establishing that competition does not exist; after proving this, the Department must next prove rates are excessive. Adequate long-run profit is difficult to define, even within the economics profession, and if it were defined, the data demanded to prove profits "excessive" might be difficult to gather.

The bottom line on Minnesota's current property-casualty rate regulation system is the market; competition is relied upon to keep rates reasonable.

3. Solvency Regulation

Especially when insurance is regulated by the open market, as in Minnesota, solvency of the firms is a key concern. The Department of Commerce has an obligation to examine firms, and can challenge rates on the grounds that they are not adequate to ensure solvency. Under an open competition system the Department also has an obligation to promote competition between firms, and the data required from firms also serves to measure the degree of competitiveness in Minnesota's insurance market.

The National Association of Insurance Commissioners establishes a set of standard reports that Minnesota requires insurance companies to file, in order to reveal their financial conditions. These extensive reports are sent to the Minnesota Department of Commerce.

A list of some of the required financial reports follows:

- A copy of the annual report to shareholders
- A copy of the company's Form 10-K, a report to the Securities and Exchange Commission
- Proxy statement
- Audited statutory financial statements
- Annual statement
- Quarterly statements
- Special schedules for medical malpractice, workers compensation, other liability, products liability, and other special lines of insurance
- Schedules listing all investments made by the company
- Insurance Expense Exhibit (pre-tax operating earnings by line of insurance)
- Loss Reserve Opinion

In addition, Minnesota requires reports which give additional financial data. Some of these include:

- Special Liability Insurance Report [60A.13(8)]
- Worker's Compensation report
- Ratio of Qualified Assets to Required Liabilities (60A.111)

These and other annual reports provide the Department of Commerce with voluminous information on the financial health of insurance companies. Data is provided on the dollar amount of premiums written locally and nationally on each line of insurance a company offers. Breakdowns of assets and liabilities allow the state to gauge the economic stability of companies.

Most of these reports follow nationally accepted forms for reporting established by the National Association of Insurance Commissioners (NAIC).

In addition to these annual reports, the Department conducts a rotating series of site visits to examine the books of insurance companies and conduct a thorough financial examination. These examinations are scheduled so that each company is audited every few years. The on-site examinations allow the Department to probe deeper into the finances of each company. This allows the Department to ensure that the annual reports are accurate and that the State knows all it needs to about each company.

Data provided on insurance company financial operations presents the Department of Commerce with a substantial analysis problem. One response to this voluminous pile of facts has been the creation of short special reports, which prsent certain shorthand measures which allow a quick reading of warning signs. One such report is the Ratio of Qualified Assets to Required Liabilities Report required under Minnesota Statutes 60A.111. If an insurance company is financially shaky, it should show up on this short report, alerting the Department to the need to examine the longer reports in its files.

4. Other Regulations: Licensing, Forms Review, Enforcement

In addition to the regulation of rates and the examinations for solvency, the Department of Commerce licenses companies, enforces existing laws, and reviews the insurance forms for readability and compliance with state laws.

Licensing simply requires companies doing business in Minnesota to pay a fee and meet certain minimum standards. The license may be revoked by the Department of Commerce for cause.

Changes in insurance forms are necessitated by company-initiated policy changes and by legal changes made by the legislature. For example, the 1989 medicare supplement law required new forms, as did the 1989 changes in underinsured and uninsured motorist coverages.

Forms review allows the Department to disapprove forms that contain illegal or questionable policy terms, protecting citizens from provisions that obscure or misrepresent the value of the policy. Few consumers have the legal background, patience, and time to read and understand the fine print of their insurance contracts. Forms review allows the Department to forestall problems before the policies are sold.

The enforcement division of the Department of Commerce answers consumer complaints and works to ensure compliance by companies with the provisions of their policies. In 1988 the enforcement division handled 50,757 telephone calls, and 8,035 written consumer complaints.

C. SHOULD WE CHANGE OUR REGULATORY APPROACH?

Should Minnesota retain its current system of property-casualty regulation? If we change, what changes are advisable? And what will the federal government do in the near future? None of these important questions permits an easy answer. In this section we outline some of the arguments these questions engender.

1. The Arguments For Change

In 1989 the Department of Commerce proposed changes in the rate regulation statutes that create Minnesota's file-and-use system. The proposed changes would have shifted Minnesota from file-and-use to a modified prior approval system. According to one critic of our current system, "Minnesota's file-and-use system gives the appearance of regulation without the substance. It would be better to either abolish all regulation, or put some teeth in the laws."

The key differences between Minnesota's existing file-and-use statutes and the 1989 proposed changes suggested by the Department of Commerce can be summarized as follows:

> Burden of Proof: Under the current system, Commerce cannot challenge a rate unless it can first prove that the market is not competitive. If it proves this, it must next prove that the rate is excessive. Under the new law, if Commerce challenges a rate, the insurance company must prove that the rate is reasonable. The burden of proof is shifted from the Department of Commerce to the insurance company.
>
> Data: The existing system requires a great deal of data to be provided to the Department of Commerce. The proposed changes require even more data. For example, rate filings would have to be accompanied by justifications of the new rates. These justifications are currently often done voluntarily, but the new law would require them, and the form these justifications would take would be specified by law and rule.
>
> Regulation by Example: Rather than a pure prior approval system, which would require Commerce to examine each and every rate filing for the hundreds of firms and policies, the Department suggests legislation that would allow selected policies to be called into question. By requiring certain well chosen firms to justify their proposed rates, Commerce can establish a "regulatory presence," sending a signal to other companies that rates are getting out of line. This avoids the massive work of examining all rates from all firms.

In addition, some versions of the proposed changes include a shift in standards. Currently, insurance rates must not be "excessive". Under the changes, rates would have to be "reasonable". The difference may seem subtle, but examples from public utilities regulation make it clear that "reasonable" is a less tolerant standard than "excessive".

The call for increased regulation of insurance rates rests on a belief that rates are often too high, that the existing data from insurance companies masks this fact, and that the Department currently lacks the power to do anything about it. There is also one more key assumption: those who want more regulation reject the argument that competition and the market will serve to keep rates in line.

2. The Arguments Against Change

In a 1986 report on insurance regulation, the Office of the Legislative Auditorconcluded that "in light of our findings that a competitive market exists for most lines of insurance, we do not believe that such sweeping authority [prior approval] is necessary."

This echoes a 1979 General Accounting Office (GAO) report, which found, specifically for auto rates, that competition would serve as well or better than rate regulation to hold down costs. Both the GAO and the Legislative Auditor suggested strong examination of the more specialized lines of insurance, such as medical malpractice insurance.

These arguments support the insurance companies in their contention that sufficient competition exists in most insurance lines, and that this competition works to hold rates down. Insurance companies repeatedly ask that the need for new regulation be proven before that regulation is undertaken.

In addition, opponents of change wonder how many additional staff would be needed to implement the new system of changes. There is also some feeling that the Department has not attempted to use the current laws to their fullest extent. Finally, insurance companies wonder how proposed changes are supposed to help consumers, in light of studies that show no overall price differences between the two systems in question.

The argument against regulation is threefold: first, the market works; second, in those rare cases where the market does not work, the Commissioner can and should challenge rates with the Chapter 14 hearings; third, no crisis of escalating rates in Minnesota exists, and no need for new regulation has been demonstrated.

3. Trends And Cautionary Notes

A number of trends in the insurance area complicate these arguments for and against regulation of rates. Minnesota may regulate insurance, but the industry is subject to national market forces, to which Minnesota must react.

California's referendum Proposition 103 called for lower insurance rates and more insurance regulation. The voters approved Proposition 103 last year. Since that time California has seen court battles, uneasy insurers, and full-scale war over how the industry should be regulated. California is a very different market than Minnesota. Their auto rates were high and rising, ours are moderate and fairly stable. The prospect of some sort of national consumer revolt over insurance, however remote, should heighten Minnesota's interest in California's Proposition 103 controversy.

There are other possible revolutions on the horizon. There is the chance that the federal government will take over aspects of insurance regulation. In the specific case of medical costs and insurance, experts are calling for a national approach to rapidly escalating costs.

Finally, amid the increasing complexity of insurance regulation, several groups have warned that the states spend too little on insurance departments and operations. According to the Consumer Insurance Interest Group, states spend an average of 6 percent of their collections from premium taxes on their regulatory departments. In Minnesota, 1988 insurance premiums taxes raised $126,765,000, and the entire 1988 appropriation for insurance regulation was $3,768,000, or 2.97 percent of the premium tax earnings.

4. Conclusions

This research report has not tried to be exhaustive. We have not given examples from the regulation of worker's compensation insurance, or credit life, or other more specialized lines of insurance. Instead, we have tried to outline the broad scope of insurance regulation, and some specific debates over property-casualty rate regulation and how it might be done.

Drawing conclusions about rate regulation is difficult, tricky, and highly problematic. The Department has recently studied auto, homeowners, and term life insurance rates. These studies have found a wide variety of company rates. For example, for similar cars, drivers, coverage, and conditions, one company charges $416 for auto insurance, another charges $232.

What do the studies mean? If you ask the Department, they point to the wide range in rates, and note that there appears to be no reason for the range. They claim that the range in rates alone is evidence of the weakness of the market, that the market is not effectively holding rates down.

Insurance companies point to the same studies as evidence for the success of market competition. The range in rates means that consumers have real choices, which means that high rates should eventually cause the loss of market share.

Commerce responds that consumers do not have the information to find the cheapest rates. Insurance companies respond that the Department could, under existing law, publicize market guides for consumers. The debate goes around and around, and the net result is confusion. One problem is methodology. The Commerce studies ably document the range in rates, but do not prove what those ranges mean. This opens the door to varying interpretations, of which there are many.

Our first valid conclusion is obvious: insurance is a complicated subject. This complexity should not be allowed to obscure the importance of insurance to Minnesotans. In today's litigious society insurance is a necessity.

The next conclusion is also fairly obvious: the federal government may, at any time it so chooses, remove insurance regulation from the states. It can also shift the ground upon which state regulation rests---for example, a national health care system would affect accident-health, auto, and worker compensation insurance. State regulators cannot afford to ignore federal actions.

We can expect continuing and sometimes acrimonious debate over the way we regulate the insurance market. In 1989, California voters revolted against high rates and passed Proposition 103. Massachusetts has experimented with a mandatory health insurance program. Regulation in 50 states leads to a great deal of state experimentation, which in turn constantly calls the status quo into question.

Finally, rate regulation, the most controversial area of insurance regulation, will remain a contentious political and regulatory issue for the next several years. The question is clear: Should we change? The answer must wait for more evidence, more information, and more discussion.

APPENDIX A: Accident and Health Insurance

Accident and health insurance is regulated in a different manner than property-casualty insurance. Two key components of accident-health regulation are examination of underwriting standards, and use of net loss ratios.

Minnesota Statutes 72A.20 (sub. 19) reads:

> "No life or health insurance company doing business in this state shall engage in any selection or underwriting process unless the insurance company establishes beforehand substantial data, actuarial projections, or claims experience which supports the underwriting standards used by the insurance company."

This law requires justification of underwriting by life and health companies, which allows the Department of Commerce to judge the extent to which these companies discriminate, by refusing to insure people without good reasons. In addition to examining underwriting, the Department of Commerce also requires firms to file their forms.

Accident-health insurers must also comply with a schedule of minimum anticipated loss ratios. According to Minnesota Statutes 62A.02, within 60 days of filing of forms, the commissioner may disapprove the filing if:

"(1) the benefits provided therein are unreasonable in relation to the premium charged;

(2) it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the policy; or

(3) if the proposed premium rate is excessive because the insurer has failed to exercise reasonable cost control."

In order to implement these powers of disapproval, the commissioner is allowed to put forth a schedule of minimum anticipated loss ratios. These ratios specify the amount of premium that should, at minimum, be paid out to insured people. For example, some policies must return at least 50 percent of the premium to consumers in the form of benefits, others as much as 65 or 70 percent.

Loss ratios are used in regulating health insurance, because they are the most available form of measurement. Good data exists to measure how much is taken in with premiums, and how much goes out in benefits. By specifying minimum ratios, the goal is to pay out a reasonable amount of the premium in benefits.
One troubling trend in health insurance regulation is the steady decrease in the amount of the market held by insurance companies, as opposed to HMOs and other alternative plans. Increasing premiums, spiraling medical costs, and decreasing market shares have placed a strain on the medical insurance market in recent years. This set of problems is not readily amenable to most state interventions; a federal cure is awaited.

APPENDIX B: RESOURCES

The following is a partial list of sources about insurance and rate regulation.

A Study Of State Insurance Department Operations, the Consumer Insurance Interest Group, April, 1988

Insurance Regulation, Office of the Legislative Auditor, January, 1986

Controlling Liability Insurance Costs: State Initiatives In The Area Of Insurance Regulation, National Conference of State Legislatures, May, 1986

Monitoring Competition: A Means Of Regulating The Property And Liability Insurance Business, National Association of Insurance Commissioners, May, 1974

Open Competition v. Prior Approval: Do Ratemaking Laws Make A Difference? Kathleen Carlson (Northeastern Illinois University) and Philip R. O'Conner (Palmer Bellevue Corporation), May, 1986

Issues and Needed Improvements In State Regulation Of The Insurance Business, U.S. General Accounting Office, October, 1979

How To Tame The Insurance Industry Cycle And Make The Legal System More Efficient, National Insurance Consumer Organization, August, 1986

Homeowner's Insurance Cost Comparison Survey, Minnesota Department of Commerce May, 1989

1989 Minnesota Automobile Insurance Cost Comparison Survey, Minnesota Department of Commerce, April, 1989

Medical Malpractice Claim Study 1982-1987, Minnesota Department Of Commerce, 1989