

WHERE THE PREMIUM DOLLAR GOES, PRIVATE PASSENGER AUTO INSURANCE, 2003

PREMIUMS EARNED:		\$100
CLAIMS:		
Payments to injured persons:		
Medical	\$10	
Wage loss and other economic payments	2	
Pain and suffering and other noneconomic awards	6	
Lawyers' fees	12	
Other costs of settling claims	2	
Subtotal		\$32
Payments for damage to cars (1):		
Property damage liability	\$17	
Collision claims	17	
Comprehensive claims	8	
Other costs of settling claims	2	
Subtotal		\$44
Total claims		\$76
EXPENSES:		
Commissions and other selling expenses	\$16	
General expenses (costs of company operations)	5	
State premium taxes, licenses and fees	3	
Dividends to policyholders	1	
Total expenses		\$25
Claims and expense total		\$101
BOTTOM LINE:		
Investment gain (2)		\$7
Pretax income (\$100 - \$101 + \$7)		6
Tax		2
Income after taxes		\$4
(1) Includes theft and damage to other property, e.g., road signs.		
(2) Includes interest, dividends, and realized capital gains.		
Source: Insurance Information Institute based on data from ISO; National Association of Insurance Commissioners; Insurance Research Council; A.M. Best Company, Inc.		

Minnesota Current Average Rates

Auto Insurance

<u>Coverage</u>	<u>Average Rate</u>
Bodily Injury	\$132.89
Personal Injury Protection	\$165.62
Property Damage	\$126.15
UM/UIM	\$46.23
Liability Subtotal	\$470.79
Comprehensive	\$189.73
<u>Collision</u>	<u>\$242.27</u>
Total Major Coverages	\$902.79

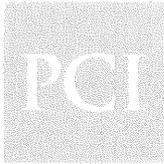
No-Fault Arbitration Statistics

Compiled by American Arbitration Association¹

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Cases filed	4571	5152	5142	5139
Average claim	\$8,091	\$7,913	\$7,209	\$6,914
Average Award	\$4,833	\$5,204	\$5,023	\$4,638
Pct. of claims going to hrg.	50%	51%	52%	57%
Pct. of claim awarded	60%	66%	69%	67%
Pct. awarded entirely	12%	11%	15%	12%
Pct. denied entirely	8%	12%	13%	13%

The system uses about 750 volunteer arbitrators who are paid \$300 for their service if a claim goes to completion of a hearing, an event that happens about half the time a claim is filed. It costs \$50 for a claimant to file a claim compared to about \$325 for a jury filing fee. The number of claims has been fairly stable at about 5,100 annually, an increase of about 12% from the past ten years. On average an arbitrator awards about 3/5 to 2/3 of a claim after a hearing and on average 11½ % of all claims are entirely denied by an arbitrator and 12½ % of all claims are entirely granted by an arbitrator. The majority of cases are resolved within roughly eight months of filing, with 71% resolved within one year, and 99+ % resolved within two years. This compares to an average of 14-16 months of disposition time for civil claims in district court, 98% of which are resolved within 24 months.

¹ Since 1975 the American Arbitration Association has been the sole entity designated by the Minnesota Supreme Court to administer the arbitration of No-Fault claims under § 65B.525 and under that law all claims under \$10,000 must be submitted to arbitration to achieve low cost, speedy resolution of claims.



ANALYSIS OF MINNESOTA PERSONAL AUTOMOBILE INSURANCE EXPERIENCE

Executive Summary

This study discusses the performance of Minnesota's no-fault law in the context of its effect on insurance claiming patterns. The analysis compares the average price for auto insurance in this state with the remaining Upper Midwest region and countrywide, and contrasts the injury loss experience incurred by drivers in Minnesota against those of the nation, surrounding states and other no-fault states. By any measure, Minnesota's auto insurance system is a very costly one due to expensive health care coverage, higher-than-average amounts of medical care utilization, treatment and provider costs (especially for chiropractors), an increase in the rate of filing liability claims, and greater attorney involvement. Its cost of auto insurance is **out of line with the Upper Midwest region**. This state is one of the more expensive in the nation, with an average full coverage (liability and physical damage) premium that is 13 percent higher than surrounding states and an average liability premium that is 27 percent higher. In contrast, the average premiums of other states in this area are among the very least expensive (ranking 44th to 51st).

Furthermore, auto insurance in Minnesota is **getting more expensive compared to the rest of the country**. In 2000, this state's average full coverage premium was ranked at 24th highest; just three years later, its average premium was 19th highest. From 2000 to 2003, the nationwide average premium – which reflects highly populated, troubled no-fault states such as Coloradoⁱ, Florida, Massachusetts, New Jersey and New York – went from being \$26 more than Minnesota to only \$10 more. Minnesota's system provides **inordinately "rich" benefits in comparison to most other states** as well. For every dollar spent on covered property damage claims in this state, \$2.09 is spent on auto injury compensation. This ratio is 6th highest in the nation (after New Jersey, New York, Michigan, Colorado and Florida – all no-fault states), and highest in the Upper Midwest except Michigan. After Michigan and Minnesota, the next highest in the Upper Midwest is Wisconsin (\$1.49), which is 29 percent less costly than Minnesota.

Minnesota's auto injury compensation system **incurs substantially more cost than most states in its region**. Its combined bodily injury (BI) liability and personal injury protection (PIP) injury loss cost (average loss per insured vehicle) is highest in the Upper Midwest except Michigan, which has unlimited PIP coverage. Other than Michigan, Minnesota's injury loss cost during 2000-2004 is 62 percent higher than the next highest state (Illinois). Further examination shows that Minnesota's no-fault loss cost is 42 percent higher than its tort liability loss cost (because of a very high PIP claim frequency). Hence, a reduction in the PIP loss cost would have a greater impact on total auto injury costs and, ultimately, auto insurance premiums than a proportionally equivalent reduction in the BI loss cost.

A detailed look at the loss cost components shows that Minnesota's 2000-2004 average BI claim cost, or average loss or claim severity, is among the highest in the country. It is almost twice as large as the national mean and all other Upper Midwest states as a group (\$20,461 – MN vs. \$10,925 – countrywide and \$10,835 – other Midwest states). The average BI loss also is 18 percent higher than other no-fault states combined (\$20,461 – MN vs. \$17,310 – other NF). One reason for higher average losses is that Minnesota consumers are required to purchase very high minimum BI and PIP limits. Not only are its statutory financial responsibility limits (30/60/10),ⁱⁱ which influence the cost of liability claims, highest in the Upper Midwest but they are third highest in the nation. Furthermore, this state's minimum PIP

benefits (\$20,000 medical / \$20,000 non-medical) are more in line with the no-fault states in crisis than low-cost no-fault states such as Kansas (\$4,500 medical) and Utah (\$3,000).

The Minnesota claim frequency also plays an important role in the state's costly insurance system. Its PIP claim frequency is highest among the no-fault states in the Upper Midwest and higher than most other no-fault states. Motorists here are very likely to file a no-fault injury claim after an auto accident, potentially leading to the filing of a tort liability claim due to greater ease of reaching the deteriorating monetary or verbal threshold. Since 2001, Minnesotans' liability claiming behavior increased an astounding 19.3 percent, while this type of behavior grew less than 2 percent in the rest of the Upper Midwest and no-fault states and slightly more than 1 percent nationally.

Both the monetary and verbal thresholds in this state's no-fault law are growing weaker in practical terms. Minnesota's **statutory limits on pain-and-suffering lawsuits are no longer effective**, leading to even higher total injury loss costs. Its monetary tort threshold (\$4,000) is one that easily can be reached to file a lawsuit, hence encouraging claim buildup. Residents are taking greater advantage of this low threshold, as well as the weak verbal threshold, that permits motorists the right to litigate injury claims even though they are not very serious in nature. In addition to death, permanent injuries, serious disfigurement or impairment, and disability periods of two months or longer, even fractures and uncompensated economic lossⁱⁱⁱ qualify one to file a liability claim.

Higher-than-average medical costs, due to greater utilization of, and higher charges billed for, medical facilities, medical professionals and diagnostic procedures, are a major factor behind Minnesota's high cost of auto insurance. Costs for chiropractic treatment are particularly significant, especially when matched against the surrounding region and the country. The average charge is \$4,200 in Minnesota, compared to \$3,800 in other no-fault states and \$2,800 nationally, and the insurer's average payment per chiropractic visit is highest here, too. Among the total BI and PIP dollars spent on the different health care providers in Minnesota, the average chiropractic charge represents 50 percent (58% - BI claim and 48% - PIP claim), which is higher than that found in the group of other no-fault states (31%) and countrywide (34%). Claimants here also are more prone to see a chiropractor than their counterparts elsewhere, and they see this particular health care provider more often than any other kind.

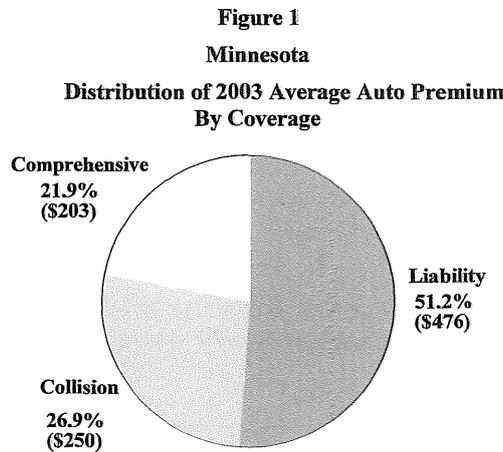
As cited in the Minnesota statutes, the legislative objective pertaining to no-fault is "to prevent the overcompensation of those automobile accident victims suffering minor injuries by restricting the right to recover general damages to cases of serious injury."^{iv} Over time, monetary and verbal thresholds generally have deteriorated, allowing more liability claims to be filed not only here, but in other no-fault states as well. These claims result in awards or settlements that include general damages for pain and suffering that are typically two or three times greater than special damages. In short, the Minnesota no-fault plan has become misused and perverted, resulting in overcompensation of even minor injuries.

Not only does the Minnesota no-fault statute encourage inflated billing, over-treatment and other forms of claim buildup, it prohibits any modern methods of cost containment. Unlike in every other payment system, health care providers in the no-fault system, for the most part, are paid whatever they ask for because that is essentially what the law requires. Understandably, providers use the no-fault money tree to make up for shortfalls in other compensation systems. Consequently, while consumers benefit from the discounted "sale prices" in other payment systems, consumers in the no-fault system are paying full "rack rates." Policymakers in this state should consider abolishing the monetary threshold and revising the verbal threshold, or revamping or repealing the system altogether.

Introduction

Since January 1, 1975, Minnesota has administered a modified auto insurance no-fault law that permits injured persons to sue for pain and suffering or other non-economic damages if a monetary or verbal threshold or qualifier is met. General damages that compensate for non-economic losses are recoverable if medical expenses exceed \$4,000^v or if there is permanent disfigurement or injury, disability (for 60 days or more), or death. First-party personal injury protection (PIP) benefits are capped at a minimum of \$40,000 for loss arising out of the injury of any one person.^{vi}

According to the latest data (2003) compiled by the National Association of Insurance Commissioners (NAIC), Minnesota drivers as a group are paying \$929 each year for auto liability and physical damage coverages. The state's cost for full insurance^{vii} ranks 19th highest in the nation, and its annual liability average premium^{viii} (\$476) ranks at #21. The liability portion represents slightly more than half (51.2%) of the total average premium (see Fig. 1), while the two major first-party physical damage coverages, collision and comprehensive, represent 27 percent and 22 percent of the total premium respectively.



Minnesota's average premium for liability and full coverage are slightly lower than the countrywide average (\$485 – liability and \$939 – full). A closer examination of the other 11 states in the Upper Midwest region,^{ix} however, shows that Minnesota ranks the highest in liability premium and second highest in full coverage premium among this group (see Appendix I). Table 1 sets forth a comparison of premiums between Minnesota, the group of other Upper Midwest states and countrywide. As a whole, policyholders in Minnesota pay 27 percent more for liability (including no-fault) coverage than their counterparts in surrounding states (\$476 – MN vs. \$376 – Midwest excluding MN), and 13 percent more for full coverage (\$929 – MN vs. \$819 – Midwest excluding MN). Less than half (45.9%) of the total premium in other states in this region goes toward paying for liability coverage;^x this is five percentage points lower than the amount Minnesota drivers spend on this coverage.

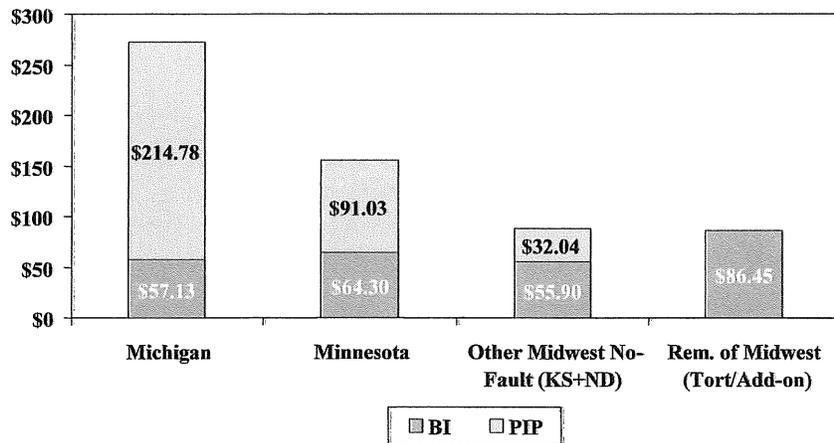
	2003 Avg. Liability Prem.	MN Relative to Region	2003 Avg. Full Coverage Prem.	MN Relative to Region
Minnesota	\$476.37	---	\$929.33	---
Upper Midwest (x MN)	\$375.71	+26.8%	\$818.97	+13.5%
Countrywide	\$485.37	-1.9%	\$939.19	-1.0%

Source: NAIC

It is just as important, if not more so, to examine Minnesota’s loss data in an attempt to determine what is driving the costs. An assessment of industry loss statistics, as reported to the Fast Track Monitoring System,^{xi} reveals that this state has a very generous auto injury compensation program in which relatively large dollar amounts are paid to auto injury claimants. This is measured by the injury cost index, which is the injury loss cost (i.e., combined claim frequency and claim severity) divided by the property damage liability loss cost. With an index of 2.09, indicating that the loss dollars paid to cover injuries are twice the amount paid to cover vehicle damage, Minnesota ranks sixth highest in the entire nation. This state follows only New Jersey (3.23), New York (3.17), Michigan (2.89),^{xii} Colorado (2.54), and Florida (2.49) – all no-fault states – in terms of the level of richness of the auto injury system. Appendix II presents the injury cost indexes for each state.

With the exception of Michigan (due to its unlimited no-fault benefits), Minnesota’s total auto injury loss cost is highest in the Upper Midwest. At \$155.33 [\$64.30 (BI) + \$91.03 (PIP)], it is nearly 80 percent greater than the other two no-fault states in this region (Kansas and North Dakota) (\$87.94) as well as the remaining tort and add-on states^{xiii} combined (\$86.45). The PIP portion of Minnesota’s loss cost is nearly three times greater than that of the average Kansas and North Dakota loss cost. Moreover, this state’s no-fault loss cost is 42 percent higher than the tort liability loss cost (\$91.03 – PIP vs. \$64.30 – BI), primarily because its PIP claim frequency is significantly higher than its BI claim frequency. Individual loss cost information, including a breakdown of claim frequency and claim severity data, is shown in Appendix III for each of the Upper Midwest states.

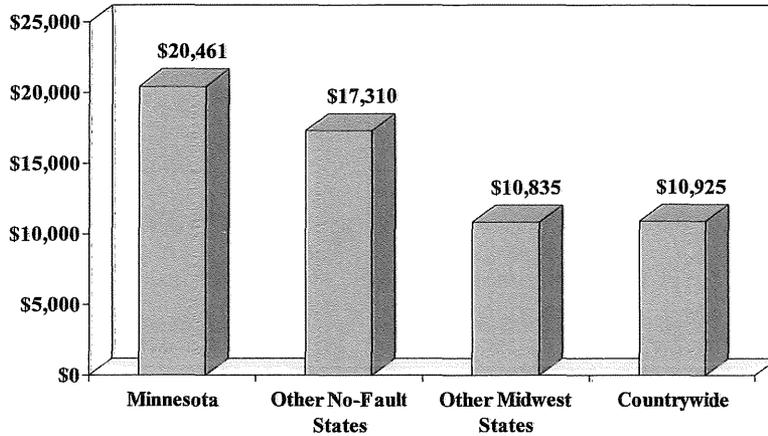
Figure 2
Minnesota vs. Other Upper Midwest
Injury Loss Cost Experience



Minnesota’s average BI claim cost is the predominant data component of the loss cost (i.e., the combination of the claim frequency and claim severity) when compared to the other Upper Midwest and no-fault states. For the period 2000-2004, this dollar amount – excluding LAE – is respectively 89 percent and 18 percent higher than that of all other Midwest states and all other no-fault states (\$20,461 – MN vs. \$17,310 – other no-fault states and \$10,835 – other Midwest states) (see Fig. 3). It is one of the highest in the Midwest (exceeded only by Michigan and North Dakota, two no-fault states whose systems are also under consideration for review). Not only is Minnesota’s average BI loss very high in this region,

it is one of the highest in the nation, about equal to those found in some of the more high-cost states on the east coast.

Figure 3
Minnesota's Average BI Liability Claim Cost is Very High
2000-2004 Combined



Minnesota's BI average loss is very high due in part to its auto financial responsibility (F.R.) limits (30/60/10),^{xiv} i.e., the minimum limits required in an auto liability policy, being the third highest in the entire nation (only Maine and Alaska are higher). Table 2 sets forth Minnesota's F.R. limits and those of the other 11 states in the Midwest region and the current remaining no-fault states. In Minnesota, at least \$30,000 is available for each injured person in an accident and \$60,000 for all injuries per accident. These minimum amounts for injuries range from being 20 percent greater than the limits available in Indiana, Kansas, Kentucky, Missouri, Nebraska, New York, the Dakotas, Utah and Wisconsin up to three times greater than the limits in Florida. [The minimum property damage liability limit for Minnesota (\$10,000) is similar to most other no-fault states.]

Table 2
Minnesota vs. Other Upper Midwest and No-Fault States
Auto Insurance Financial Responsibility Limits

<i>Minnesota</i> 30/60/10	<i>Iowa</i> 20/40/15	<i>Missouri</i> 25/50/10	<i>Ohio</i> 12.5/25/7.5
<i>Florida</i> 10/20/10	<i>Kansas</i> 25/50/10	<i>Nebraska</i> 25/50/25	<i>Pennsylvania</i> 15/30/5
<i>Hawaii</i> 20/40/10	<i>Kentucky</i> 25/50/10	<i>New Jersey</i> 15/30/5	<i>South Dakota</i> 25/50/25
<i>Illinois</i> 20/40/15	<i>Massachusetts</i> 20/40/5	<i>New York</i> 25/50/10	<i>Utah</i> 25/50/15
<i>Indiana</i> 25/50/10	<i>Michigan</i> 20/40/10	<i>North Dakota</i> 25/50/25	<i>Wisconsin</i> 25/50/10

Midwest States = MN, IL, IN, IA, KS, MI, MO, NE, ND, OH, SD and WI

No-Fault States = MN, FL, HI, KS, KY, MA, MI, NJ, NY, ND, PA, and UT

Source: Insurance Information Institute, Automobile Insurance Information

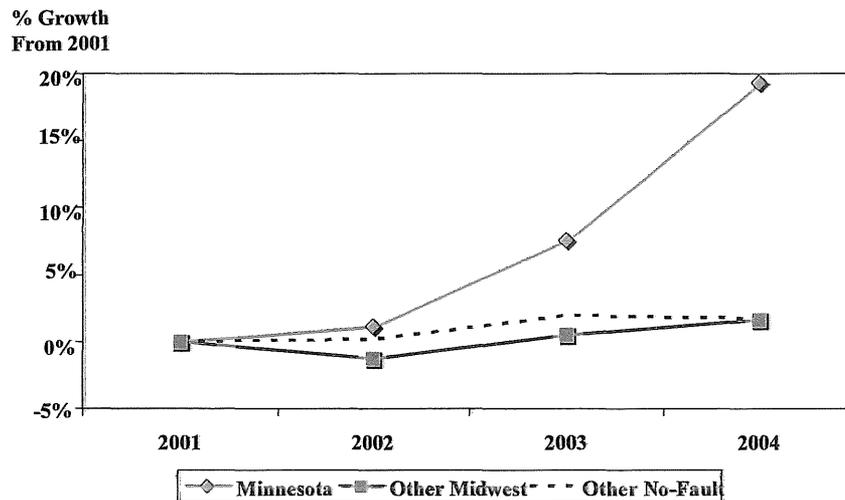
Minnesota also offers one of the more generous no-fault benefit packages in the country. As mentioned, the overall first-party benefits are a minimum^{xv} of \$40,000, including \$20,000 for medical expenses and \$20,000 for income loss, replacement service and funeral expenses.^{xvi} Its total package as well as medical limits are greater than those provided by seven of the remaining 11 no-fault states. Table 3 sets forth the medical benefit limits for each of the current no-fault states. The relatively higher limit allowed for first-party medical coverage and rising health care costs have resulted in this state's average PIP loss being more than \$5,100 during 2000-2004. Minnesota's severity is similar to the countrywide norm of \$5,500, which reflects in part the average loss of other no-fault states that have been the scene of significant efforts to reform or repeal no-fault: Colorado (\$5,800), Florida (\$6,000) and New York (\$7,600). (For a comparison of claim frequency, claim severity and loss cost data between Minnesota and other no-fault states, see Appendix IV.)

<i>Minnesota*</i> \$20,000	<i>Kansas</i> \$4,500	<i>Michigan</i> No dollar limit	<i>North Dakota</i> \$30,000
<i>Florida</i> \$10,000	<i>Kentucky</i> \$1,000	<i>New Jersey</i> \$250,000	<i>Pennsylvania**</i> \$5,000 minimum
<i>Hawaii</i> \$10,000	<i>Massachusetts</i> \$2,000 within two yrs.	<i>New York</i> \$50,000	<i>Utah</i> \$3,000
* <i>Minnesota's total no-fault benefit package of \$40,000 is higher than most other no-fault states.</i>			
** <i>Pennsylvania – additional medical coverage up to at least \$100,000 and extraordinary medical up to \$1.1 million must be made available.</i>			
<i>Source: PCI</i>			

Minnesota's monetary threshold of \$4,000^{xvii} – which has not been amended in almost 30 years – is more than likely to be surpassed, thus enabling one to more readily file a liability claim for the injury. In addition, more claimants are able to reach the verbal threshold, which has weakened over time. The importance of the claim frequency therefore cannot be overlooked, as Minnesota residents are indeed reporting more injury claims when there is damage to the vehicle and are taking more opportunities to file a lawsuit. The state's PIP claim frequency is highest when compared with other no-fault states in the Upper Midwest region and is higher than most other no-fault states in the country. It contributes to Minnesota's PIP loss cost being second highest in the region and 42 percent higher than its BI loss cost.

With respect to claiming patterns, one measure used to evaluate policyholders' behavior in this area is the ratio of bodily injury liability claims per 100 property damage liability claims (or BI-to-PD ratio). This figure represents the likelihood of an injury claim being made, if an accident resulting in vehicle damage occurs. Since 2001, Minnesota claimants have been reporting injuries per accident at an astounding rate of 19.3 percent, significantly faster than other states in the Upper Midwest region (1.6%) and other no-fault states (1.7%) (see Fig. 4).^{xviii} The national average BI-to-PD ratio grew at a slightly lower pace (1.3%) from 2001 to 2004 (not shown).

Figure 4
Minnesota vs. Other States
Growth in Injury Claiming Behavior



Residents of this state are becoming more aware of their ability to report injuries and are taking the opportunity to recover through a tort liability claim as well as a no-fault claim. Clearly, the growing propensity to file a tort claim in Minnesota, by means of penetrating either the increasingly ineffective monetary threshold or the deteriorating verbal threshold, cannot be denied.

Analysis of Minnesota Injury Cost Drivers

This section offers findings compiled by the Insurance Research Council (IRC) from a survey of insurance company file reviewers who submitted various information about auto injury claims that were closed during a two-week window in 2002. Roughly 940 PIP claims and 190 BI claims in Minnesota were examined in the IRC study. Tables presenting various claim characteristics for Minnesota, the entire group of no-fault states (excluding Minnesota) and countrywide are provided. It should be noted that average payments determined by the IRC do not match average loss amounts from the Fast Track Monitoring System; these are two different sources reviewing different samples of claims and insurance companies. The figures from both sources, however, do support each other's findings.

When compared to other no-fault states and the nation as a whole, Minnesota's relatively high loss dollars are due to the fact that claimants here:

- have access to a no-fault system that is richer in benefits than the average no-fault system, as measured by a relatively low economic loss but an average payment that is higher than the norm;
- cite more sprain and strain soft-tissue injuries which are harder to prove objectively as their most serious injury;
- incur higher-than-average charges for chiropractors and orthopedists; and
- are more likely to visit chiropractors, whose average payments per visit are highest, and allocate more loss dollars toward these health care providers than other types of providers.

More specifically:

- *Minnesota's no-fault system is more "benefit rich" than the average no-fault system.*

The average PIP payment made by auto insurers in Minnesota is 8 percent higher than in other no-fault states (\$5,363 – MN vs. \$4,962 – other no-fault states), yet its PIP economic loss is 9 percent lower (\$7,007 – MN vs. \$7,705 – other no-fault states). The lower PIP economic loss but higher average payment suggest a more generous no-fault system, which helps to explain the state's higher premiums. Medical expenses in this state represent 88 percent of the total amount paid for special damages (medical, wage loss and other expenses); this portion is slightly higher than that found in other no-fault states (86%).

	Economic Loss	Average Payment
Minnesota	\$ 7,007	\$ 5,363
No-Fault (x MN)	\$ 7,705	\$ 4,962
Countrywide	\$ 6,711	\$ 4,281

Countrywide figures also include the PIP experience of add-on states (i.e., states where policyholders may choose to purchase additional first-party benefits which would be excess over any other source of recovery to which the insured person is legally entitled.)

Source: IRC

- *Minnesota claimants report soft-tissue neck and back injuries more than claimants in other states.* Sprains and strains are soft-tissue injuries that are the most common among claimants everywhere. They also are difficult to prove objectively.^{xix} In general, Minnesota BI and PIP claimants cited injuries to the neck and back more often than other claimants. The percentages of knee and shoulder injuries, which can also include broken bones and fractures, are usually not too different from those of the comparison groups.

	BI Claimants				PIP Claimants			
	Neck	Back	Knee	Shoulder	Neck	Back	Knee	Shoulder
MN	71%	69%	10%	15%	61%	49%	10%	15%
NF (x MN)	68%	63%	13%	15%	55%	48%	10%	14%
CW	66%	56%	8%	10%	56%	49%	9%	14%

Source: IRC

A greater share of PIP claimants in Minnesota mentioned that they felt pain in spite of no visible injuries at the accident scene (58% - MN vs. 55% - other no-fault states and 54% - countrywide). In contrast, more BI claimants in the nation as a whole complained about pain with no obvious injuries (45% - countrywide vs. 41% - MN and 40% - other no-fault states) (not shown).

- *Average charges for certain health care providers are higher in Minnesota than elsewhere.*
The IRC also collected information on average charges for various health care providers, such as general practitioners (GPs), anesthesiologists, chiropractors, physical therapists, etc. Average fees for BI and PIP coverages combined for chiropractors (\$4,187) and orthopedists (\$2,298) are higher in Minnesota than elsewhere, while charges for other types of health care providers in the state are generally lower.

	MN	NF (x MN)	CW
Anesthesiologist	\$ 1,366	\$ 1,648	\$ 1,496
Chiropractor	\$ 4,187	\$ 3,827	\$ 2,753
Emergency Room	\$ 1,149	\$ 1,198	\$ 1,061
General Practitioner	\$ 810	\$ 1,051	\$ 666
Neurologist	\$ 1,269	\$ 1,787	\$ 1,813
Orthopedist	\$ 2,298	\$ 2,024	\$ 1,921
Physical Therapist	\$ 1,884	\$ 3,164	\$ 2,389
Psychotherapist	\$ 1,243	\$ 1,912	\$ 1,789

Source: IRC

Based on the number of BI and PIP claimants going to these professionals that were cited by file reviewers, chiropractors are the most commonly visited in Minnesota. Twenty-one percent of claimants went to a chiropractor in Minnesota, compared to 15 percent in the group of no-fault states (excluding Minnesota), and 19 percent countrywide. In the other two comparison groups, GPs and emergency rooms are visited more often.

In addition, the average BI and PIP payment per visit for some health care providers in Minnesota are generally higher than elsewhere. This is certainly the case for chiropractors and general practitioners; on the whole, injured claimants in Minnesota spend more to go to these professionals than their counterparts in other no-fault states or the nation at large. In contrast, a visit to the physical therapist in this state costs less on average than in other states.

	MN	NF (x MN)	CW
Chiropractor	\$ 202	\$ 180	\$ 155
General Practitioner	\$ 174	\$ 165	\$ 142
Physical Therapist	\$ 168	\$ 190	\$ 176
Total of Above	\$ 185	\$ 177	\$ 155

Source: IRC

In conclusion, the features of the Minnesota no-fault program are such that more and higher benefits are provided to the injured party, even if he or she is negligent. This is precisely why Minnesota drivers pay more for their auto insurance than most of their counterparts in the Upper Midwest region. Decreasing the number of tort liability claims and their costs is a common goal of all no-fault programs. If Minnesota is to maintain a practicable and effective no-fault system, it needs to be restructured in such a way that the cost savings from a reduction in liability claims is sufficient to offset the cost of PIP benefits provided to injured parties.

The Property Casualty Insurers Association of America (PCI) is a trade association consisting of more than 1,000 insurers of all sizes and types, and representing 39.4 percent of the total property/casualty insurance business and 52.0 percent of the total personal auto business in the nation. In Minnesota, PCI members represent 51.7 percent of the personal auto market.

The Insurance Federation of Minnesota is a state trade association whose members primarily are Minnesota-based insurance companies.

MINNESOTA vs. OTHER MIDWEST STATES and COUNTRYWIDE				
Average Auto Insurance Premium – 2003				
	Avg. Liability Prem.		Avg. Full Prem.	
	Prem.	MN Relative to State	Prem.	MN Relative to State
Minnesota	\$476.37	---	\$929.33	---
Illinois	\$404.78	+17.7%	\$845.78	+9.9%
Indiana	\$373.70	+27.5%	\$767.71	+21.1%
Iowa	\$301.04	+58.2%	\$679.28	+36.8%
Kansas	\$298.57	+59.6%	\$777.39	+19.5%
Michigan	\$436.51	+9.1%	\$1,079.56	-13.9%
Missouri	\$382.11	+24.7%	\$821.56	+13.1%
Nebraska	\$326.89	+45.7%	\$762.44	+21.9%
North Dakota	\$245.31	+94.2%	\$694.81	+33.8%
Ohio	\$388.51	+22.6%	\$751.58	+23.7%
South Dakota	\$291.68	+63.3%	\$727.87	+27.7%
Wisconsin	\$325.47	+46.4%	\$693.45	+34.0%
Midwest States Excluding MN	\$375.71	+26.8%	\$818.97	+13.5%
Countrywide	\$485.37	-1.9%	\$939.19	-1.0%

Liability premium reflects bodily injury and property damage liability, medical payments and/or no-fault personal injury protection, and uninsured/underinsured motorists coverages.

Source: NAIC

Policyholders in Minnesota pay anywhere from 9 percent (compared to Michigan) up to 94 percent (compared to North Dakota) more for their liability insurance, or about 27 percent more than the rest of this region. With respect to the combined liability and physical damage coverage, Minnesota drivers pay between 10 percent (compared to Illinois) and 37 percent (compared to Iowa) more, except in the case of Michigan, where Minnesota drivers pay 14 percent *less* for full coverage. (Michigan's full coverage premium is higher than Minnesota because its collision premium is highest in the nation.)

APPENDIX II

INJURY COST INDEX BY STATE BASED ON 2000-2004 LOSS COST EXPERIENCE					
State	Index	State	Index	State	Index
New Jersey	3.23	Wisconsin	1.49	South Carolina	1.16
New York	3.17	Vermont	1.41	California	1.11
Michigan*	2.89	Washington	1.36	Kansas	1.09
Colorado	2.54	South Dakota	1.34	Ohio	1.08
Florida	2.49	Dist. of Col.	1.32	Nebraska	1.06
Minnesota	2.09	North Dakota	1.28	Virginia	1.04
West Virginia	2.07	Utah	1.28	Arkansas	1.02
Kentucky	2.00	Idaho	1.27	North Carolina	1.02
Pennsylvania	1.95	Maine	1.26	Tennessee	1.01
Connecticut	1.88	Arizona	1.25	Illinois	1.00
Delaware	1.78	Wyoming	1.25	Missouri	0.98
Nevada	1.75	Maryland	1.24	Iowa	0.95
Louisiana	1.73	Mississippi	1.24	Oklahoma	0.95
Hawaii	1.70	Alaska	1.22	Alabama	0.92
Montana	1.66	Oregon	1.21	Georgia	0.88
Rhode Island	1.66	New Hampshire	1.17	Indiana	0.86
Massachusetts	1.64	New Mexico	1.16	Tennessee	0.84

Injury cost index = (BI+PIP) loss cost divided by property damage liability loss cost.

** Because Michigan does not have conventional PD liability coverage, its injury cost index was computed using the countrywide PD loss cost and its no-fault property protection insurance loss cost in the denominator.*

MINNESOTA vs. OTHER MIDWEST STATES and COUNTRYWIDE BI and PIP Loss Experience – 2000-2004 Combined						
	BI Coverage			PIP Coverage		
	Claim Freq.	Avg. Loss	Loss Cost	Claim Freq.	Avg. Loss	Loss Cost
Minnesota	31	\$ 20,461	\$ 64.30	177	\$ 5,141	\$ 91.03
Illinois	95	\$ 10,134	\$ 96.16			
Indiana	85	\$ 8,977	\$ 76.05			
Iowa	63	\$ 10,054	\$ 63.08			
Kansas	35	\$ 17,025	\$ 58.87	138	\$ 2,298	\$ 31.82
Michigan	19	\$ 30,245	\$ 57.13	118	\$ 18,248	\$ 214.78
Missouri	99	\$ 9,105	\$ 90.37			
Nebraska	79	\$ 10,550	\$ 83.15			
North Dakota	17	\$ 23,448	\$ 38.74	99	\$ 3,354	\$ 33.32
Ohio	102	\$ 8,841	\$ 90.47			
South Dakota*	56	\$ 12,976	\$ 72.63	N/A	N/A	N/A
Wisconsin*	73	\$ 13,140	\$ 95.83	N/A	N/A	N/A
Midwest States Excluding MN	76	\$ 10,835	\$ 82.07	122	\$ 12,768	\$ 156.39
Countrywide**	101	\$ 10,925	\$ 110.68	177	\$ 5,510	\$ 97.61
<p><i>Claim Frequency = number of claims per 10,000 insured cars.</i> <i>Average Loss = average claim cost, or severity.</i> <i>Loss Cost = the combination of the claim frequency and average loss.</i></p> <p>* <i>South Dakota and Wisconsin add-on PIP experience is not available.</i> ** <i>Countrywide PIP experience reflects all no-fault states (including Colorado for 2000-2003) and add-on states.</i> Source: <i>Fast Track Monitoring System @2nd Qtr. 2005</i></p>						

Minnesota has the second highest total injury loss cost (\$64.30 + \$91.03 = \$155.33) among the group of Midwest states. Michigan's total loss cost of \$271.91 is higher due to its unlimited medical expense benefits.

MINNESOTA vs. OTHER NO-FAULT STATES and COUNTRYWIDE BI and PIP Loss Experience – 2000-2004 Combined						
	BI Coverage			PIP Coverage		
	Claim Freq.	Avg. Loss	Loss Cost	Claim Freq.	Avg. Loss	Loss Cost
Minnesota	31	\$ 20,461	\$ 64.30	177	\$ 5,141	\$ 91.03
Florida	86	\$ 15,884	\$ 137.10	194	\$ 6,035	\$ 117.27
Hawaii	31	\$ 24,727	\$ 76.02	154	\$ 3,763	\$ 58.12
Kansas	35	\$ 17,025	\$ 58.87	138	\$ 2,298	\$ 31.82
Kentucky	62	\$ 16,637	\$ 102.69	150	\$ 4,125	\$ 62.03
Massachusetts	249	\$ 7,646	\$ 190.09	247	\$ 1,593	\$ 39.38
Michigan	19	\$ 30,245	\$ 57.13	118	\$ 18,248	\$ 214.78
New Jersey	79	\$ 21,410	\$ 170.02	169	\$ 10,155	\$ 171.42
New York	82	\$ 22,095	\$ 180.65	207	\$ 7,551	\$ 156.42
North Dakota	17	\$ 23,448	\$ 38.74	99	\$ 3,354	\$ 33.32
Pennsylvania	63	\$ 16,021	\$ 101.10	191	\$ 3,667	\$ 69.88
Utah	90	\$ 9,971	\$ 89.50	176	\$ 1,713	\$ 30.18
Subtotal (excluding MN)	73	\$ 17,310	\$ 125.82	180	\$ 6,550	\$ 117.77
Countrywide*	101	\$ 10,925	\$ 110.68	177	\$5,510	\$ 97.61
<p><i>Claim Frequency = number of claims per 10,000 insured cars.</i> <i>Average Loss = average claim cost, or severity.</i> <i>Loss Cost = the combination of the claim frequency and average loss.</i></p> <p>* Countrywide PIP experience reflects all no-fault states (including Colorado for 2000-2003) and add-on states.</p> <p>Source: Fast Track Monitoring System @2nd Qtr. 2005</p>						

Compared to other no-fault states, Minnesota's BI claim severity (\$20,461) is among the highest in the group of no-fault states. Its PIP claim frequency (177 per 100 insured cars) also is very high, resulting in a PIP loss cost that ranks alongside the more expensive and problematic no-fault states and which is 42 percent higher than the state's tort liability loss cost.

-
- ⁱ Colorado's no-fault law sunset in July 2003.
- ⁱⁱ Financial responsibility limits of 30/60/10 mean coverage up to \$60,000 for all persons injured in an accident, subject to a limit of \$30,000 for one individual, and \$10,000 coverage for property damage.
- ⁱⁱⁱ Economic losses reflect medical costs, lost wages, and other expenses (such as rehabilitation, essential services, survivor, funeral and out-of-pocket expenses).
- ^{iv} MINN. STAT. §65B.42(2) (1996)
- ^v The monetary threshold was originally \$2,000, but was changed to \$4,000 in 1978.
- ^{vi} Minnesota's no-fault benefits include a \$40,000 limit on the following: \$20,000 for medical expense loss arising out of injury to any one person; and a total of \$20,000 for income loss, replacement services loss, funeral expense loss, survivor's economic loss, and survivor's replacement services loss arising out of the injury of any one person. Disability and income loss benefits are capped at 85 percent of the injured person's loss of present and future gross income, up to \$250 per week, and replacement service loss benefits and survivor's economic loss benefits are limited to \$200 per week. Unless a policyholder elects to have two or more policies added together, the limit of liability for basic economic loss benefits for two or more vehicles may not be added together to determine the limit of insurance coverage available to an injured person for any one accident.
- ^{vii} Full coverage includes bodily injury and property damage liability, uninsured/underinsured motorists, medical payments and/or personal injury protection, and all collision and comprehensive.
- ^{viii} In addition to bodily injury liability and personal injury protection, the liability premium reflects property damage liability, medical payments (if available) and uninsured motorists/underinsured motorists coverages.
- ^{ix} The other 11 states in the Upper Midwest region of the U.S. are Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin.
- ^x On average, collision and comprehensive coverage premiums in other Midwest states represent 36 percent and 18 percent of the full coverage premium, respectively.
- ^{xi} The Fast Track Monitoring System is a quarterly loss report prepared by the PCI, Insurance Services Office, Inc. and the National Independent Statistical Service. Data in this analysis come from the 2nd Qtr. 2005 report.
- ^{xii} Michigan's property damage liability coverage is not like any other state. Hence, the countrywide PD loss cost experience was used in its place, along with this state's no-fault personal property insurance loss cost.
- ^{xiii} In add-on states, policyholders may choose to purchase additional first-party benefits that would be excess over any other source of recovery to which the insured person is legally entitled. South Dakota and Wisconsin are the only two add-on states in the Upper Midwest, but their PIP experience is not part of the Fast Track Monitoring System; hence no PIP data are shown for the group of tort/add-on states in Figure 2.
- ^{xiv} F.R. limits of 30/60/10 mean coverage up to \$60,000 for all persons injured in an accident, subject to a limit of \$30,000 for one individual, and \$10,000 coverage for property damage.

^{xv} Policyholders can elect to stack coverage on multiple vehicles pursuant to MINN. STAT. §65B.47, subd. 7.

^{xvi} PCI, *No-Fault Benefits & Thresholds/Auto Reparations*, May 2005

^{xvii} Five no-fault states (Florida, Michigan, New Jersey, New York and Pennsylvania) have verbal thresholds; the remaining seven states have monetary thresholds of \$5,000 or less.

^{xviii} Fast Track Monitoring System @ 2nd Qtr. 2005

^{xix} According to the Insurance Research Council, neck and back sprains and strains are commonly cited as the most serious injury from an auto accident. Countrywide, 71 percent of BI claimants experienced a neck, back, miscellaneous or other type of sprain or strain as their most serious injury, and 62 percent of PIP claimants experienced a sprain or strain as their most serious injury.

**Union Construction
Workers' Compensation Program**

3001 Metro Drive - Suite 500
Bloomington, MN 55425
www.ucwcp.com

Wilson-McShane Corporation
Fund Administrators

Telephone: (952) 854-0795
Fax: (952) 851-3566
Toll Free: (800) 535-6373



February 8, 2006

To: Minnesota Workers' Compensation Advisory Council

From: Trustees of the *Union Construction Workers' Compensation Program* (PROGRAM)

Dear Council Members:

At the PROGRAM'S January 17, 2006, Board of Trustees meeting, the following motion was approved unanimously:

"The Union Construction Workers' Compensation Program has studied medical costs for workers' compensation and traditional health care. The workers' compensation system pays more than any other traditional healthcare payment system for identical procedures at both the hospital and provider level. Therefore, the Union Construction Workers' Compensation Program supports changes to the workers' compensation law that brings equity between these two medical benefit payment systems."

The PROGRAM is a labor-management Taft-Hartley trust, operating since July 1, 1997, pursuant to MN Statutes 176.1812, "collective bargaining agreements".

The PROGRAM'S mission:

- Eliminate the adversarial culture of workers' compensation claim administration;
- Improve the delivery of wage-replacement and medical benefits to injured union members;
- Reduce the costs of insurance for union contractors thereby making the union construction industry more competitive.

The PROGRAM'S participants include Local and District Council trade unions, contractor associations, contractors and workers' compensation insurance carriers. For a partial list of participants, see the other side.

LABOR-MANAGEMENT SPONSORS

Management Associations

- Associated General Contractors of Minnesota
- Carpentry Contractors Association
- Minnesota Concrete & Masonry Contractors Association
- Minnesota Drywall & Plasterers Association
- Minnesota Environmental Contractors Association
- Minnesota Floorcovering Contractors Association
- Minnesota Mechanical Contractors Association
- Minnesota Painting & Wallcovering Employers Association
- National Electrical Contractors Association-
Minneapolis and St. Paul Chapters
- Sheet Metal, Air Conditioning & Roofing Contractors Association
- Twin Cities Roofing Contractors Association

Labor Councils / Locals

- MN Bricklayers and Allied Craftworkers Local #1
- Lakes & Plains Regional Council of Carpenters & Joiners
- Carpet, Linoleum & Resilient Tile Layers Local #596
- MN Cement Masons & Plasterers Local #633
- International Brotherhood of Electrical Workers - Locals #110 and #292
- International Union of Painters & Allied Trades District Council #82:
 - Drywall Tapers #61, #386 and #681
 - Twin Cities Glaziers Local #1324
 - Painters Locals #61 and #386
- Iron Workers Local #512
- Laborers District Council of MN & ND
- Millwrights Local #1348
- International Union of Operating Engineers Local #49
- Pipe Fitters Locals #455 and #539
- Twin Cities Plasterers Local #265
- Plumbers Locals #15 and #34
- MN Construction Conference of Teamsters
- MN State Building and Construction Trades Council

No-Fault Arbitration Statistics

Compiled by American Arbitration Association¹

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Cases filed	4571	5152	5142	5139
Average claim	\$8,091	\$7,913	\$7,209	\$6,914
Average Award	\$4,833	\$5,204	\$5,023	\$4,638
Pct. of claims going to hrg.	50%	51%	52%	57%
Pct. of claim awarded	60%	66%	69%	67%
Pct. awarded entirely	12%	11%	15%	12%
Pct. denied entirely	8%	12%	13%	13%

The system uses about 750 volunteer arbitrators who are paid \$300 for their service if a claim goes to completion of a hearing, an event that happens about half the time a claim is filed. It costs \$50 for a claimant to file a claim compared to about \$325 for a jury filing fee. The number of claims has been fairly stable at about 5,100 annually, an increase of about 12% from the past ten years. On average an arbitrator awards about 3/5 to 2/3 of a claim after a hearing and on average 11½% of all claims are entirely denied by an arbitrator and 12½% of all claims are entirely granted by an arbitrator. The majority of cases are resolved within roughly eight months of filing, with 71% resolved within one year, and 99+ % resolved within two years. This compares to an average of 14-16 months of disposition time for civil claims in district court, 98% of which are resolved within 24 months.

¹ Since 1975 the American Arbitration Association has been the sole entity designated by the Minnesota Supreme Court to administer the arbitration of No-Fault claims under § 65B.525 and under that law all claims under \$10,000 must be submitted to arbitration to achieve low cost, speedy resolution of claims.



Minnesota
Ambulance
Association

Representing Minnesota's EMS Professionals

Minnesota Ambulance Association



Buck McAlpin, NREMT-P
President

4501 68th Avenue North
Brooklyn Center, MN 55429

Phone: (763) 520-4303
Fax: (763) 520-7567
Cell: (763) 213-2645

buck.mcalpin@northmemorial.com

www.mnems.org

Emergency Medical Services (EMS) is at a crossroads. Decreasing reimbursements, an aging population, increasing threats to EMS personnel, dramatic increases in liability insurance and other cost centers have all contributed to creating a very uncertain future.

In rural Minnesota, demographics represent one of the greatest threats to the operational integrity of ambulance services. Less populated areas of the state tend to have volunteer or part-time paid emergency providers. Volunteers are in short supply because of the demands of the 'job'. As the rosters shrink, additional demands are made on the service's staff. Our state is seeing one or two ambulance services a year closing their doors.

Full-time, paid ambulance providers are also experiencing similar threats. Despite what some may believe, ambulance services are not a profitable enterprise, regardless if they are private or publicly-owned operations. Large volumes and ancillary services are what are keeping providers operational.

The cost of providing service is increasing dramatically, while reimbursements remain static or even decline. Liability insurance premiums have doubled for some ambulance services over the past 2 to 3 years even though they have never have experienced a claim. Labor and benefit costs also continue to escalate. Conversely, Congress enacted dramatic changes in the Medicare reimbursement system about 4 years ago as it applies to ambulance services. They placed the entire country on a fee schedule, regardless of costs of providing service or any other factors unique to individual states. Some states actually saw an increase in reimbursements. Minnesota saw nearly a **38% drop** in reimbursements. The ambulance industry in Minnesota loses **\$72 million per year in Medicare reimbursements**. This figure was determined by an independent auditing firm. Minnesota has the distinction of being the most seriously harmed state because of the changes. We were originally the 3rd most affected, but the other two state's Congressional delegations secured specific federal appropriations that came to the aid of their state's providers.

I am holding a copy of a report undertaken by the Minnesota Department of Health. It is entitled: "*A Quiet Crisis: Minnesota's Rural Ambulance Services at Risk.*" It describes the serious challenges and uncertain future of EMS in rural Minnesota. Even modest changes in any of the factors listed in my testimony could result in a true EMS crisis in Minnesota. Were it not for the extraordinary record of support from the Minnesota Legislature for the entire EMS System over the past 2 decades, the crisis would have manifested even sooner.

On its face, repeal of the current No Fault Law in Minnesota would appear to make sense. However, one provision of the statute is critical to the survival of the EMS System as we know it. The provision to which I refer is the mandatory \$20,000 medical coverage. At present, No Fault carriers pay almost 100% of billed charges and payment is regularly made in a timely manner. Ambulance services pick up a patient and transport them to a hospital Emergency Department (ED). The ED treats the patient and admits or discharges them. In both cases a bill is generated, mailed to the insurance carrier and subsequently paid in full. This payment is disproportional to the percentage of motor vehicle accident calls. For example, one rural ambulance service in northeastern Minnesota has about 12% of their total calls related to motor vehicle accidents. However, reimbursement for these calls represents between 20% and 23% of their total revenue.

Arguments have been made that a patient's primary health insurance would cover the EMS services, should No Fault be eliminated; or, it would fall under MN CARE or even Medical Assistance or GAMC. For EMS providers, this would still represent a significant cut. These programs generally pay less than 35% of charges. Whether it be good public policy or not, loss of the current reimbursement to EMS providers under No Fault may well be the proverbial 'straw that broke the camel's back'.

Last session, the legislature created a formal statewide Trauma System. Under this system, hospitals are identified as to their ability to offer various levels of care. It is a volunteer designation system that will help assure that patients receive the best available care in all circumstances. It would seem inconsistent for the legislature to enact a Trauma System, and then subsequently reduce a critical funding source to keep the system viable.

In closing, I would like to thank the committee for this opportunity and am more than happy to answer any questions.

Buck McAlpin/President
Minnesota Ambulance association

Ambulance net revenue from NO-Fault-PIP Insurance

Service	\$ Amount
North	1,800,000
Goldcross	1,700,000
Cottonwood	9,000
Minneapolis Fire	130,000
Richfield Fire	15,000
Thief River Falls	35,000
Crookston	15,000
St Marys EMS/Detroit Lakes	42,000
Stevens County	67,000
Pipestone	21,000
Jasper	5,000
Springfield	7,000
ALF	230,000
Warren	14,000
St Paul fire EMS	629,000
West St Paul	11,000
Belle Plaine	23,000
Winona	118,000
Allina	1,428,000
Meds 1 Grand Rapids	110,000
Maplewood EMS	86,000
Cottage grove EMS	91,000
Sherburne EMS	6,100
St Peter EMS	175,000
Northfield EMS	35,000
Burnsville	147,000
Grand Meadow	13,000
Wabasso	37,000
Long Praire	15,176
Ashby	7,400
Barnesville	25,400
Browns valley	539
Cannon Falls	22,000
Harmony	1,073
Henning	9,700
International Falls	3,200
Littlefork	1,200
Longville	3,200
Montgomery	4,800
Mountain lake	5,300
New London	11,200
Preston	5,100
Ringdahl	46,500
Sunburg	600
Warroad	9,000
Zumbrota	3,200
Hibbing	19,650
Nashwauk	6,500

Testimony for the House of Representative
Commerce and Financial Institutions Committee
Tuesday
February 28, 2006

Chairman Wilken, members of the committee. My name is Dr Keith Johnson and I am in private practice in Maple Grove, MN. I am the past president of the Minnesota Chiropractic Association, an association that represents the 2300 Doctors of Chiropractic licensed in this state. I am here today to speak against the proposed legislation regarding the repeal of Minnesota No Fault statues.

Today you have heard, and will hear, testimony of the many global concerns surrounding this issue before this committee. Concerns including:

- 1) There is no auto insurance crisis in Minnesota (profits are up 35 % since 2004 as reported by the St Paul Pioneer Press)
- 2) Medical costs in Minnesota constitute less than 10% of the auto premium dollar
- 3) Cost shifting for the care for the injured victim will flow from the auto insurer to health insurance, Minnesota Care, medical assistance or on to the backs of the uninsured
- 4) Reduced access for the consumer to the doctor of their choice

The purpose of my testimony today, will be to address the claims forwarded by some insurance lobbyists regarding chiropractic. The insurance industry cites a growing number of fraudulent claims. They admit, however, that these practices are limited to as few as 12 providers out of the 1000s of physicians, chiropractors, physical therapists, EMS, hospitals, dentists, etc. who treat auto injury victims in Minnesota.

- 1) For chiropractics part, we recognize that there are a few bad apples out there, but still, we are aggressively pursuing their inappropriate practice methods.
 - A) Currently, we are forwarding legislation to eliminate the use of runners all together. This bill is in the process of being jacketed and we expect it to be given a House File number in the next few days. I want to encourage all the members of this committee to co-author our legislation so we can assure a speedy passage.
 - B) The Supreme Court of Minnesota recently ruled that only a licensed chiropractor may own a chiropractic practice. This ruling eliminates the possibility of an out of state corporation or unlicensed individual from ownership. No additional legislative redress is necessary.
 - C) The Minnesota Chiropractic Association supports the Croft guidelines for rehabilitation of the Cervical Acceleration/Deceleration Syndrome (Whiplash).
- 2) Currently, the insurance industry has vehicles in place to address care that they believe maybe excessive or outlying of the norm.
 - A) The first is the use of their Independent Medical Examiner (IME), who will examine the injured patient and provide an opinion, including if any additional treatment is needed. The rate of contrary opinions to care ranges in the 85-95% in offices we have canvassed.
 - B) Secondly, the insurance industry may forward any complaints to the Minnesota Board of Chiropractic Examiners (MBCE), our professional governing board, for their review and possible actions.

In closing, I would like to take this opportunity to share with this committee information regarding the physical trauma that occurs to the spine in a whiplash type of injury resulting in unique damages rarely seen in other types of injury. (See "Whiplash" booklet by Krames). It is important at this time to address statements that have been made regarding seat belts and

airbags reducing the amount of tearing of the muscles, ligaments, discs, nerves and blood vessels (aka soft tissue injury). While seatbelt and airbags have been instrumental in saving lives, research clearly demonstrates that the spine is subject to enormous shearing forces on use of the seat belt as all of the impact is transfer to the neck as the chest and low back are secured in place, not allowing for the full spine to dissipate the shock. Research also documents that airbags strike the head and neck with great force snapping them backwards as they are accelerating forward. Research shows that "Soft Tissue" injuries have not been minimized with the advent of seat belts or airbags; in fact, some suggest they are made worse.

In summation, patients hurt in motor vehicle accidents present to the Doctor of Chiropractic, and all of us in the physical medicine world, the most significantly injured, most challenging and difficult people to treat and rehabilitate. We have heard the insurance industry's statements and we believe these concerns are resolved with our pending legislation, the recent Supreme Court ruling, the Associations support of the Croft guidelines, and the insurance industry's judicious use of the IME and of the MBCE.

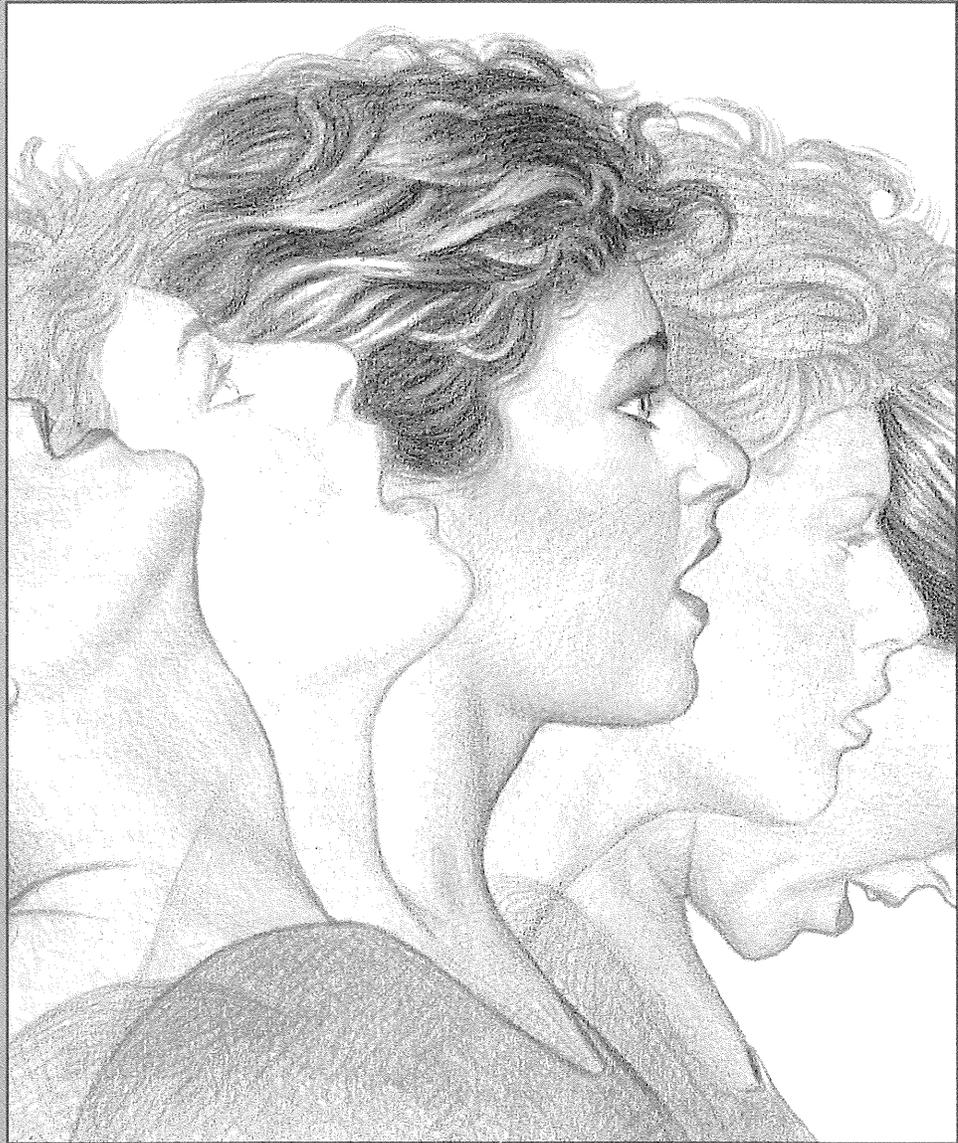
Thank you for your time. I am prepared to answer your questions.

Sincerely,

Keith M Johnson, DC
Past President,
Minnesota Chiropractic Association

WHIPLASH

A Chiropractic Approach
to Treatment and Self-Care

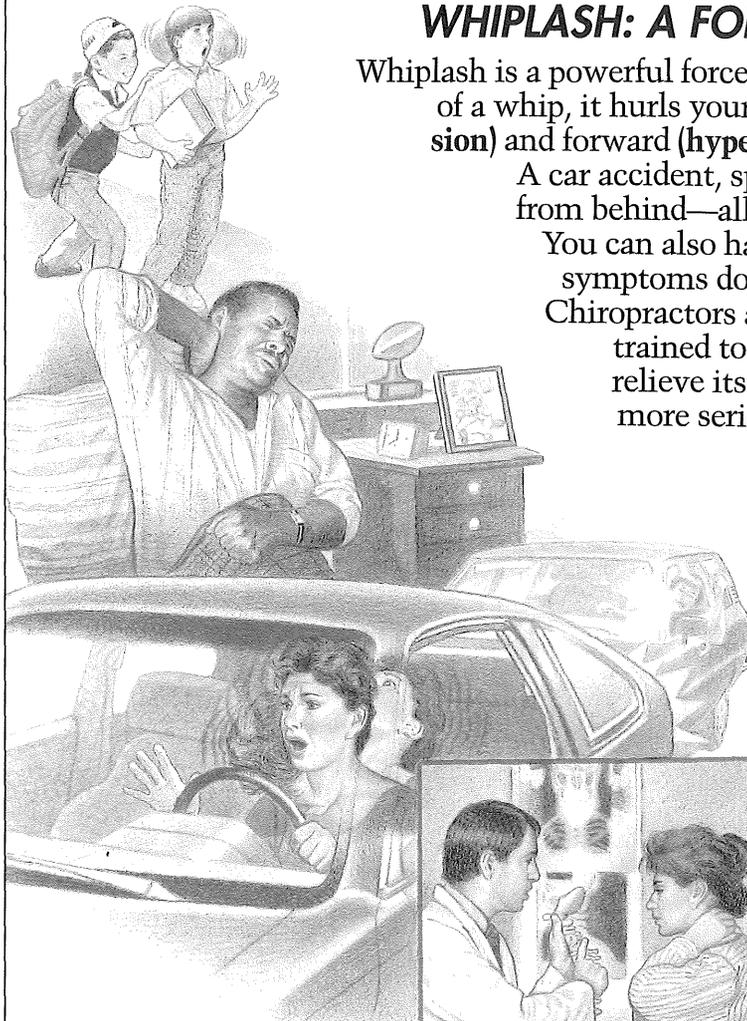


WHIPLASH: A FORCEFUL NECK INJURY

Whiplash is a powerful force. Like the sudden, sharp snap of a whip, it hurls your head backward (**hyperextension**) and forward (**hyperflexion**), injuring your neck.

A car accident, sports injury, or simply a push from behind—all can cause a whiplash injury.

You can also have “hidden whiplash,” since symptoms don’t always appear right away. Chiropractors are spine specialists uniquely trained to diagnose and treat whiplash, relieve its symptoms, and help prevent more serious injuries from developing.



Your Neck Thrown out of Balance

Your head is delicately balanced on the top of your neck, held by fragile structures. The snapping motion of whiplash damages your neck, upsetting its balance. Then your neck can't easily move or support your head. A wide array of symptoms may follow in the wake of whiplash: neck and shoulder pain, headache, stiffness, or dizziness. If left untreated, more serious problems may develop.

Restoring Your Neck's Balance

Under your chiropractor's care, you can bring back the balance your neck needs to work smoothly. A chiropractic **evaluation** helps your chiropractor diagnose a whiplash injury. While helping to heal your injured neck, chiropractic treatment also can relieve your symptoms. And early **treatment** helps prevent more permanent damage. You too can play a part with **self-care**, which aids healing and reduces your chances of future injury.



Evaluation and treatment



Self-care

This booklet is not intended as a substitute for professional healthcare.

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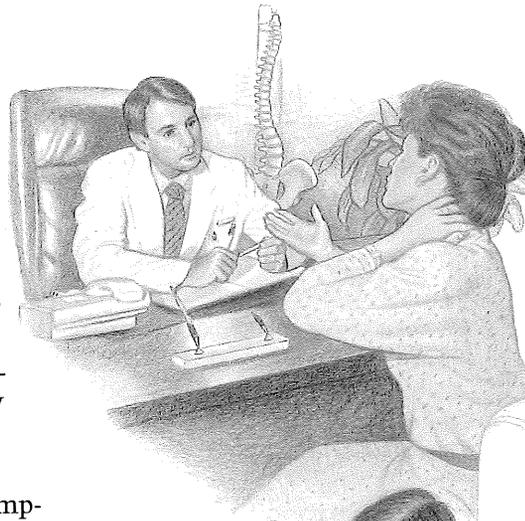
YOUR CHIROPRACTIC EVALUATION

An evaluation helps your chiropractor diagnose a whiplash injury, discover the extent of damage, and determine the most suitable treatment for you. A health history begins to uncover your symptoms and the cause of your injury. It may also reveal other, preexisting problems with your spine. A physical exam helps identify the nature of your injury. You may also have x-rays, which help diagnose a whiplash injury or rule out other problems.

Health History

Your symptoms

- Do you have neck, shoulder, arm, or lower back pain?
- Do you have headaches, stiffness, numbness, dizziness, or blurred vision?
- When did your symptoms begin? Are they constant, or do they come and go?
- What makes your symptoms better or worse?

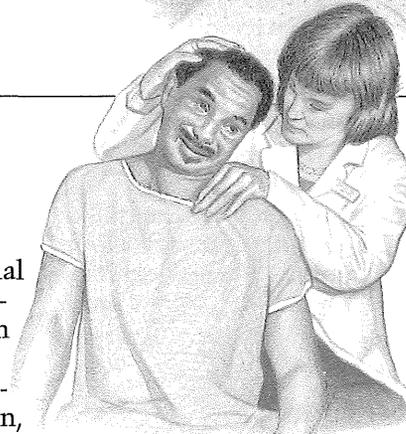


Your injury

- Have you ever been in a car accident, fallen, had a sports injury, or been hit forcefully?
- Have you been injured more than once?
- What, if any, treatment have you received since your injury? Has it helped?
- What kind of work, sports, or hobbies do you do?

Physical Exam

Your chiropractor uses special techniques to identify spine-related problems. Using firm finger pressure, your chiropractor checks for pain, stiffness, limited range of motion, or swelling in neck or shoulder muscles. Finger pressure combined with bending your neck in different directions (**motion palpation**) may help your chiropractor locate restricted bones or joints (**vertebral subluxation**). You may also have other routine tests.



X-rays

X-rays give a detailed view of the bones (**vertebrae**) in your neck and back. They help spot where vertebrae have moved into an unbalanced position (called a **misalignment**), such as when the curve of your neck is reversed by whiplash. If your vertebrae are lined up like "stairs," rather than one on top of the other, you're likely to have soft tissue damage as well. X-rays also rule out other problems, like fractures or tumors.

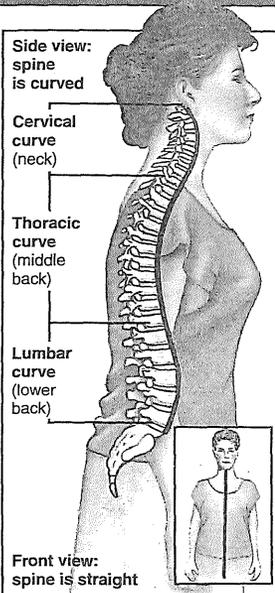


X-ray of a healthy neck



X-ray of a whiplash injury

Regular spinal checkups help your chiropractor diagnose and treat spinal problems—even those you aren't aware of. "Hidden" whiplash, for example, produces no symptoms; and a series of minor accidents over time may cause a "cumulative" whiplash injury.



UNDERSTANDING WHIPLASH

Your neck does much more than simply connect your head to the rest of your body. Without your neck, you couldn't hold up your head, or turn it easily from one side to the other. Many complex parts of your neck work together to perform a

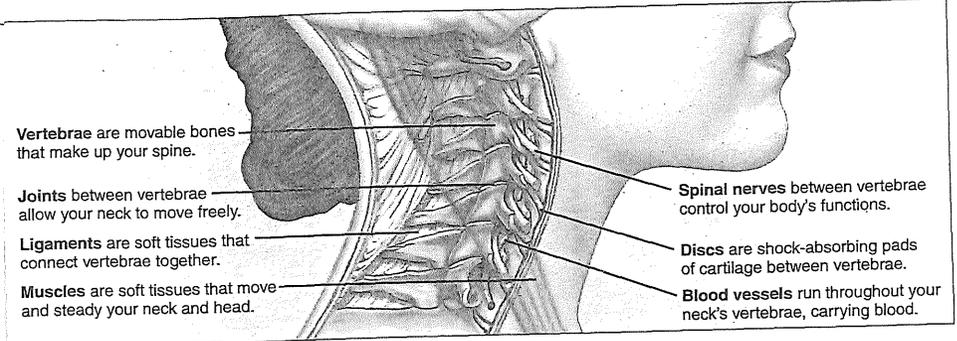
Your Spine Aligned

When you look at a balanced spine from the side, it is aligned in three natural curves; your neck's curve is one of them. From the front or back, a balanced spine is lined up straight down the middle of your back. When your spine is aligned, your weight is evenly distributed, making your back less likely to be injured.

Healthy Neck Anatomy

Maintaining your neck's balance requires an aligned spine and healthy neck anatomy. Your neck's anatomy has many fragile, complex parts. Some make up the spinal column itself, such as vertebrae and joints. Others—like muscles and ligaments—help support and move your head and neck, or run throughout your neck, such as spinal nerves.

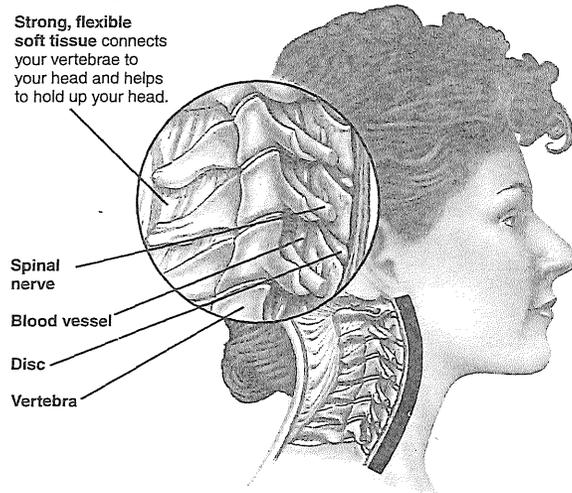
delicate balancing act. But your neck is a fragile part of your body, as well. When the powerful force of whiplash strikes, your head is tossed around like the head of a flimsy rag doll. Your neck can be seriously injured. Then it is unable to move and support your head the way it normally does. If not corrected early, whiplash can lead to other problems, such as arthritic degeneration.



Before Whiplash: Your Neck's Delicate Balance

Imagine balancing a 10-pound ball on the end of a stick. That's the delicate balancing act your neck performs throughout the day. Soft tissue is really the only thing keeping your head poised on the top of your spine. If your cervical spine is aligned and neck anatomy healthy, your head's weight is evenly balanced.

Strong, flexible soft tissue connects your vertebrae to your head and helps to hold up your head.



The Powerful Force of Whiplash

Whiplash turns your head's weight into a powerful force, hurling your neck past its normal range of motion. In the typical whiplash injury, your head is whipped backward, injuring muscles, ligaments, discs, and other structures. As your head whips forward, its speed greatly increases, adding to the force on your neck. If your head is turned to the side, injury is often more severe.

Before impact, your neck's natural curve is aligned.



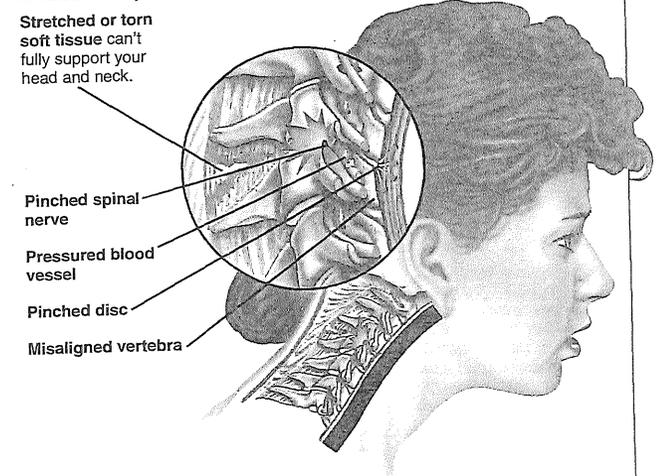
Your head whips backward, exaggerating your neck's curve.

Your head snaps forward, reversing your neck's natural curve.

After Whiplash: Your Neck out of Balance

After a whiplash injury, your neck's balance is upset. Your neck's natural curve may be reversed, which unevenly distributes your head's weight and further misaligns your vertebrae. Your fragile, damaged neck must now strain to hold up your head. If not corrected, scarring—and even arthritic degeneration—may develop. You may also have recurring pain.

Stretched or torn soft tissue can't fully support your head and neck.



YOUR CHIROPRACTIC TREATMENT

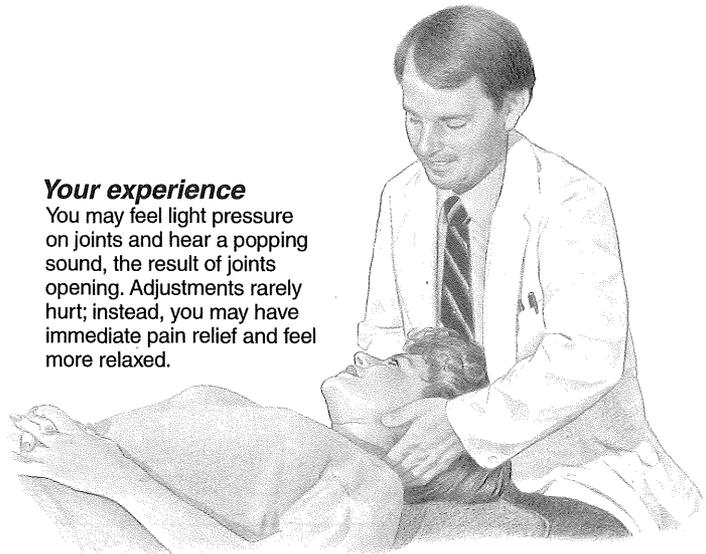
Using spinal adjustments and related treatment, your chiropractor helps to restore your neck's balance and heal your injured neck. This relieves symptoms and improves your neck's ability to move and support your head. Because whiplash injuries can produce a "domino effect," one problem leading to another, early treatment helps to prevent further deterioration in your spine.

Spinal Adjustments

Spinal adjustments restore balance, helping to reduce stiffness and relieve pain and pressure in joints and nerves. Adjustments also realign vertebrae, improving your neck's strength, flexibility, and range of motion. Your chiropractor can tailor treatment to your particular injury. Because soft tissue takes time to heal, you may need regular treatment over a period of time.

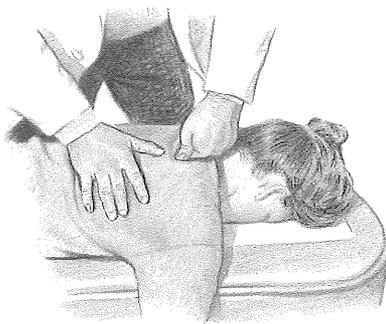
Your experience

You may feel light pressure on joints and hear a popping sound, the result of joints opening. Adjustments rarely hurt; instead, you may have immediate pain relief and feel more relaxed.



Related Treatment

Your chiropractor may recommend one or more other kinds of treatment to help heal your neck, relieve symptoms, and restore your neck's function. These techniques work in a variety of ways—often by relaxing or strengthening muscles and by reducing swelling. You may be asked to continue some of these at home.

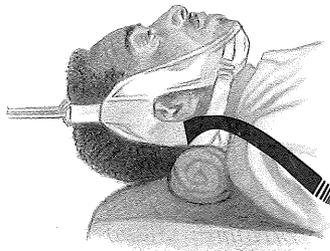


Trigger point therapy

Your chiropractor applies pressure to small, precise areas of pain (**trigger points**). This relieves "knots" in your muscles, helping to reduce pain.

Ice and heat

Your chiropractor may apply ice to your neck after an injury to help reduce swelling. Moist heat relaxes muscles when swelling is not present.

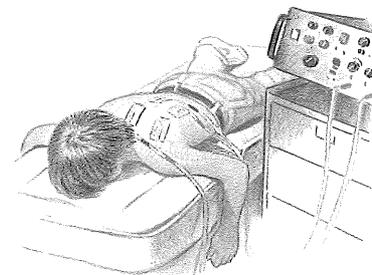


Traction

A "sling" around your chin gently releases pressure on joints and nerves. A rolled-up towel under your neck helps restore your neck's curve.

Cervical collar

A stiff collar immobilizes your neck. This technique is used only for pain relief or to support your neck when you can't hold up your head.



Electrical stimulation

Electrical impulses cause muscles to contract gently and automatically. They may relax muscles, reduce swelling, and improve circulation.

Ultrasound

Painless sound waves reduce pain and swelling in joints and muscles. Ultrasound helps prevent scarring and may also improve circulation.

SELF-CARE

Chiropractic treatment is most effective when combined with self-care. Good posture helps keep your spine aligned, allowing your neck to heal in its proper position. Proper posture also reduces pressure on neck structures, helping to prevent future injuries. Neck exercises improve your flexibility and strength—another lifetime preventive measure against future injuries.

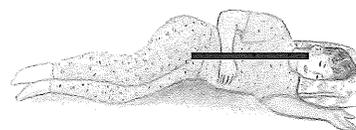
Good Posture

Keeping your spine balanced is a 24-hour job—whether you're sitting or sleeping. Even slightly bad posture can put pressure on your spine: tilting your head forward just three inches triples the strain on your neck. Try to keep your chin level with the ground, and don't tilt your head to one side or the other. Since perfect posture isn't always possible, shift positions often.



When sitting

Sit up "tall" with a rolled-up towel or lumbar roll in the small of your back. To avoid slouching, hold reading material up vertically in front of your face. Try putting pillows on the armrests to help support your arms.



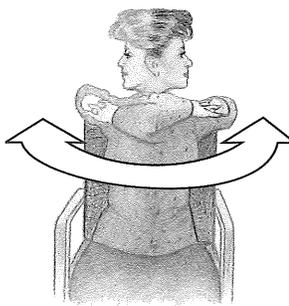
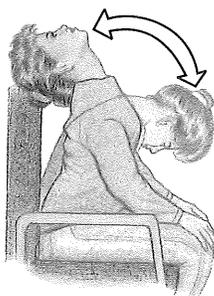
When sleeping

Sleep on your back with a pillow under your knees and a rolled-up towel under your neck. Or sleep on your side with a pillow under your head and neck to keep them level. Don't sleep on your stomach.

Neck Exercises

Neck exercises can help restore your neck's balance. They can strengthen your neck and help improve flexibility, by loosening muscles and ligaments and by increasing your joints' range of motion. Remember to do neck exercises only when your chiropractor prescribes them.

Flexion and extension. While sitting, push down on your knees with your hands. Arch your back, bending your neck backward. Then slump forward. Repeat this exercise 10 times, twice a day.



Sit and twist. Lace your fingers, with elbows pointing outward. Twisting first at the waist, rotate your head and neck to the left side, then to the right. Repeat this exercise 10 times, twice a day.

Side bend. Lace your fingers, with elbows pointing outward. Bend at the waist, moving your body to one side as far as you can; then bend your head and neck. Repeat 10 times on both sides, twice a day.



Spinal molding Lie with a rolled-up towel under your neck and lower back. This "exercise" will help to remold your three natural curves. Repeat this for 15 minutes every night before you go to bed.

Don't exercise if you're in severe pain. Stop any exercise that increases your pain, and call your chiropractor.



HEALING YOUR INJURED NECK

It takes time to heal a whiplash injury. But with early diagnosis and treatment, your doctor of chiropractic can help correct your spinal problem, speed your healing, and relieve your pain and stiffness. Self-care also helps to heal your neck and can act like an insurance policy for a healthier neck in the future.

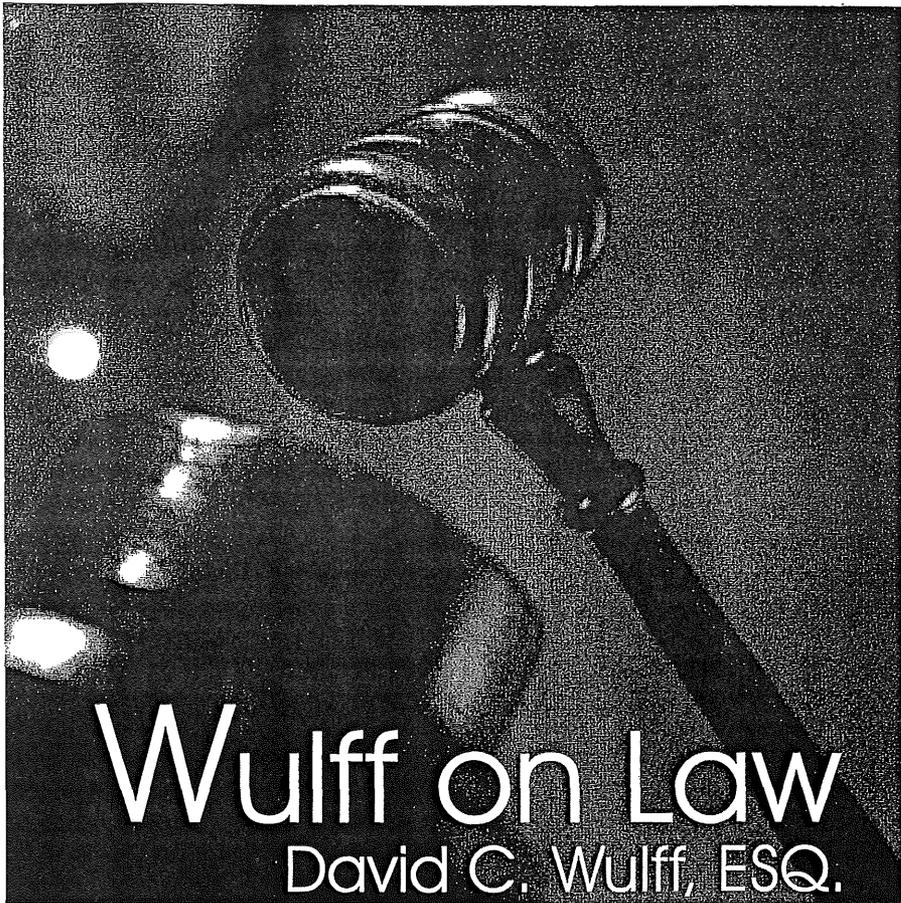


Consultant:
Michael Pedigo, DC

With contributions by:
Sarbjit S. Neel, DC
Laura Nunno, DC
L.C. (Leo) Huddleston, DC

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Wulff on Law

David C. Wulff, ESQ.

This Month's Topic: Supreme Court Rules on Corporate Practice of Chiropractic

The Minnesota Supreme Court issued its decision in the *Isles Wellness, Inc. v. Progressive Northern Insurance Co.*, case on September 15, 2005. The court has ruled that doctors of chiropractic are subject to the corporate practice of medicine doctrine whereas physical therapists and massage therapists are not.

This decision has far reaching implications for all doctors of chiropractic.

HISTORY OF THE CASE.

Jeannette Couf, a non-professional, formed three corporations of which she was the sole shareholder: Isles Wellness, Inc., (n/k/a Minneapolis Wellness); A Licensed Physical Therapy, Inc.; and Licensed Massage Therapist, Inc. These corporations employed chiropractors, physical therapists and massage therapists, all of whom were properly licensed or certified practitioners. The corporations billed for the services rendered by the practitioners, paying the practitioners a salary. Jeannette Couf, as the sole shareholder of all three corporations, profited from the services rendered by the practitioners.

Two no-fault insurers, Progressive Northern Insurance Company, and Allstate Indemnity

Company, became aware of Ms. Couf's ownership of the corporations and stopped paying for treatment rendered by the providers employed by the corporations. Ms. Couf and her corporations sued the insurers, seeking payments in 49 no-fault cases.

A district court judge held that because the treatment in dispute had been rendered by practitioners in their capacity as employees of corporations wholly owned by a non-professional, the relationship violated the corporate practice of medicine doctrine, and the insurers did not have to pay.

On appeal, the Minnesota Court of Appeals reversed the compensation judge concluding, "Assuming that, in *Granger [v. Adson, 190 Minn. 23, 250 N.W. 722 (1933)]*, Minnesota adopted the corporate practice of medicine doctrine, we conclude that it does not prohibit the corporate employment of chiropractic, physical therapy, or massage therapy practitioners." Under the Court of Appeals decision, doctors of chiropractic could legally work for corporations owned in whole or in part by non-licensed individuals, like Ms. Couf.

The Supreme Court has now reversed the Court of Appeals.

THE SUPREME COURT'S DECISION.

The Supreme Court first clarified and declared that the common law of Minnesota (law created by the Supreme Court not by the legislature), does prohibit the corporate practice of "learned professions," including medicine.

The Court indicated that the reason why corporate practice of medicine should be presumptively prohibited is that proficiency in medicine requires long years of specialized study, research and training; that any one practicing medicine must be licensed, regulated and held to high standards of ethics and ideals in order to protect the public; that professional judgment should not be influenced or controlled by the directives of a non-licensed individual who does not have the requisite training, and who is not bound by the standards of ethics and ideals; that professional judgment should not be unduly influenced or exploited by profit motives; and that a practitioner's loyalty to a patient should never be in conflict with the directives or motives of the practitioner's employer.

The Court next turned to the question of whether this prohibition against the corporate practice of "learned professions" applies to

therapy.

The Court concluded that chiropractic is one of the "learned professions" which should be presumptively prohibited from corporate practice.

The Court noted that chiropractors are required to undergo extensive training, pass an examination, and maintain a license; are authorized to treat patients directly without being under the supervision of another licensed professional; do exercise independent professional judgment which should not be unduly influenced by profit motives; and have been specifically recognized by the legislature as "professionals" for purposes of the Minnesota Professional Firms Act.

The Court concluded that physical therapists and massage therapists are not "learned professions" which need to be prohibited from corporate practice.

While physical therapists are required to undergo training, pass an examination, and maintain a license, they are not allowed to exercise independent judgment. With the exception of an initial 30 day period, they may not provide therapy to a patient without an order of referral from a physician, chiropractor, podiatrist, dentist, or advanced practice nurse. They must have their treatment periodically reviewed by the referring professional. They are not considered a "professional service" for purposes of the Minnesota Professional Firms Act. Therefore, the same public policy interests in protecting medical doctors and doctors of chiropractic from undue influence from a lay employer do not apply to physical therapists.

With regard to massage therapists, the court noted that there are no training or licensure requirements at all. Therefore, massage therapy is not a "learned profession" which needs to be prohibited from corporate practice.

EXCEPTIONS TO THE COMMON LAW RULE.

The Court stated that the common law presumption against the corporate practice of medicine and chiropractic can be overcome by exceptions carved out by the legislature. In other words, medical doctors and doctors of chiropractic may be employed by corporations (or other business entities such as

liability companies, etc.), if a statute specifically so allows. The court identified four examples.

The Minnesota Professional Firms Act, Minn. Stat. Chapt. 319B, specially permits the formation of professional firms, including corporations, to practice certain specified professions, provided all ownership interests are held by licensed professionals. The types of healthcare professionals who may form a professional firm together include: medical doctors; physician assistants; chiropractors; registered nurses; optometrists; psychologists; dentists and dental hygienists; pharmacists; podiatrists; and veterinarians. Physical therapists, occupational therapists and massage therapists are not allowed to have ownership interests in professional firms.

Minn. Stat. Chapt. 62D permits the formation of Health Maintenance Organizations (HMOs), and specifically provides that authorized HMOs "shall not be deemed to be practicing a healing art." Therefore, medical doctors and chiropractors may be employed by HMOs.

Hospitals are specifically permitted by statute to operate as corporations.

According to a 1955 opinion of the Attorney General, nonprofit corporations may employ at least physicians and dentists without violating the corporate practice of medicine doctrine.

It should be noted that there may be other exceptions buried in various statutes that the Court did not specifically identify.

WHAT DOES ALL OF THIS MEAN TO YOU?

Chiropractors may not be employed by non-licensed individuals or by corporations or other types of business firms owned in whole or in part by non-licensed individuals, and may not allow non-licensed individuals to acquire any type of ownership interest in their businesses. Any chiropractor currently involved in such a relationship must immediately end the relationship. It is certainly permissible to employ non-licensed individuals as clinic managers, consultants, etc.

Any chiropractor wishing to practice as a corporation or other type of "firm" should organize pursuant to the Minnesota Professional Firms Act. The primary limitation of practicing as a professional firm is that all equity owners must be licensed professionals.

It may be a violation of common law for a doctor

to organize as a general business corporation pursuant to Minn. Stat. Ch. 302A, even if the doctor is the only shareholder. The Supreme Court did not indicate in its opinion that doctors may incorporate as general business corporations so long as no non-licensed individual is a shareholder. Chapter 302A also does not specifically provide that professionals may incorporate as a general corporation.

Physical therapists, occupational therapists and massage therapists are not subject to the corporate practice of medicine doctrine. They may be employed by corporations or other types of business firms, including firms owned in whole or in part by non-licensed individuals.

WHAT HAPPENS IF THE COMMON LAW RULE IS VIOLATED?

The Supreme Court did not answer this question in *Isles Wellness, Inc.*

The two no-fault insurers involved in the case argued that they should be relieved of their obligation to pay for treatment received by their insureds, even if the treatment was reasonable, necessary and causally related to an insured motor vehicle accident, because the employment relationships between Ms. Couf's corporations and the providers were illegal, against public policy, and therefore void. Due to how the case procedurally made its way to the Supreme Court, the Court declined to address this argument and remanded it back to the Court of Appeals. Therefore, we will have to wait for that decision to be issued before we have a definitive answer.

Logically, invalidation of the employment contract between a chiropractor and a non-licensed individual or corporation should not relieve a no-fault insurer (or any other type of insurer) of their obligation to pay benefits. The no-fault insurer is not a party to the employment contract. The invalidation of the employment contract may change to whom the payments are owed (the doctor or even the patient instead of the corporation), but the payments should still be owed.

The primary consequence of violation of the

common law corporate practice of medicine doctrine will be the invalidation of any contracts entered into among the professional and the corporation or non-licensed individual. The non-licensed individual may be relieved of any obligation to pay the professional or any debts of the corporation, thereby shifting the expense to the professional. Conversely, the non-licensed individual may lose all ownership interest to assets of the corporation, including accounts receivable, which may result in a windfall to the professional.

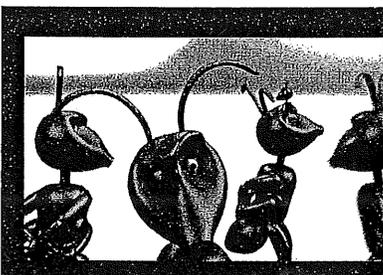
Violation of the doctrine may also result in sanction by the MBCE. Minn. Stat. § 148.10, subd. 1 (13) specifically prohibits "aiding or abetting an unlicensed person in the practice of chiropractic." The Supreme Court explained in *Isles Wellness, Inc.*, that a non-licensed individual effectively engages in the practice of chiropractic when they form a corporation and then employ a chiropractor. Any chiropractor who consents to being so employed may, therefore, be in violation of this statute.

CONCLUSION.

The Supreme Court has now established, clearly and without equivocation, that doctors of chiropractic, like medical doctors, may not practice in the corporate form, or be employed by corporations, unless they comply with a statutory exception to that general common law rule. Organization under the Minnesota Professional Firms Act, and being employed by HMOs, hospitals and non-profit corporations, are four exceptions identified by the court.

Any practitioner with questions concerning the legality of their current or anticipated ownership or employment relationships should immediately consult a private attorney of their choice for advice in this complicated area.

Disclaimer: Please remember that this article cannot be considered legal advice. Every situation is different and must be evaluated in light of the unique factual circumstances involved. If you have any questions concerning workers' compensation law, no-fault law, or professional boundaries, please call David C. Wulff at 651-636-1900 or 800-949-8533.



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State Projected in Black --But only if Challenged Tobacco Revenues Count

Minnesota is projected to be \$88 million in the black for rest of biennium. But it would be in deficit if the new tobacco fee revenues are disallowed by the courts. That's the conclusion of the new forecast by the Minnesota Department of Finance.

"I call it an asterisk forecast. Minnesota really won't know its financial picture until the courts act, possibly late in the legislative session," said Wayne Cox, executive director of Minnesota Citizens for Tax Justice. "Its hands will be tied until then. Minnesota is paying the price of Governor Pawlenty's choosing revenues that are a gamble not a guarantee.

"This all could have been avoided in Governor Pawlenty and Speaker Sviggum had been serious about restoring stability to Minnesota's revenue system. Instead we got a tax disguised as a fee disguised as health cost recovery. Yet the increase in school finance made last year depends on this revenue.

"Governor Pawlenty said today the state is in good financial order. Yet the state economist says Minnesota is underperforming the nation in terms of job growth and wage growth. Tom Stinson said income tax revenues projections are now lower than they were in November by over \$100 million. He said it is possible things could get worse.

"Corporate income tax revenues are projected up—but they are at severe risk because a recent court ruling gives wide discretion to corporations to classify its income as foreign income and hence subject to a much smaller tax rate. Governor Pawlenty plans to continue that gamble.

"Schools are still facing budget cuts. Road repairs get farther behind. The University of Minnesota falls further behind in competing with wages of other research universities.

"There is some good news. Because of limited fiscal reform, increased revenue projections compared to a year ago did allow the state to buy back some school finance shifts it had made. This might help get the state back in Moody's good graces.

"Also, positively, the projection for the 2008-09 biennium shows sufficient expected revenues to allow the state to meet the real, inflation-included, cost of services. The legislative should approve a law this year that returns the state to including inflation in expenses in its budget projections.

"It is the ideal time to return to honest accounting."