wet alcohol under this section may be paid to either the original producer of wet alcohol or the secondary processor, at the option of the original producer, but not to both.

(c) The total payments from the fund to all producers may not exceed $200,000 during the period beginning July 1, 1986, and ending June 30, 1987, and may not exceed $10,000,000 in any fiscal year during the period beginning July 1, 1987, and ending June 30, 2000. Total payments to any producer from the fund in any fiscal year may not exceed $3,000,000.

By the last day of October, January, April, and July, each producer shall file a claim for payment for production during the preceding three calendar months. The volume of production must be verified by a certified financial audit performed by an independent certified public accountant using generally accepted accounting procedures.

Payments shall be made November 15, February 15, May 15, and August 15.

Sec. 3. **EFFECTIVE DATE.**

This act is effective July 1, 1989.

Presented to the governor May 23, 1989

Signed by the governor May 26, 1989, 4:45 p.m.

CHAPTER 258—H.F.No. 611

An act relating to insurance; regulating agent licensing; regulating Medicare supplement plans; modifying required levels of coverages; amending Minnesota Statutes 1988, sections 60A.17, subdivision 6c, and by adding a subdivision; 62A.31, subdivisions 1 and 2; 62A.41; 62D.104; 62D.121, subdivision 3; 62D.181, subdivision 4; 62E.07; and 62E.14, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 1988, sections 62A.32; 62A.33; 62A.34; and 62A.35.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 60A.17, subdivision 6c, is amended to read:

Subd. 6c. **REVOCATION OR SUSPENSION OF LICENSE.** (a) The commissioner may by order suspend or revoke an insurance agent's or agency's license issued to a natural person or impose a civil penalty appropriate to the offense, not to exceed $5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee any one or more of the following conditions:

(1) any materially untrue statement in the license application;

(2) any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance;

(3) violation of, or noncompliance with, any insurance law or violation of any rule or order of the commissioner or of a commissioner of insurance of another state or jurisdiction;

(4) obtaining or attempting to obtain any license through misrepresentation or fraud;

(5) improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to a policyholder, insurer, beneficiary, or other person, received by the licensee in the course of the licensee's insurance business;

(6) misrepresentation of the terms of any actual or proposed insurance contract;

(7) conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;

(8) that the licensee has been found guilty of any unfair trade practice, as defined in chapters 60A to 72A, or of fraud;

(9) that in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;

(10) that the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;

(11) that the licensee has forged another's name to an application for insurance; or

(12) that the licensee has violated subdivision 6b.

(b) The commissioner may by order suspend or revoke an insurance agent's or insurance agency's license issued to a partnership or corporation or impose a civil penalty not to exceed $5,000 upon that licensee, or both, if, after notice and hearing, the commissioner finds as to that licensee, or as to any partner, director, shareholder, officer, or employee of that licensee, any one or more of the conditions set forth in paragraph (a).

(c) A revocation of a license shall prohibit the licensee from making a new application for a license for at least ~~one year~~ two years from the effective date of the revocation. Further, the commissioner ~~may~~ shall, as a condition of relicensure, require the applicant to ~~file a reasonable bond for the protection of the citizens of this state, which bond shall be maintained by the licensee in full force for a period of five years immediately following issuance of the license, unless the commissioner at the commissioner's discretion shall after two years permit the licensee to sooner terminate the maintenance filing of the bond~~ obtain a performance bond issued by an insurer authorized to transact business in this

state in the amount of $20,000 or a greater amount the commissioner considers appropriate for the protection of citizens of this state. The bond shall be filed with the commissioner, with the state of Minnesota as obligee, conditioned for the prompt payment to any aggrieved person entitled to payment of any amounts received by the licensee or to protect any aggrieved person from loss resulting from fraudulent, deceptive, dishonest, or other prohibited practices arising out of any transaction when the licensee was licensed or performed acts for which a license is required under this chapter. The bond shall remain operative for as long as that licensee is licensed. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section. The bond required by this subdivision must provide coverage for all matters arising during the period of licensure.

(d) The commissioner may, in the manner prescribed by chapter 14, impose a civil penalty not to exceed $5,000 upon a person whose license has lapsed, or been suspended, revoked, or otherwise terminated, for engaging in conduct prohibited by paragraph (a) before, during, or after the period of licensure.

Sec. 2. Minnesota Statutes 1988, section 60A.17, is amended by adding a subdivision to read:

Subd. 21. **SUITABILITY OF INSURANCE.** In recommending the purchase of any life, endowment, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an agent must have reasonable grounds for believing that the recommendation is suitable for the customer, and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstances, including, but not limited to, the customer's income, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

Sec. 3. Minnesota Statutes 1988, section 62A.31, subdivision 1, is amended to read:

Subdivision 1. **POLICY REQUIREMENTS.** No individual or group policy, certificate, subscriber contract or other evidence of accident and health insurance issued or delivered in this state shall be sold or issued to an individual age 65 or older covered by Medicare unless the following requirements are met:

(a) The policy must provide a minimum of the coverage set out in subdivision 2;

(b) The policy must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage;

(c) The policy must contain a provision that the plan will not be canceled or nonrenewed on the grounds of the deterioration of health of the insured; ~~and~~

(d) Before the policy is sold or issued, an offer of both categories of Medicare supplement insurance has been made to the individual, together with an explanation of both coverages; and

(e) An outline of coverage as provided in section 62A.39 must be delivered at the time of application and prior to payment of any premium.

Sec. 4. Minnesota Statutes 1988, section 62A.31, subdivision 2, is amended to read:

Subd. 2. **GENERAL COVERAGE.** For a policy to meet the requirements of this section it must contain (1) a designation specifying whether the policy is ~~a~~ an extended basic Medicare supplement ~~1+~~, ~~1~~, ~~2~~, ~~or~~ ~~3~~ plan or a basic Medicare supplement plan, (2) a caption stating that the commissioner has established ~~four~~ two categories of Medicare supplement insurance and minimum standards for each, with the extended basic Medicare supplement ~~1+~~ being the most comprehensive and the basic Medicare supplement ~~3~~ being the least comprehensive, and (3) the policy must provide the minimum coverage prescribed in sections ~~62A.32 to 62A.35~~ 62A.315 and 62A.316 for the supplement specified, provided that an annual deductible of not more than $200 is permissible for those covered charges not paid by Medicare or otherwise included in ~~paragraph (f) of sections 62A.32 and 62A.33~~ section 62A.315 or 62A.316.

Sec. 5. **[62A.315] EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.**

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to chapter 62E, and will provide:

(1) coverage for all of the Medicare part A inpatient hospital deductible amount;

(2) coverage for the daily copayment amount of Medicare part A eligible expenses for the first eight days per calendar year incurred for skilled nursing facility care;

(3) coverage for the 20 percent copayment amount of Medicare eligible expenses excluding outpatient prescription drugs under Medicare part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare part B and coverage of the Medicare deductible amount;

(4) 80 percent of usual and customary hospital and medical expenses, supplies, and prescription drug expenses, including home intravenous (IV) therapy drugs and immunosuppressive therapy drugs, not covered by Medicare's eligible expenses; and

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations.

Sec. 6. **[62A.316] BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.**

(a) The basic Medicare supplement plan must have a level of coverage that, at a minimum, will provide:

(1) coverage for the daily copayment amount of Medicare part A eligible expenses for the first eight days per calendar year incurred for skilled nursing facility care;

(2) coverage for the 20 percent copayment amount of Medicare eligible expenses excluding outpatient prescription drugs under Medicare part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare part B after the Medicare deductible amount;

(3) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations;

(4) coverage for the copayment amount of Medicare eligible expenses for covered home intravenous (IV) therapy drugs, as determined by the Secretary of Health and Human Services, subject to the Medicare outpatient prescription drug deductible amount, if applicable; and

(5) coverage for the copayment amount of Medicare eligible expenses for outpatient drugs used in immunosuppressive therapy subject to the Medicare outpatient prescription drug deductible, if applicable.

(b) Only the following optional benefit riders may be added to this plan:

(1) coverage for all of the Medicare part A inpatient hospital deductible amount; and

(2) a minimum of 80 percent of usual and customary medical expenses and supplies not covered by Medicare part B eligible expenses. This does not include outpatient prescription drugs.

Sec. 7. Minnesota Statutes 1988, section 62A.41, is amended to read:

62A.41 **PENALTIES.**

Subdivision 1. **GENERALLY.** Any insurer, general agent, agent, or other person who knowingly or willfully, either directly or indirectly, makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to compliance of any policy with the standards and requirements set forth in this section; falsely assumes or pretends to be acting, or misrepresents in any way, including a violation of section 62A.37, that the person is acting, under the authority or in association with Medicare, or any federal agency, for the purpose of selling or attempting to

sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value; or knowingly sells a health insurance policy to an individual entitled to benefits under part A or part B of Medicare with the knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled under a requirement of state or federal law other than under medicare shall be guilty of a felony and subject to a civil penalty of not more than $5,000 per violation, and the commissioner may revoke or suspend the license of any company, association, society, other insurer, or agent thereof.

Subd. 2. **SALES OF REPLACEMENT POLICIES.** An insurer or general agent, agent, manager's general agent, or other representative, who knowingly or willfully violates section 62A.40 is guilty of a felony and is subject to a civil penalty of not more than $5,000 per violation.

Subd. 3. **SALES OF DUPLICATE POLICIES.** An agent who knowingly or willfully violates section 62A.43, subdivision 1, is guilty of a felony and is subject to a civil penalty of not more than $5,000 per violation.

Subd. 4. **UNLICENSED SALES.** Notwithstanding section 60A.17, subdivision 1, paragraph (d), a person who acts or assumes to act as an insurance agent without a valid license for the purpose of selling or attempting to sell Medicare supplement insurance, and the person who aids or abets the actor, is guilty of a felony and is subject to a civil penalty of not more than $5,000 per violation.

Sec. 8. **[62A.436] COMMISSIONS.**

The commission, sales allowance, service fee, or compensation to an agent for the sale of a Medicare supplement plan must be the same for each of the first four years of the policy. The commissioner may grant a waiver of this restriction on commissions when the commissioner believes that the insurer's fee structure does not encourage deceptive practices.

In no event may the rate of commission, sales allowance, service fee, or compensation for the sale of a basic Medicare supplement plan exceed that which applies to the sale of an extended basic Medicare supplement plan.

This section also applies to sales of replacement policies.

Sec. 9. Minnesota Statutes 1988, section 62D.104, is amended to read:

62D.104 **REQUIRED OUT-OF-AREA CONVERSION.**

Enrollees who have individual health maintenance organization contracts and who have become nonresidents of the health maintenance organization's service area but remain residents of the state of Minnesota shall be given the option, to be arranged by the health maintenance organization if an agreement with an insurer can reasonably be made, of a number three qualified plan, a number two qualified plan, or a number one qualified plan as provided by

section 62E.06, subdivisions 1 to 3, or, if such enrollees are covered by title XVIII of the Social Security Act (Medicare), they shall be given the option of a Medicare supplement plan as provided by ~~sections 62A.31 to 62A.35~~ chapter 62A.

This option shall be made available at the enrollee's expense, without further evidence of insurability and without interruption of coverage.

If a health maintenance organization cannot make arrangements for conversion coverage, the health maintenance organization shall notify enrollees of health plans available in other service areas.

Sec. 10. Minnesota Statutes 1988, section 62D.121, subdivision 3, is amended to read:

Subd. 3. If replacement coverage is not provided by the health maintenance organization, as explained under subdivision 2, the replacement coverage shall provide, for enrollees covered by title XVIII of the Social Security Act, coverage at least equivalent to a basic Medicare supplement ~~two~~ plan as defined in section ~~62A.34~~ 62A.316, except that the replacement coverage shall also cover the liability for any Medicare part A and part B deductible as defined under title XVIII of the Social Security Act. After satisfaction of the Medicare part B deductible, the replacement coverage shall be based on 120 percent of the Medicare part B eligible expenses less the Medicare part B payment amount. The fee or premium of the replacement coverage shall not exceed the premium charged by the state comprehensive health plan as established under section 62E.08, for a qualified Medicare supplement plan. All enrollees not covered by Medicare shall be given the option of a number three qualified plan or a number two qualified plan as defined in section 62E.06, subdivisions 1 and 2, for replacement coverage. The fee or premium for a number three qualified plan shall not exceed 125 percent of the average of rates charged by the five insurers with the largest number of individuals in a number three qualified plan of insurance in force in Minnesota. The fee or premium for a number two qualified plan shall not exceed 125 percent of the average of rates charged by the five insurers with the largest number of individuals in a number two qualified plan of insurance in force in Minnesota.

If the replacement coverage is health maintenance organization coverage, the fee shall not exceed 125 percent of the cost of the average fee charged by health maintenance organizations for a similar health plan. The commissioner of health will determine the average cost of the plan on the basis of information provided annually by the health maintenance organizations concerning the rates charged by the health maintenance organizations for the plans offered. Fees or premiums charged under this section must be actuarially justified.

Sec. 11. Minnesota Statutes 1988, section 62D.181, subdivision 4, is amended to read:

Subd. 4. **COVERAGE.** Alternative coverage issued under this section must

be at least a number two qualified plan, as described in section 62E.06, subdivision 2, or for individuals over age 65, a basic Medicare supplement ~~2~~ plan, as described in section ~~62A.34~~ 62A.316.

Sec. 12. Minnesota Statutes 1988, section 62E.07, is amended to read:

62E.07 **QUALIFIED MEDICARE SUPPLEMENT PLAN.**

Any plan which provides benefits to persons over the age of 65 years may be certified as a qualified Medicare supplement plan if the plan is designed to supplement Medicare and provides coverage of ~~50~~ 100 percent of the ~~deductible and copayment~~ deductibles required under Medicare and 80 percent of the charges for covered services described in section 62E.06, subdivision 1, which charges are not paid by Medicare. The coverage shall include a limitation of $1,000 per person on total annual out-of-pocket expenses for the covered services. The coverage may be subject to a maximum lifetime benefit of not less than ~~$100,000~~ $500,000.

Sec. 13. Minnesota Statutes 1988, section 62E.14, subdivision 4, is amended to read:

Subd. 4. Notwithstanding the above, any Minnesota resident holder of a policy or certificate of Medicare supplement coverages pursuant to sections ~~62A.32 to 62A.35~~ 62A.315 and 62A.316, or Medicare supplement plans previously approved by the commissioner, may enroll in the comprehensive health insurance plan as described in section 62E.07, with a waiver of the preexisting condition as described in subdivision 3, without interruption in coverage, provided, the policy or certificate has been terminated by the insurer for reasons other than nonpayment of premium and, provided further, that the option to enroll in the plan is exercised within 30 days of termination of the existing contract.

Coverage in the state plan for purposes of this section shall be effective on the date of termination upon completion of the proper application and payment of the required premium. The application must include evidence of termination of the existing policy or certificate.

Sec. 14. **REPEALER.**

(a) Minnesota Statutes 1988, sections 62A.32; 62A.33; 62A.34; and 62A.35, are repealed.

(b) Minnesota Rules, part 2795.0900, is repealed.

Sec. 15. **APPLICATION; EFFECTIVE DATE.**

Section 7 is effective the day following final enactment and applies to claims arising from incidents occurring on or after that date.

Sections 1, 2, and 14, paragraph (b), are effective June 1, 1989. Sections 3,

4 to 6, 8 to 13, and 14, paragraph (a), are effective January 1, 1990, for policies, plans, or contracts subject to Minnesota Statutes, section 62A.31, which are issued or delivered in this state on or after that date. No policy of Medicare supplement 1+, 1, 2, or 3 may be sold or issued on or after that date. Policies, plans, and contracts in effect on or after June 1, 1989, must conform with federal Medicare benefit modifications and must provide appropriate premium adjustments to policyholders by January 1, 1990.

Presented to the governor May 23, 1989

Signed by the governor May 25, 1989, 6:12 p.m.

CHAPTER 259—H.F.No. 450

An act relating to state lands; authorizing additions and deletions from certain state parks; authorizing nonpark use of certain state parks; authorizing sale and conveyance of certain state park lands; authorizing acquisition of certain land for road purposes; providing for the establishment of Grand Portage State Park; appropriating money; amending Minnesota Statutes 1988, section 85.012, subdivision 27a, and by adding a subdivision; repealing Minnesota Statutes 1988, section 85.012, subdivision 39.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **ADDITIONS TO AND DELETIONS FROM CERTAIN STATE PARKS.**

Subdivision 1. **[85.012] [Subd. 9.] BUFFALO RIVER STATE PARK, CLAY COUNTY.** The following area is added to Buffalo River State Park: The South Half of the Northeast Quarter of Section 14, Township 139 North, Range 46 West.

Subd. 2. **[85.012] [Subd. 10.] CAMDEN STATE PARK, LYON COUNTY.** The following area is added to Camden State Park: That part of the Northeast Quarter and the North Half of the Southeast Quarter, both in Section 17, Township 110 North, Range 42 West, lying easterly of the easterly right-of-way line of the Burlington Northern Railroad Company as now located and established and westerly of the westerly right-of-way line of Trunk Highway No. 23 as now located and established.

Subd. 3. **[85.012] [Subd. 15.] FATHER HENNEPIN STATE PARK, MILLE LACS COUNTY.** The following area is added to Father Hennepin State Park: Lots 10, 11, and 12, Block 1, Christiansen's Addition to the Village of Isle.

Subd. 4. **[85.012] [Subd. 23.] GLACIAL LAKES STATE PARK, POPE COUNTY.** The following area is added to Glacial Lakes State Park: The Northwest Quarter of the Southwest Quarter of Section 19, Township 124 North, Range 38 West.