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## SELF-INSURANCE PLAN ADMINISTRATORS 2767.0200

### CHAPTER 2767

#### DEPARTMENT OF COMMERCE

#### SELF-INSURANCE PLAN ADMINISTRATORS

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#### 2767.0100 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 2767.0100 to 2767.0950 unless the context clearly indicates a different meaning.

Subp. 2. **Administrator or self-insurance plan administrator.** "Administrator" or "self-insurance plan administrator" means vendors of risk management services and entities administering self-insurance plans as defined in Minnesota Statutes, section 60A.23, subdivision 8, clause (2), that provide coverage to residents of and risks located in Minnesota.

Subp. 3. **Affiliated company.** "Affiliated company" means any company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the applicant company.

Subp. 4. **Key employees.** "Key employees" means those persons who, notwithstanding their titles, are of substantial importance to the operation of the self-insurance plan administrator. Persons who have substantial discretionary, supervisory, or decision making authority which has a significant impact on the operation of the self-insurance plan administration are key employees. Officers and managers are presumptively included within this definition.

Subp. 5. **Financial statements.** "Financial statements" means an income statement and a balance sheet prepared in conformity with generally accepted accounting principles.

Subp. 6. **Area or areas of risk management.** "Area" or "areas of risk management" means the following lines of insurance: life; accident and health; workers' compensation; other liability; and property or casualty.

Subp. 7. **Services or risk management services.** "Services" or "risk management services" includes accounting and record retention, actuarial in conjunction with other services, claims administration, general administration, insurance, legal, loss control and safety, rehabilitation, risk management and analysis, and other services related to the establishment and maintenance of a program of self-insurance.

**Statutory Authority:** *MS s 60A 23 subd 8 cl (5)*

**History:** 9 SR 2580

#### 2767.0200 PURPOSE AND SCOPE.

Parts 2767.0100 to 2767.0950 are designed to assure that self-insurance plan administrators are capable of providing risk management services, financially solvent, and able to process claims in a prompt and equitable manner; and to allow the commissioner to authorize qualified entities to engage in the business in a manner which is fair, equitable, and consistent with all applicable Minnesota statutes.

**Statutory Authority:** *MS s 60A 23 subd 8 cl (5)*

**History:** 9 SR 2580

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## 2767.0300 SELF-INSURANCE PLAN ADMINISTRATORS

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### 2767.0300 AUTHORITY.

Parts 2767.0100 to 2767.0950 are adopted under the authority of Minnesota Statutes, section 60A.23, subdivision 8, clause (5).

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0400 REQUIREMENTS FOR LICENSING.

**Subpart 1. Application procedure.** Any person or entity desiring to be licensed as a self-insurance plan administrator pursuant to Minnesota Statutes, section 60A.23, subdivision 8, shall apply to the commissioner in writing and on forms available from the commissioner. The licensee shall designate areas of risk management services which the self-insurance plan administrator may perform. Any license granted is effective for a period of two years unless surrendered by the licensee, or unless the license is revoked or suspended by order of the commissioner. The license is transferable only upon prior written approval by the commissioner as to new ownership or new management of the self-insurance plan administrator.

**Subp. 2. Application contents.** Each application for a license as a self-insurance plan administrator must:

A. Be signed and sworn to by the applicant, or its owners, and be accompanied by the license fee required by Minnesota Statutes, section 60A.23. If the applicant is a corporate applicant, it must be verified by the president and secretary of the corporation. All fees must be paid by check, draft, or other negotiable instrument. Cash will not be accepted.

B. Describe the specific areas of risk management services intended to be provided.

C. Identify the owners of the company, including all partners of a partnership and all officers of a corporation.

D. Describe the organization and staff, with specific information concerning their expertise to provide service in the areas stated. This information must include detailed resumes of the applicant's key employees and all officers of any subcontractor. Resumes must state each person's name, age, resident address, licensing history, and qualifications and experience relating to the work they are to perform. The information must include:

(1) the experience and history of accountants, if applicable;

(2) if the applicant or its subcontractor intends to provide workers' compensation and other liability claims adjusting, a resume detailing the experience of the supervisor who shall possess at least three years' experience adjusting claims in the area of services to be provided; and

(3) a copy of the license of the adjuster responsible for adjusting workers' compensation or other liability claims, if applicable. The self-insurance plan administrator or its subcontractor shall have at least one adjuster who holds a license under Minnesota Statutes, chapter 72B and that adjuster shall be a resident of Minnesota.

E. Fully describe violations or investigations by any governmental agency which are known to the applicant concerning any person who is or may be affiliated with the applicant as an owner, shareholder, officer, employee, subcontractor, or employee of a subcontractor.

F. Submit proof of coverage under a fidelity bond for all persons involved in collecting money and making claims payments, and all officers of the company. The bond must cover losses from dishonesty, theft, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. The bond must cover the actions of the persons subject to the bond as to their handling of clients' money as well as the administrator's money.

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G. State the name and address of a resident agent who is authorized to act on behalf of the administrator and to accept service of process.

H. Include financial statements for the previous three years, or for as many years as the administrator has been in business up to three years. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or the financial condition of the applicant since the date of the last financial statement.

I. Contain a statement that the applicant and its officers and supervising managers shall be responsible for the supervision of the actions of any and all personnel and subcontractors acting on behalf of the applicant.

**Statutory Authority:** *MS s 60A 23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0500 AMENDED LICENSES.

A licensee may apply to amend a license to include services or areas of risk management for which it was not previously licensed by submitting:

A. information detailing the expanded services it wishes to provide;

B. such other information relating to the expanded services as required by part 2767.0400, subpart 2; and

C. proof of coverage under the fidelity bond for a new or changed personnel, if the services to be provided include handling of funds.

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0600 LICENSE RENEWALS.

Subpart 1. **Time of filing.** Application for renewal of a license must be filed with the commissioner at least 60 days prior to the expiration date of that license.

Subp. 2. **Required information.** In support of the application for license renewal, a self-insurance plan administrator shall submit:

A. Any changes in the description of the administrative services intended to be provided.

B. Any changes in ownership of the company, including detailed information about the new owners.

C. Any changes in key staff or an employee's responsibilities, including resumes of all new key staff members or additional information to show qualifications of current staff to take on new responsibilities.

D. An explanation of any changes of the responsibilities of any subcontractor, including changes in firms contracted with, services provided, or individuals providing services contracted for.

E. Financial statements for the previous two years, including a certified financial statement for the most recent fiscal year. Certified financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or financial condition of the applicant since the date of the certified financial statement. If the company has a gross income of less than \$15,000 per year so that the completion of the certified financial statement proves to be an undue financial burden, the applicant may have this requirement waived if:

(1) it has two years of operation within Minnesota on a solvent basis with no history of corporate bankruptcy or personal bankruptcy among chief officers and stockholders; and

(2) the administrator provides for a review audit by an independent

certified public accountant or licensed public accountant, and provides to the department a copy of the review letter pursuant to the audit and corporate bank references.

F. Proof of coverage under a fidelity bond for all persons involved in making claims payments, and all officers of the company.

G. Information relating to any changes in personnel acting as resident agent for the self-insurance plan administrator.

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** *9 SR 2580*

### 2767.0700 LICENSE REPORTING REQUIREMENTS.

Subpart 1. **Time limit.** Within 30 days after signing a self-insurance plan administrator contract, a licensee shall inform the department in writing of the name or names of the self-insured under contract and the areas for which the client is self-insured, excepting qualified ERISA clients if this information is classified as nonpublic by the commissioner of administration.

Subp. 2. **Examinations.** The commissioner may make examinations within or outside of the state of each licensee's records at a reasonable time and in the scope necessary to enforce the provisions of Minnesota Statutes and rules of the Department of Commerce.

Subp. 3. **Report compliance.** Each licensee shall file or ensure that the self-insurers it services file all required reports relating to those services which the administrator provides within the times established by statute, rule, or order of the commissioner. Required reports include:

A. an annual activity report, filed within 60 days of the end of the calendar year, stating:

(1) the name and address of self-insurance clients administered by the licensee in Minnesota during the previous calendar year, excepting qualified ERISA clients if this information is classified as nonpublic by the commissioner of administration;

(2) the area and type of service provided to each plan;

(3) the starting and/or termination date each client was serviced;

(4) the total number and total amount of claims paid and loss payments disbursed on behalf of each client; and

(5) the reserves established for each client;

B. loss information reports required by part 2780.0500;

C. any reports required by the Workers' Compensation Reinsurance Association, if applicable;

D. any report required by the Minnesota Department of Labor and Industry, if applicable; and

E. any other report required by the Department of Commerce.

Subp. 4. **Notification of contract termination.** If the contract between a licensee and a self-insured is terminated, the licensee shall notify the commissioner in writing within 30 days after termination. The licensee shall maintain copies of all records relating to the self-insured for six years after the termination date of each contract, if the records are not returned to the client.

Subp. 5. **Notification of cessation of business activities.** If a licensee ceases doing business as a self-insurance plan administrator, the license must be surrendered and the commissioner must be informed in writing of the name and address of the custodian and the location of any files of self-insured clients formerly administered by the licensee.

Subp. 6. **Notification of material changes.** The administrator shall notify the commissioner in writing of any change in supervisory personnel, management,

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or any other material change within 30 days after the change and shall include a detailed explanation of the change.

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0800 PREMIUM COLLECTIONS.

**Subpart 1. Fiduciary relationship.** All insurance charges or premiums collected by an administrator on behalf of or for a client, and return premiums received from the client, shall be held by the administrator in a fiduciary capacity. These funds must be remitted promptly to the person entitled to them, or must be deposited promptly in a fiduciary bank account established and maintained by the administrator.

**Subp. 2. Commingling.** If charges or premiums deposited in the fiduciary account have been collected on behalf of or for more than one client, the administrator shall cause the bank in which the fiduciary account or claims-paying account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each principal. The administrator shall promptly obtain and keep copies of these records and shall furnish the principal with copies of these records monthly unless the contract between the licensee and the client provides otherwise.

**Subp. 3. Interest.** Any interest earned on deposits is the property of the client on whose behalf the deposit was made unless the contract between the licensee and the client provides otherwise.

**Subp. 4. Limitation on claims payment.** The administrator may not pay any claim by withdrawals from the fiduciary account. Claims payments must be made from a claims-paying account established and maintained by the administrator on behalf of the client. The administrator shall keep a record of all transactions and shall monthly furnish the client with copies of these records pertaining to deposits, withdrawals, and claims payments on behalf of and for the client.

**Subp. 5. Withdrawals.** Withdrawals from the fiduciary account may be made, as provided in the written agreement under Minnesota Statutes, section 60A.23, for any of the following:

- A. remittance to a client entitled to the withdrawal;
- B. deposit in an account maintained in the name of the client;
- C. transfer to and deposit in a claims-paying account;
- D. payment to the administrator of its commission, fees, or charges; and
- E. remittance of return premiums to the person entitled to the remittance.

Withdrawals on behalf of a client may not be greater than the sum of the deposits and interest made on behalf of that client.

**Statutory Authority:** *MS s 60A 23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0900 BOND AMOUNTS.

**Subpart 1. Administrator not commingling funds.** The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that does not commingle funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$100,000, whichever is greater, up to a maximum of \$1,000,000.

**Subp. 2. Administrator commingling funds.** The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that commingles funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$250,000, whichever is greater, up to a maximum of \$2,000,000.

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## 2767.0950 SELF-INSURANCE PLAN ADMINISTRATORS

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**Statutory Authority:** *MS s 60A 23 subd 8 cl (5)*

**History:** 9 SR 2580

### 2767.0950 DENIAL, SUSPENSION, REVOCATION, OR CENSURE OF LICENSES.

Subpart 1. **Commissioner's findings.** The commissioner will investigate and may by order deny, suspend, or revoke any license, or may censure a license if the commissioner finds:

A. that the order is in the public interest; and

B. that the applicant or licensee, or in the case of a corporation or partner, any officer, director, partner, employee, subcontractor, or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the licensee, or controlled by the licensee:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent or deceptive practice as defined by Minnesota Statutes, chapters 60A and 72A, and rules adopted thereunder;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of insurance administration;

(4) does not possess the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered; or

(5) violated or failed to comply with any provision for proper claims administration as set forth in Minnesota Statutes, chapters 60A to 79, and 176, and any rules adopted thereunder.

Subp. 2. **Informal conferences.** The commissioner may request an informal conference to discuss and resolve any allegations of violations.

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** 9 SR 2580