
Judiciary Committee

HB 2287

Title: An act relating to the regulation of legal service organizations.

Brief Description: Concerning the regulation of legal service organizations.

Sponsors: Representative Kirby.

Brief Summary of Bill

- Requires legal service organizations that offer legal service plans to obtain a certificate of registration and meet other requirements in order to transact business in Washington.

Hearing Date: 1/24/14

Staff: Edie Adams (786-7180).

Background:

A legal service plan, sometimes referred to as a prepaid legal plan, is an arrangement in which a member prepays for legal services that the member may need in the future. Typically the member pays a monthly or annual fee which entitles the member to certain basic legal services as they are needed. Basic legal services that may be provided under a prepaid legal plan include legal advice and consultation by telephone, office consultations, review of simple legal documents, and correspondence or communication made by a lawyer to an adverse party. Some plans may offer more comprehensive services at an extra charge for more complex legal services. The provider of the legal service plan contracts with private attorneys or law firms to provide covered legal services to the members of the plan.

Providers of legal service plans are not currently regulated in Washington. Many other states have established regulations requiring legal service plan providers to register, provide certain information disclosure, and comply with minimum standards regarding the conduct of their businesses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

A "legal service organization" (LSO) is a person, entity, or group of persons who provide or offer a legal service plan. "Legal service plan" means an arrangement between an organization and a person or group of persons (called members) where specified legal services are provided to the members in consideration of a specified payment for a specified time period.

A LSO may not transact business in Washington unless the LSO obtains a certificate of registration from the Office of the Insurance Commissioner (OIC) and posts a bond or provides evidence of a security deposit in an amount of \$100,000. The bond or security must be held in trust for the protection of members of the LSO's legal service plan.

Registration Requirements.

To obtain a certificate of registration, a LSO must be financially responsible and able to meet its obligations to its members. In addition, the LSO must provide information showing that the directors, officers, and managers of the LSO are competent and trustworthy, and have sufficient management and business experience to prudently conduct the business of the LSO.

The LSO must appoint the Insurance Commissioner (Commissioner) as its attorney-in-fact for service of process and designate the person who will serve as the LSO's registered agent to whom the Commissioner must forward legal process issued against the LSO.

The LSO must apply for a certificate of registration on forms specified by the Commissioner and pay a registration fee in an amount determined by the Commissioner. The application must include the following information:

- name and contact information for the LSO and its directors, executive officers, or senior managers;
- whether any of the directors, officers, or senior managers has ever been convicted of, or is under indictment for, fraud or other crime involving moral turpitude, or has had a judgment entered against him or her, or has had a professional license revoked or suspended;
- statement of financial condition of the LSO; and
- other information required by the Commissioner.

The Commissioner must issue a certification of registration to a LSO that meets the specified requirements. The Commissioner must notify a LSO in writing of a denial of an application for registration within 15 days of the denial, stating the specific reasons for the denial and informing the LSO of the right to appeal.

The initial registration is valid through the end of the year in which it is issued. A LSO may renew a registration by paying a renewal fee, and renewed certificates are valid for one calendar year.

Grounds for Suspension, Revocation, or Refusal.

The Commissioner may suspend, revoke, or refuse to issue a registration under a number of circumstances, including: fraud, dishonesty, or negligence in the conduct of its business; conviction of a felony or crime involving fraud or dishonesty that is punishable by a year or

more imprisonment; or failure to pay a civil penalty imposed by a final order of the Commissioner.

Membership Agreements.

A LSO must provide a membership agreement to each person who is a party to a legal service plan. The membership agreement must include a clear description of the legal services to be provided under the plan, a process for providing alternate attorneys when designated attorneys are unable to provide the legal services, and a provision for review and settlement of disputes.

A membership agreement or a providing attorney agreement may not contain provisions that are unfair, discriminatory, or misleading, or that endanger the solvency of the plan or are intentionally contrary to law.

The LSO must file with the Commissioner a copy of any current membership agreement forms used by the LSO.

Annual Reports.

Each LSO doing business in Washington must annually file with the Commissioner a financial statement concerning the LSO's assets, liabilities, expense records and other information. The LSO must also annually file a statement containing the names and addresses of all of its sales or marketing representatives in the state.

Exclusions.

A number of activities are exempted from the act, including: certain retainer agreements or contingent fee agreements made by an attorney or firm of attorneys with a client or group of; free referral of individual clients to an attorney by a nonprofit lawyer referral service; employee welfare benefit plans if state law is preempted by federal law; legal assistance plans financed primarily by public funds or public service funds; and policies of insurance or coverage incidental to such insurance.

Scope and Application.

The act does not affect the practice of law in Washington. LSOs are not insurers and legal service plans are not insurance under state insurance laws.

The act does not affect the validity of existing legal service plans, membership agreements, or providing attorney agreements, but any revision to such plans or agreements after the effective date of the act are subject to the requirements of the act.

Rules Authority.

The Commissioner has authority to promulgate rules and regulations that are reasonably necessary to carry out the provisions of the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.