
HOUSE BILL 2306

State of Washington

66th Legislature

2020 Regular Session

By Representatives Kirby, Vick, Walen, Hoff, Ryu, and Volz

Prefiled 01/08/20.Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to the regulation of legal service contractors;
2 amending RCW 48.17.170; adding a new chapter to Title 48 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** PUBLIC POLICY REGARDING ACCESS TO LEGAL
6 SERVICES. It is the public policy of the state of Washington to
7 promote ready access to legal assistance for all citizens of the
8 state and to encourage programs and plans that promote arrangements
9 between members of the public as consumers of legal services and
10 lawyers and other trained professionals who provide legal assistance
11 to the general public for legal needs. To facilitate this public
12 policy, the legislature finds that it is desirable to create a
13 regulatory environment to ensure that the citizens of this state have
14 ready and uncomplicated access to legal services and also to assure
15 the public that a legal service contractor providing access to legal
16 services will be able to fulfill its contractual obligations to
17 participating consumers.

18 NEW SECTION. **Sec. 2.** SCOPE AND APPLICABILITY OF CHAPTER. (1)
19 Legal service contractors and legal service plans are subject to the

1 commissioner's oversight and authority as specified in this chapter,
2 and are not otherwise subject to the requirements of this title.

3 (2) This chapter does not apply to any of the following
4 arrangements:

5 (a) Retainer, fee, engagement, or representation agreements made
6 by an attorney or firm of attorneys with any person or group other
7 than a legal service contractor;

8 (b) Referral of individual clients to an attorney by a nonprofit
9 lawyer referral service or public corporation or entity such as a
10 state or local bar association, provided there is no fee or charge
11 for such referral;

12 (c) Employee welfare benefit plans to the extent that state law
13 or regulation is preempted by federal law or regulation;

14 (d) Legal assistance plans financed primarily by public funds,
15 interest on lawyers' trust account funds in accordance with
16 requirements and regulations of the state bar association, or other
17 public service funds;

18 (e) Policies of insurance issued by an insurer holding a valid
19 certificate of authority in this state and issued under applicable
20 laws in this title pertaining to such insurance.

21 (3) This chapter does not in any way affect the practice of law
22 in this state.

23 (4) This chapter does not affect the validity of any legal
24 service plan or providing attorney agreement in force as of the
25 effective date of this section and which would otherwise be subject
26 to the provisions of this chapter. Any renewal or revision made on or
27 after the effective date of this section to a legal service plan or
28 providing attorney agreement is subject to the full provisions of
29 this chapter and must comply with this chapter in all respects
30 beginning on the date of any such renewal or revision.

31 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
32 section apply throughout this chapter unless the context clearly
33 requires otherwise.

34 (1) "Commissioner" means the insurance commissioner of the state
35 of Washington.

36 (2) "Enrolled participant" means an individual, person, or group
37 of individuals or persons eligible to receive specified legal
38 services under a legal service plan.

1 (3) "Legal service contractor" means any person, entity, or group
2 or association of persons, who is not engaged in the practice of law,
3 who is registered with the commissioner as a legal service
4 contractor, and who, for consideration, provides enrolled
5 participants with legal services through agreements with providing
6 attorneys. An insurer or issuer licensed by the commissioner to
7 transact the business of insurance in this state is considered a
8 legal service contractor and must register as such if the insurer or
9 issuer offers a product that meets the definition of a legal service
10 plan.

11 (4) "Legal service plan" or "plan" means an arrangement between a
12 legal service contractor and an individual or person or group of
13 individuals or persons, whereby specified legal services are to be
14 provided to enrolled participants in consideration of a specified
15 payment for a specified period of time.

16 (5) "Providing attorney" means an attorney licensed in good
17 standing with the Washington state bar association and eligible to
18 practice law in this state who provides legal services under a
19 providing attorney agreement in accordance with the terms of a legal
20 service plan.

21 (6) "Providing attorney agreement" means a written contract or
22 agreement between a legal service contractor and a providing attorney
23 under which the providing attorney renders and provides legal
24 services to an enrolled participant of a legal service plan.

25 (7) "Sales representative" means (a) a person who promotes,
26 markets, solicits, or sells a legal service plan; and (b) for an
27 individual or entity that sells, solicits, or negotiates a legal
28 service plan, a licensed producer with a specialty line of authority
29 for prepaid legal service plans and appointed by a legal service
30 contractor offering such products in order to sell, solicit, or
31 negotiate a legal service plan.

32 NEW SECTION. **Sec. 4.** CERTIFICATE OF REGISTRATION. (1) A person
33 or entity may not transact business in this state as a legal service
34 contractor unless the person or entity holds a valid certificate of
35 registration as a legal service contractor issued by the
36 commissioner.

37 (2) A person or entity applying for registration as a legal
38 service contractor must comply with the following requirements as set
39 forth in this subsection:

1 (a) Apply for registration on the forms prescribed by the
2 commissioner and pay all applicable associated fees under this
3 chapter;

4 (b) Appoint the commissioner as its attorney-in-fact for service
5 of process, upon whom must be served all legal process issued against
6 the person or entity in regard to all causes of action arising within
7 this state. Service of process against a person or entity doing
8 business as a legal service contractor must be available only by
9 service upon the commissioner, and valid service of legal process
10 against the commissioner as attorney-in-fact constitutes service upon
11 the legal service contractor; and

12 (c) Designate by name and address the individual or person who
13 must serve as the legal service contractor's registered agent to whom
14 the commissioner must forward legal process issued against the legal
15 service contractor and received by the commissioner.

16 (3) A person or entity applying for registration as a legal
17 service contractor must meet the following qualifications:

18 (a) The applicant must provide such information as the
19 commissioner may establish by rule regarding the legal service
20 contractor and its directors, officers, and managers to satisfy the
21 commissioner of their competency, trustworthiness, and management and
22 business experience to conduct the business and affairs of the legal
23 service contractor in a reasonable and prudent manner.

24 (b) The applicant must deposit with the office of the insurance
25 commissioner the filing fees established by the commissioner to be
26 paid for filing the application for the certificate of registration
27 and any necessary accompanying documents to be filed with the
28 application.

29 (c) The applicant must comply with the uniform standards that the
30 commissioner must, by rule, establish for assessing and monitoring
31 the financial responsibility of a legal service contractor, including
32 the form and type of information that the legal service contractor
33 must submit to the commissioner.

34 (d) The applicant must provide any other information as the
35 commissioner may, by rule, require as reasonable and necessary.

36 (4) Any person or entity conducting business as a legal service
37 contractor in this state on the effective date of this section must
38 be permitted to continue conducting business as a legal service
39 contractor; however, any such legal service contractor must apply for
40 and receive an initial certificate of registration within ninety days

1 after the effective date of this section. The certificate of
2 registration is effective until December 31st immediately following
3 the effective date of this section. Thereafter, a certificate of
4 registration is effective for one calendar year, from January 1st
5 through December 31st.

6 (5) A legal service contractor may renew its certificate of
7 registration by timely paying the applicable renewal fee during the
8 renewal period and in the amount established by the commissioner.

9 (6) The commissioner may suspend, revoke, or refuse to issue or
10 renew a certificate of registration only after giving written notice
11 of the specific reasons for the action and after giving the legal
12 service contractor an opportunity for appeal and hearing pursuant to
13 the provisions of chapters 48.04 and 34.05 RCW.

14 (7) The commissioner may conduct investigations of the legal
15 service contractor, its sales representatives, administrators, and
16 other persons as necessary to enforce this chapter and protect
17 enrolled participants in this state. Upon request of the
18 commissioner, the legal service contractor or sales representative
19 must make all accounts, books, and records available to the
20 commissioner which are necessary to enable the commissioner to
21 determine compliance or noncompliance with this chapter. The
22 commissioner may take action under RCW 48.02.080 or 48.04.050 as
23 necessary to enforce this chapter and the commissioner's rules and
24 orders, and to protect enrolled participants in this state. The
25 commissioner may impose a penalty of not more than five hundred
26 dollars for any violation of the provisions of this chapter. A legal
27 service contractor is entitled to all rights, actions, and remedies
28 under chapter 48.04 RCW available to licensees and persons aggrieved
29 or affected by any act, failure to act, or proposed act by the
30 commissioner.

31 (8) A legal service contractor may not issue, sell, or offer for
32 sale in this state a legal service plan providing for access to legal
33 services under the plan unless the legal service contractor offering
34 the plan posts a bond or provides evidence of a security deposit
35 pursuant to this section. The bond or security deposit must be held
36 in trust to the commissioner for the protection of enrolled
37 participants in the plan and other affected persons, if any, under
38 the plan in an amount established by the commissioner that is
39 sufficient to return any consideration paid for the plan year by the
40 purchaser of the legal service plan. The bond or security deposit

1 must be held in a bank authorized to transact business in this state
2 and insured by the federal deposit insurance corporation.

3 NEW SECTION. **Sec. 5.** PROVIDING ATTORNEY AGREEMENT. (1) A legal
4 service contractor may not offer, market, or operate a legal service
5 plan in this state unless the legal service contractor first enters
6 into a written providing attorney agreement with a sufficient number
7 of attorneys with the expertise to provide services to enrolled
8 participants, based on the number of enrolled participants and the
9 type of legal services to which the enrolled participants are
10 entitled under the legal service plan.

11 (a) No providing attorney agreement or legal service plan may
12 contain any provisions that are unfair, discriminatory, or
13 misleading, or that encourage misrepresentation or misunderstanding
14 of the terms of the agreement, or that endanger the solvency of the
15 legal service contractor or the plan, or that are intentionally
16 contrary to law.

17 (b) For the term of each providing attorney agreement and each
18 plan, a legal service contractor must maintain at its principal place
19 of business adequate books and records of all transactions between
20 the legal service contractor and the providing attorney and between
21 the legal service contractor and the enrolled participants of a plan.
22 Upon reasonable notice to the legal service contractor, the
23 commissioner must have reasonable access to such books and records.

24 (2) A legal service contractor must provide each enrolled
25 participant with a copy of the enrolled participant's legal service
26 plan. Each legal service plan must contain the following basic
27 provisions:

28 (a) A listing and clear description of the legal services to be
29 provided under the plan, how to access the services, any fees or
30 costs for which the enrolled member is responsible, and a clear
31 explanation of the limits of such legal services; and

32 (b) The legal name, telephone number, and address of the
33 principal place of business of the legal service contractor offering
34 the plan, and a contact name, address, and telephone number in the
35 state of Washington.

36 (3) A legal service contractor must file a copy of each unique
37 version of a legal service plan issued in this state or that covers a
38 resident of this state. The commissioner may disapprove a plan if it
39 violates the requirements of this chapter or if the commissioner

1 otherwise determines that the plan is illusory or is otherwise
2 harmful to the enrolled participant.

3 (4) A legal service contractor may market its products directly
4 to consumers or contract with third-party marketers for the
5 distribution of its legal service plans.

6 (a) The legal service contractor must have an executed written
7 agreement with a third-party marketer prior to the marketer's
8 marketing, promotion, selling, or distribution of the legal service
9 contractor's plans. The agreement must include a requirement that the
10 legal service contractor has provided prior written approval of the
11 advertising, marketing materials, brochures, and other materials
12 distributed to consumers or enrolled participants.

13 (b) The legal service contractor is bound by and responsible for
14 the activities of a marketer that are within the scope of the
15 marketer's agency relationships with the contractor.

16 NEW SECTION. **Sec. 6.** The commissioner may adopt rules to
17 implement and administer this chapter.

18 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act
19 constitute a new chapter in Title 48 RCW.

20 **Sec. 8.** RCW 48.17.170 and 2012 c 154 s 5 are each amended to
21 read as follows:

22 (1) Unless denied licensure under RCW 48.17.530, persons who have
23 met the requirements of RCW 48.17.090 and 48.17.110 shall be issued
24 an insurance producer license. An insurance producer may receive a
25 license in one or more of the following lines of authority:

26 (a) "Life," which is insurance coverage on human lives, including
27 benefits of endowment and annuities, and may include benefits in the
28 event of death or dismemberment by accident and benefits for
29 disability income;

30 (b) "Disability," which is insurance coverage for accident,
31 health, and disability or sickness, bodily injury, or accidental
32 death, and may include benefits for disability income;

33 (c) "Property," which is insurance coverage for the direct or
34 consequential loss or damage to property of every kind;

35 (d) "Casualty," which is insurance coverage against legal
36 liability, including that for death, injury, or disability or damage
37 to real or personal property;

1 (e) "Variable life and variable annuity products," which is
2 insurance coverage provided under variable life insurance contracts,
3 variable annuities, or any other life insurance or annuity product
4 that reflects the investment experience of a separate account;

5 (f) "Personal lines," which is property and casualty insurance
6 coverage sold to individuals and families for primarily noncommercial
7 purposes;

8 (g) Limited lines:

9 (i) Surety;

10 (ii) Limited line credit insurance;

11 (iii) Travel;

12 (h) Specialty lines:

13 (i) Portable electronics;

14 (ii) Rental car;

15 (iii) Self-service storage;

16 (iv) Legal services; or

17 (i) Any other line of insurance permitted under state laws or
18 rules.

19 (2) Unless denied licensure under RCW 48.17.530, persons who have
20 met the requirements of RCW 48.17.090(4) shall be issued a title
21 insurance agent license.

22 (3) All insurance producers', title insurance agents', and
23 adjusters' licenses issued by the commissioner shall be valid for the
24 time period established by the commissioner unless suspended or
25 revoked at an earlier date.

26 (4) Subject to the right of the commissioner to suspend, revoke,
27 or refuse to renew any insurance producer's, title insurance agent's,
28 or adjuster's license as provided in this title, the license may be
29 renewed into another like period by filing with the commissioner by
30 any means acceptable to the commissioner on or before the expiration
31 date a request, by or on behalf of the licensee, for such renewal
32 accompanied by payment of the renewal fee as specified in RCW
33 48.14.010.

34 (5) If the request and fee for renewal of an insurance
35 producer's, title insurance agent's, or adjuster's license are filed
36 with the commissioner prior to expiration of the existing license,
37 the licensee may continue to act under such license, unless sooner
38 revoked or suspended, until the issuance of a renewal license, or
39 until the expiration of fifteen days after the commissioner has
40 refused to renew the license and has mailed notification of such

1 refusal to the licensee. If the request and fee for the license
2 renewal are not received by the expiration date, the authority
3 conferred by the license ends on the expiration date.

4 (6) If the request for renewal of an insurance producer's, title
5 insurance agent's, or adjuster's license and payment of the fee are
6 not received by the commissioner prior to the expiration date, the
7 applicant for renewal shall pay to the commissioner, in addition to
8 the renewal fee, a surcharge as follows:

9 (a) For the first thirty days or part thereof of delinquency, the
10 surcharge is fifty percent of the renewal fee;

11 (b) For the next thirty days or part thereof of delinquency, the
12 surcharge is one hundred percent of the renewal fee.

13 (7) If the request for renewal of an insurance producer's, title
14 insurance agent's, or adjuster's license and fee for the renewal are
15 received by the commissioner after sixty days but prior to twelve
16 months after the expiration date, the application is for
17 reinstatement of the license and the applicant for reinstatement must
18 pay to the commissioner the license fee and a surcharge of two
19 hundred percent of the license fee.

20 (8) Subsections (6) and (7) of this section do not exempt any
21 person from any penalty provided by law for transacting business
22 without a valid and subsisting license or appointment.

23 (9) An individual insurance producer, title insurance agent, or
24 adjuster who allows his or her license to lapse may, within twelve
25 months after the expiration date, reinstate the same license without
26 the necessity of passing a written examination.

27 (10) A licensed insurance producer who is unable to comply with
28 license renewal procedures due to military service or some other
29 extenuating circumstance such as a long-term medical disability, may
30 request a waiver of those procedures. The producer may also request a
31 waiver of any examination requirement or any other fine or sanction
32 imposed for failure to comply with renewal procedures.

33 (11) The license shall contain the licensee's name, address,
34 personal identification number, and the date of issuance, lines of
35 authority, expiration date, and any other information the
36 commissioner deems necessary.

37 (12) Licensees shall inform the commissioner by any means
38 acceptable to the commissioner of a change of address within thirty
39 days of the change. Failure to timely inform the commissioner of a

1 change in legal name or address may result in a penalty under either
2 RCW 48.17.530 or 48.17.560, or both.

--- **END** ---