Concerned About Excessive Rates, California Insurance Commissioner Requests Rate Filings from Medical Malpractice Carriers

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On February 17, 2011, California Insurance Commissioner David Jones announced in a press release that the California Department of Insurance had contacted several unnamed medical malpractice insurers to raise concerns about excessive rates and request that these insurers submit rate filings with the CDI to reduce their rates.

California Insurance Code sections 1861.01 and 1861.05, enacted in 1988 as part of Proposition 103, specifically grants the CDI the authority to regulate the rates of certain property and casualty lines of insurance, including medical malpractice insurance. It requires these insurers to apply to the CDI for prior approval of rates and prohibits the use of excessive rates.

The CDI noted in its press release that it has employed these provisions in the past to regulate the rates of medical malpractice insurers, including reducing rate increases.

In contrast, the CDI specifically confirmed that it does not have the authority to reject rates from health insurers that it deems excessive or unreasonable, as health insurance is not subject to California Insurance Code sections 1861.01 and 1861.05.

In his announcement, Commissioner Jones noted that the basis for the CDI's determination that medical malpractice rates might be excessive is the low loss ratios that these medical malpractice insurers experienced.

In the CDI's view, low loss ratios are an indication that premiums might be excessive and in violation of the law.

The CDI plans to require a rate filing from those medical malpractice insurers it believes have excessive rates and review the rate filings to ensure that the rates comply with the aforementioned provisions of the California Insurance Code as well as all other applicable provisions of the law.