

CHAPTER 62G

NONPROFIT LEGAL SERVICE PLAN ACT

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62G.01 CITATION.

Sections 62G.01 to 62G.25 may be cited as the "nonprofit legal service plan act".

History: 1978 c 785 s 1

62G.02 PURPOSE.

It is the purpose of sections 62G.01 to 62G.25 to promote a wider, more economical and timely availability of legal services for the people of Minnesota, through nonprofit, prepaid legal service plans and to regulate the formation, continuation, operation, and termination of legal service plans by reasonable and practical standards of administration, investment, surplus and reserves.

History: 1978 c 785 s 2

62G.03 SCOPE.

Every foreign or domestic nonprofit corporation organized for the purpose of establishing or operating a legal service plan in Minnesota whereby legal services are provided to subscribers to the plan under a contract with the corporation are subject to sections 62G.01 to 62G.25 and are not subject to the laws of this state relating to insurance, except as otherwise specifically provided.

History: 1978 c 785 s 3

62G.04 DEFINITIONS.

Subdivision 1. For the purpose of sections 62G.01 to 62G.25, the terms defined in this section have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of commerce.

Subd. 3. "Legal service" means any professional service rendered by, or under the direct supervision of, persons licensed by the state to engage in the practice of law.

Subd. 4. "Subscriber" means a person covered under a subscriber contract for legal services to the extent therein described.

Subd. 5. "Provider" means an organization or person that furnishes legal services.

Subd. 6. "Legal service plan corporation" means a nonprofit corporation which contracts for legal service or payment therefor for subscribers pursuant to a

legal service plan, in exchange for periodic prepayments by or on behalf of subscribers.

Subd. 7. "Legal service plan" means a plan which provides any method whereby a legal service plan corporation, for a consideration, contracts for provision of legal service to subscribers by providers who have entered legal service agreements with the legal service plan corporation or which provides for reimbursement to the subscriber for legal service provided by providers who have not entered service agreements with the legal service plan corporation.

Subd. 8. "Legal service agreement" means an arrangement between a legal service plan corporation and a provider under which the provider agrees that when he provides legal services for a subscriber he shall not make a direct charge against the subscriber for those legal services or parts of legal services which are covered by the subscribers contract, but shall look to the legal service plan corporation for the payment for covered legal services, to the extent they are covered.

Subd. 9. "Subscribers contract" means an arrangement between a legal service plan corporation and its subscriber establishing the terms and conditions under which legal service is provided to the subscriber.

Subd. 10. "Participating provider" means a provider who is party to a legal service agreement with a legal service plan corporation.

History: 1978 c 785 s 4; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

62G.05 LEGAL SERVICE PLAN CORPORATION AUTHORIZED.

Subdivision 1. A legal service plan corporation may be organized to establish, maintain and operate a legal service plan providing legal services in their entirety, or in part, according to the subscribers contract. No subscribers contract shall provide for payment of cash indemnification by the corporation to the subscriber or his estate, except as provided by sections 62G.01 to 62G.25, as they relate to nonparticipating providers. If the subscriber compensates the provider for services received he is subrogated to the provider's right against the legal service plan.

Subd. 2. A legal service plan corporation may enter other contracts, arrangements, or agreements as provided by sections 62G.01 to 62G.25.

Subd. 3. A legal service plan corporation may provide for legal services by nonparticipating providers in cases of emergency or expediency as determined by the legal service plan corporation, or when selected in accordance with the subscribers contract. When legal service is provided out of state, the provider must be duly licensed to provide the legal service where provided.

History: 1978 c 785 s 5

62G.06 ORGANIZATION.

Except as otherwise expressly provided by sections 62G.01 to 62G.25, a legal service plan corporation shall be incorporated under and subject to the provisions of chapter 317, and in addition shall have, to the extent provided in its articles of incorporation, all powers and duties provided by sections 62G.01 to 62G.25, for legal service plan corporations. A legal service plan corporation may be incorporated by not less than three residents of this state.

No legal service plan corporation shall include within its name the words "insurance," "casualty," "surety," "mutual," "indemnity," or any other words descriptive of the insurance, casualty, or surety business. No legal service plan corporation shall have a name, mark or symbol which is the same as, or deceptively similar to, the name of any other domestic corporation.

History: 1978 c 785 s 6

62G.07 ARTICLES OF INCORPORATION; BYLAWS.

The articles of incorporation and bylaws of any legal service plan and any amendments thereto shall conform to the requirements of sections 62G.01 to 62G.25 and chapter 317.

In addition to meeting the requirements of chapter 317, the articles of incorporation of a legal service plan corporation shall clearly state:

(a) The purposes of the legal service plan corporation in strict conformity with sections 62G.01 to 62G.25;

(b) That except as provided in section 62G.15, subdivision 4, subscribers contracts shall not restrict any subscriber's freedom to select a provider in a particular class of providers; and

(c) That there shall be no interference with the provider-subscriber relationship.

History: 1978 c 785 s 7

62G.08 APPROVAL OF ARTICLES AND BYLAWS.

Subdivision 1. Articles of incorporation, bylaws or amendments thereto must be approved by the commissioner. Failure of the commissioner to approve or disapprove any article, bylaw or amendment submitted for approval by an order transmitted to the legal service plan corporation within 30 days of receipt and stating the reasons for any disapproval, shall be deemed approval.

Upon approval by the commissioner, the legal service plan corporation shall file the articles of incorporation or amendment of articles of incorporation with the secretary of state, together with a copy of the order or an affidavit of an officer of the legal service plan corporation that no order has been issued and that more than 30 days have expired since submission of the proposed articles of incorporation or amendment of articles of incorporation. When the filing fees and charges have been paid as required by law, and the secretary of state determines that the articles of incorporation or amendments of articles of incorporation are in acceptable form, he shall record them and take any other action provided for by chapter 317.

Subd. 2. The existence of a legal service plan corporation hereafter organized shall begin upon issuance of a certificate of incorporation by the secretary of state. Within 14 days after issuance of the certificate, the legal service plan corporation shall cause to be published in a qualified newspaper in the county in which it has its registered office, a notice stating the name of the legal service corporation, the date of incorporation, the general nature of its business, the address of its registered office, and the names and addresses of the incorporators and directors.

History: 1978 c 785 s 8

62G.09 DIRECTORS; MANAGEMENT.

Subdivision 1. The articles of incorporation or the bylaws of a legal service plan corporation shall provide that the authority and responsibility for election of officers and proper and lawful operation of the legal service plan corporation shall be vested in a board of not less than 12 directors with powers and authority to complete execution of the purposes of the legal service corporation as provided by law, its articles and bylaws. The number of directors shall be fixed by the articles or bylaws.

Subd. 2. The directors shall be selected in accordance with the bylaws provided that at least one-fourth but no more than one-third of the directors shall be admitted to the practice of law in this state.

History: 1978 c 785 s 9

62G.10 CERTIFICATE OF AUTHORITY.

Subdivision 1. No legal service plan corporation shall enter into subscribers contracts or solicit applications therefor, until it has secured a certificate of authority from the commissioner. Application for a certificate of authority shall be made upon forms prescribed by the commissioner.

Subd. 2. The commissioner shall grant a certificate of authority after he has determined that the applicant is in compliance with sections 62G.01 to 62G.25 with regard to the applicant's stated purpose, its articles and bylaws and its financial condition, that it has met the filing requirements of sections 62G.01 to 62G.25 relating to subscribers contracts and service agreements and that the legal service plan corporation has knowledgeable, responsible management.

Subd. 3. A foreign legal service plan corporation applying for a certificate of authority in this state shall be deemed to be a legal service plan corporation which is organized under sections 62G.01 to 62G.25. A foreign legal service plan corporation is required to meet the same requirements as an existing domestic legal service plan corporation except that no foreign legal service plan corporation shall be denied a certificate of authority because its corporate powers exceed those which are authorized by the laws of this state. The activities of a foreign legal service plan corporation in this state may not exceed the powers of a domestic legal service plan corporation.

Subd. 4. No certificate of authority is required for a foreign legal service plan corporation whose activities in this state are limited to servicing members of covered groups whose contracts have been issued in another state, or from a foreign legal service plan corporation whose activities in this state are conducted pursuant to a contract or agreement with a licensed domestic legal service plan corporation, if the contract or agreement is authorized by section 62G.15.

History: 1978 c 785 s 10

62G.11 FINANCIAL REQUIREMENTS.

Subdivision 1. The commissioner shall not issue a certificate of authority to any legal service plan corporation unless the legal service plan corporation meets all legal requirements and, if organized on a capital stock basis, has paid up capital stock of not less than \$50,000 and an initial surplus of not less than \$50,000 or, if organized on a membership basis, has an initial surplus of not less than \$100,000.

Subd. 2. A legal service plan corporation shall establish and maintain records for claims in process, incomplete and unreported claims, allowances for subscription charges received from subscribers but not yet earned, and all other accrued liabilities, in accordance with section 60A.12, as it relates to accident and health insurance companies.

Subd. 3. If organized on a capital stock basis, a legal service plan corporation may not reduce its capital. Both capital stock and membership corporations shall maintain a surplus, in addition to all reserves established, of not less than the greater of the initial surplus reduced by \$25,000 or 16-2/3 percent of the sum of all legal service claims incurred, and administrative expenses in connection therewith, during the previous calendar year. The surplus shall not exceed 50 percent of the sum of all legal service claims incurred, and the administrative expenses in connection therewith, during the previous calendar year unless that amount is less than the initial surplus reduced by \$25,000. The percentage amounts shall be determined from a financial statement and certified audit filed annually and subject to verification and examination by the commissioner.

Subd. 4. If the surplus is less than the required minimum or more than the required maximum, or if a legal service plan corporation does not have the required

reserves or its reserves are not properly computed, a written plan proposed by the legal service corporation and approved by the commissioner shall be followed to correct the condition. If a legal service plan corporation does not within a reasonable time propose measures to correct its reserve or surplus, if a legal service plan corporation violates the plan which has been approved, or if there is evidence that an improper reserve or surplus status cannot be corrected within a reasonable time, the commissioner may take action against the legal service plan corporation under chapter 60B, or under the suspension and penalty provisions of sections 62G.01 to 62G.25.

History: 1978 c 785 s 11

62G.12 INVESTMENT.

Funds of a legal service plan corporation subject to sections 62G.01 to 62G.25 shall be invested only in securities and property designated by law for investment by domestic life insurance companies.

History: 1978 c 785 s 12

62G.13 FINANCIAL STATEMENTS AND EXAMINATIONS.

Subdivision 1. A legal service plan corporation shall annually on or before the last day of March, file with the commissioner a financial statement, in the form prescribed by the commissioner, verified by not less than two of the corporation's principal officers, showing the financial condition of the legal service plan corporation as of December 31 of the preceding year. The statement shall include an audit report certified by an independent certified public accountant and reconciled and adjusted to conform to the financial statement.

Subd. 2. The commissioner shall examine a legal service plan corporation to ascertain its financial condition, its ability to fulfill its obligations, and its compliance with sections 62G.01 to 62G.25, when expedient for protection of the public, but not less than once every three years. He shall have access at all reasonable times to all books and records of the legal service plan corporation, and may summon the officers and employees and examine them under oath as to any matter pertinent to sections 62G.01 to 62G.25.

Subd. 3. The commissioner shall visit and examine each legal service plan corporation within the first six months after it begins doing business, and thereafter once during each of the next three years. Thereafter he shall visit and examine the corporation at least once every three years.

Subd. 4. Any examination or audit conducted by or at the request of the commissioner shall be at the expense of the legal service plan corporation.

Subd. 5. The commissioner shall notify the governor whenever examinations required by this section have not been made and inform the governor of the reasons therefor.

History: 1978 c 785 s 13

62G.14 SUSPENSION.

A legal service plan corporation is subject to section 60A.051, relating to the denial, suspension or revocation of a certificate of authority, and to the provisions of chapter 60B. The commissioner also may suspend or revoke a certificate for any violation or noncompliance with sections 62G.01 to 62G.25, following a hearing under procedures established by the rules of the commissioner. The commissioner may suspend or revoke the certification of authority of a foreign legal service plan corporation for the same reasons for which a domestic legal service corporation's

certificate may be suspended or revoked. He may also revoke or suspend the certificate of a foreign legal service plan if its activities outside the state of Minnesota impair its solvency or its ability to meet its obligations in this state.

History: 1978 c 785 s 14

62G.15 AUTHORIZED CONTRACTS AND AGREEMENTS.

Subdivision 1. A legal service plan corporation may act for, or as agent of, a provider and may contract with subscribers and others to render or provide legal services for the benefit of subscribers. It may enter into service agreements. A subscribers contract may provide for payment to, or reimbursement of, a subscriber for expenses incurred for covered legal services when rendered or furnished by nonparticipating providers.

Subd. 2. A legal service plan corporation may contract or make other arrangements with any agency, instrumentality or political subdivision of the United States, or this state, and may accept and administer funds, directly or indirectly, made available thereby if the agency, instrumentality or political subdivision is authorized by law to make such contracts or arrangements. It may subcontract with any organization which has contracted with an agency, instrumentality or political subdivision of the United States, or this state, for the administration or furnishing of legal services or any publicly supported legal service plan.

Subd. 3. A legal service plan corporation may enter into contracts or other arrangements with similar organizations or corporations domiciled in this or any other state or country, for transfer of subscribers, reciprocal or joint benefits, or for other joint undertakings approved by its board and not inconsistent with the purposes of sections 62G.01 to 62G.25. In no event shall a legal service plan corporation enter into any contract, arrangement or undertaking which would have the effect of relieving the legal service plan corporation of its duties and obligations to any subscriber unless the legal service plan corporation has received the prior written consent of the affected subscriber, or a qualified agent or representative of the subscriber.

Subd. 4. A legal service plan corporation may enter into contracts or other arrangements with providers or with any agency, instrumentality or political subdivision of the United States or any state or country or with any nonprofit health service plan corporation organized under chapter 62C, or with any other organization for the provision of administrative, accounting, marketing, record keeping, data processing, or planning services or facilities or any service related to the rendering or furnishing of legal services or the implementation of a legal service plan. A nonprofit health service plan corporation organized under chapter 62C, may in accordance with this subdivision provide any of the services or facilities specified in this subdivision. A subscribers contract with a corporation organized under chapter 62C, shall provide for payment to, or reimbursement of, a subscriber for expenses incurred for covered legal services when rendered or furnished by non-participating providers.

Subd. 5. Sections 62G.01 to 62G.25 do not require a legal service plan corporation to contract with any provider, subscriber or group of subscribers.

History: 1978 c 785 s 15

62G.16 SUBSCRIBERS CONTRACTS.

Subdivision 1. A legal service plan corporation shall deliver to every subscriber, except those covered as a spouse or dependent of another subscriber, a copy of the subscribers contract or a certificate evidencing that the subscriber is covered by a group subscribers contract.

Subd. 2. The subscribers contract shall state in a clear and understandable manner all legal services to be provided, in whole or in part, to the subscriber and all terms, conditions, limitations and exceptions under which the legal services shall be provided or paid for, including any provisions for coordination of benefits or subrogation, and including any provisions or conditions under which services from participating providers are not covered.

Subd. 3. Except as provided in section 62G.15, subdivision 4, nothing in the subscribers contract shall deny the subscriber free choice of the provider within a particular class of providers who is to serve him, and there shall be no interference with a provider-subscriber relationship.

Subd. 4. Except for group contracts or certificates, a subscribers contract or other writing furnished to the subscriber with the contract, shall state the periodic subscription charge, the effective date, the expiration date or period of renewal, and the terms upon which the contract may be terminated, cancelled, continued, or renewed.

Subd. 5. A subscribers contract or certificate shall state that it and all riders and endorsements, together with any application if signed by the subscriber, identification issued to him, and the applicable benefit schedules on file at the home office of the legal service plan corporation and with the commissioner, shall constitute the entire contract between the legal service plan corporation and the subscriber.

Subd. 6. Except as otherwise provided by this subdivision, no subscribers contract shall provide for the payment of any cash or other material benefit to the subscriber or his estate. A subscribers contract may provide for the payment for legal services rendered or furnished by a nonparticipating provider to the extent such legal services are covered by the contract. If the subscriber compensates the provider for services received he is subrogated to the provider's right against the legal service plan.

Subd. 7. Every subscribers contract or certificate shall provide in substance that the subscriber has no personal liability to the provider rendering legal services, except for those services or parts of service not covered by the subscribers contract.

Subd. 8. No legal service plan corporation shall deliver or issue for delivery in this state any subscribers contract, endorsement, rider, amendment or application until a copy of the form thereof has been filed with the commissioner, subject to disapproval by the commissioner. The commissioner also may, by rule, exempt from filing those subscribers contracts issued to groups upon such reasonable conditions and restrictions as he may require.

Subd. 9. All forms received by the commissioner shall be deemed filed 30 days after received unless disapproved by order transmitted to the legal service plan corporation stating that the form used in a specified respect is contrary to law, contains a provision or provisions which are unfair, inequitable, misleading, inconsistent or ambiguous, or is in part illegible. It shall be unlawful to issue or use a document disapproved by the commissioner.

Subd. 10. An order of disapproval shall state that a hearing will be granted within 20 days upon written request. The commissioner shall conduct the hearing within 20 days after receipt of the request and shall give not less than ten days written notice of the time and place and matters to be considered. Within 15 days after the hearing, the commissioner shall affirm, reverse, or modify his previous action in writing, specifying his reasons therefor. Pending the hearing and decision thereon, the commissioner may postpone the effective date of his previous action.

Subd. 11. **Appeal.** An order or decision of the commissioner under this section shall be subject to appeal in accordance with chapter 14.

Subd. 12. All subscribers contracts covering subscribers resident in this state shall be deemed to have been made in this state and shall be construed pursuant to Minnesota law when the position or rights of a Minnesota subscriber or covered group member are at issue. It is unlawful for any legal service plan corporation to solicit or make any subscriber contract in violation of the provisions of sections 62G.01 to 62G.25.

History: 1978 c 785 s 16; 1983 c 247 s 33

62G.17 OTHER INSURANCE OR BENEFITS.

A subscribers contract may provide that legal services otherwise covered under the contract will not be covered to the extent that the subscriber is eligible for free legal services under any public defender or public assistance program.

History: 1978 c 785 s 17

62G.18 SUBSCRIPTION CHARGES.

Subdivision 1. A legal service plan corporation shall establish and adjust from time to time subscription charges to be paid by or on behalf of its subscribers. The charges shall be reasonable, and not unfairly discriminatory, in relation to the benefits, considering actuarial projection of the cost of providing or paying for the legal services, considering costs of administration, and in relation to reserves and surplus required by law.

Subd. 2. No legal service plan corporation shall deliver, issue for delivery, extend, continue, or renew any form of nongroup subscribers contract until schedules of charges applicable thereto, including any endorsement, rider, amendment or application which is a part thereof, have been filed with the commissioner. No legal service plan corporation shall deliver, issue for delivery, extend, continue or renew any form of group subscribers contract until a schedule of the rating structures and formulas applicable thereto, including any endorsement, rider, amendment or application which is a part thereof, has been filed with the commissioner. The filing for a nongroup subscribers contract shall include the actuarial data needed to justify any increase in subscriber charges. The commissioner may disapprove the schedule of charges for any group or nongroup subscribers contract if:

(a) The unencumbered reserve or surplus is less than the required minimum or more than the required maximum; or

(b) The schedule charges meet the criteria specified in section 62A.02, subdivision 3.

Subd. 3. If subscription charges become subject to disapproval, the commissioner shall, within 30 days of filing, render an order either disapproving the charges or extending time for review to a specified date, or the charges shall be deemed approved. An order disapproving a charge shall state the reasons therefor and shall be subject to the notice, hearing, and appeal provisions of section 62G.16. The burden of proving and actuarially demonstrating that the charges are not inadequate or excessive is on the legal service plan corporation.

Subd. 4. It is unlawful for a legal service plan corporation to deliver or issue a subscribers contract with charges which have been disapproved by the commissioner.

History: 1978 c 785 s 18

62G.19 LEGAL SERVICE AGREEMENTS.

Subdivision 1. Legal service plan corporations, as agents for providers, may enter into legal service agreements only with providers licensed to practice law in this state or the state or foreign country in which the provider is located.

Subd. 2. A legal service plan corporation shall enforce its legal service agreements, including agreements of providers to accept payment from the legal service corporation as compensation for legal service rendered or provided to subscribers who have prepaid for the legal service. Provisions for review of claims shall be a part of each service agreement.

Subd. 3. Each type of legal service agreement shall be filed with the commissioner, prior to its use.

Subd. 4. Notwithstanding any law or rule of court to the contrary, any attorney licensed to practice law in this state may solicit a contract or submit a bid to contract with any legal service plan corporation to provide legal services as provided in this section.

History: 1978 c 785 s 19

62G.20 LICENSE FOR SOLICITOR OR AGENT.

Subdivision 1. No person shall act as a solicitor or agent for solicitation of subscribers on behalf of a legal service plan corporation, except an officer of the corporation, until he obtains a license from the commissioner. The license shall be granted to qualified persons only upon request of the legal service plan corporation. The commissioner may establish by rule reasonable standards of qualification.

Subd. 2. Applications for license shall be submitted to the commissioner on forms provided by him. Except as provided in subdivision 3, the applicant must pass a written examination reasonably designed to determine whether he is qualified to be licensed as an agent or solicitor. The examination shall be pertinent to the contracts and coverage furnished by the legal service plan corporation. Prior to examination or reexamination, and prior to issuance or renewal of a license, the applicant shall pay to the commissioner the fees required for examination or reexamination for, and issuance or renewal of, an insurance agent's license for one line of insurance. The license shall expire May 31 of each year unless renewed by written request with payment of the renewal fees. The license shall not authorize a person to act as an insurance agent or solicitor.

Subd. 3. The commissioner may at any time after a hearing pursuant to sections 14.01 to 14.70, revoke or suspend a license if satisfied that the licensee is not qualified. An application for a new license or for reinstatement may be entertained one year after revocation or suspension, upon filing of a bond in the amount of \$5,000 approved by the commissioner for protection of the public for a period of five years, or a lesser amount and period as the commissioner may prescribe. The commissioner shall revoke or suspend a license upon written request by the legal service plan corporation or agent for which the licensee is licensed to act. The request shall include a statement of the specific facts constituting cause for termination. Information contained in a request is confidential and privileged and is not admissible, in whole or in part, in any action or proceeding without the written consent of the party submitting the request.

Subd. 4. A person is not qualified for a license if upon examination or reexamination it is determined that he is incompetent to act as an agent or solicitor, if he has acted in any manner which would disqualify a person to hold a license as an insurance agent or solicitor under section 60A.17, subdivision 6, or if he fails to produce documents lawfully subpoenaed by the commissioner, or fails to appear at a hearing to which he is a party or has been lawfully subpoenaed.

History: 1978 c 785 s 20; 1982 c 424 s 130

62G.21 NO PERSONAL LIABILITY.

No provider has any right of action against a subscriber for compensation for legal services which the provider has rendered, except to the extent that the subscribers contract does not provide coverage for the legal services or part of the legal services rendered.

History: 1978 c 785 s 21

62G.22 UNFAIR TRADE PRACTICES.

Legal service plan corporations are subject to the provisions of sections 72A.17 to 72A.30, regarding regulation of trade practices, and to all rules promulgated by the commissioner regarding advertisements for and the marketing of legal service plans.

History: 1978 c 785 s 22

62G.23 PRACTICE NOT AUTHORIZED.

Nothing in sections 62G.01 to 62G.25 authorizes any person, association or corporation to engage, in any manner, in the practice of a profession required by this state to be licensed.

History: 1978 c 785 s 23

62G.24 PENALTIES.

If a legal service plan corporation violates any provision of sections 62G.01 to 62G.25 or other applicable law, the commissioner may by his order suspend or revoke its certificate of authority, and impose a penalty not to exceed \$5,000 for each offense. The order shall be subject to the notice, hearing and appeal provided as to an order disapproving a subscribers contract.

History: 1978 c 785 s 24

62G.25 RULES.

For the purpose of implementing and enforcing sections 62G.01 to 62G.25, the commissioner may adopt, amend, suspend and repeal rules pursuant to the provisions of sections 14.01 to 14.70.

History: 1978 c 785 s 25; 1982 c 424 s 130