
Judiciary Committee

HB 2691

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

Brief Description: Regulating legal service contractors.

Sponsors: Representative Kirby.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires legal service contractors that offer legal service plans to obtain a certificate of registration and meet other requirements in order to transact business in Washington.
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Hearing Date: 2/3/14

Staff: Edie Adams (786-7180).

Background:

A legal service plan, sometimes referred to as a prepaid legal plan, is an arrangement in which a person prepays for legal services that the person may need in the future. Typically the person pays a monthly or annual fee which entitles the person 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 persons covered by 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:

Legal service contractors are required to register and meet other requirements in order to conduct business in Washington. A "legal service contractor" (LSC) is a person, entity, or group of persons who are not engaged in the practice of law or the business of insurance and who provide enrolled participants with legal services through agreements with providing attorneys. "Legal service plan" means an arrangement between a LSC and a person or group of persons where specified legal services are provided to enrolled participants in consideration of a specified payment for a specified time period.

A LSC operating in Washington must obtain a certificate of registration from the Office of the Insurance Commissioner (OIC) and post a bond or provide evidence of a security deposit in an amount of \$100,000.

Registration Requirements.

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

The LSC 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 specified information. The Commissioner must issue a certification of registration to a LSC that meets the specified requirements. The Commissioner must provide written notice to the LSC of a denial of an application for registration that includes the specific reasons for the denial and a statement that the LSC has the right to appeal the denial.

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.

Participation Agreements.

A LSC must provide a participation agreement to each person who is a party to a legal service plan. The participation 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 participation 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 LSC must file with the Commissioner a copy of any current participation agreement forms used by the LSC.

Annual Reports.

Each LSC doing business in Washington must annually file with the Commissioner a financial statement concerning the LSC's assets, liabilities, expense records and other information. The

LSC 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, fee, or representation agreements made by an attorney or firm of attorneys with any person or group other than a LSC; 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. The LSCs 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, participation 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.