

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1018

H. P. 758

House of Representatives, March 10, 1977

On Motion of Mr. Spencer of Standish referred to the Committee on Judiciary. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Byers of Newcastle.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Permit Nonprofit Legal Service Organizations.

Be it enacted by the People of the State of Maine, as follows:

24 MRSA c. 21 is enacted to read:

CHAPTER 21

NONPROFIT LEGAL SERVICE ORGANIZATIONS

§ 3001. Purposes

Any corporation organized under special Act of the Legislature or under Title 13, chapter 81 for the following purposes may be authorized by the Superintendent of Insurance, Department of Business Regulation, on the terms and conditions provided for in this chapter, except that where such corporation was heretofore organized by special Act of the Legislature, this chapter shall not apply where inconsistent with such Act as heretofore amended:

1. Nonprofit legal service plans. To establish, maintain and operate nonprofit legal service plans, whereby legal services may be provided by licensed attorneys or professional associations of attorneys with whom such corporation has a contract for such purpose, to such persons or groups of persons as become subscribers to said plan under a contract which entitles each subscriber to certain legal services, and the attorneys or professional associations of attorneys so contracting with such corporation shall be governed by this chapter and by such provisions of Title 24-A as shall become applicable, as provided in this chapter.

2. Inadvertent payments. In the event that direct payment is inadvertently made to an attorney or professional association by or on behalf of a subscriber or member, such corporation may reimburse the subscriber up to the amount payable under the plan to an attorney or professional association.

3. Principal or agent. In order to maintain and operate such a plan, such corporation may act in either the capacity of principal or agent of other non-profit legal service corporations authorized to do business in this State.

4. Contracts and agreements. To contract with any similar corporations in other states for the joint administration of their business and to enter into reciprocal arrangements for the mutual benefit of their subscribers.

5. Services for governmental units. With the prior approval of the superintendent, such corporation shall have the right to utilize its organization and facilities to perform services for the United States or the State of Maine Governments, or the units or agencies of either, or any charitable or non-profit organization involved in providing legal services.

6. Right to contract. The State, any county, city, town or quasi-municipal corporation shall have the same right to contract with any corporation subject to this chapter as it may have under Title 24-A, section 4501, with respect to insurers.

§ 3002. Incorporation

The articles of incorporation, and amendments thereto, of every corporation organized under this chapter shall be submitted to the superintendent for approval, which, if granted, shall be indorsed thereon before the same are filed with the Secretary of State.

There shall be not less than 14 directors. One-half of the directors shall at all times be attorneys licensed to practice law in the State of Maine, who contract with the corporation for the direct provision of legal services to subscribers, and $\frac{1}{2}$ shall be persons representing any nonprofit organization organized pursuant to chapter 19 who have entered into administrative agreements with the corporation as hereinafter set forth. No director shall serve more than 3 consecutive 3-year terms.

§ 3003. Contracts

Such corporation mentioned in section 3001 may enter into contracts for the rendering of legal services to the subscribers only with attorneys or professional associations of attorneys licensed by the appropriate departments or boards of the several states. All contracts for the provision of legal services issued by such corporation shall constitute direct obligations of the contracting attorney or professional associations of attorneys to the corporation. Contracts issued under a legal services plan shall provide that the attorney-client relationship shall exist between the client and the attorney, that the client shall have the free choice of any contracting attorney able and willing to provide such services, all of which shall be based upon definite agreements covering such legal services. Any such contracting attorney shall be free to refuse services for appropriate professional reasons. Nothing

in this section shall be construed to prohibit reciprocal arrangements for the exchange of legal services between similar nonprofit legal service plans.

§ 3004. Licenses

Application for the authority provided for in section 2405 must be made in the form required by the superintendent and must contain the information he deems necessary. The application must be accompanied by a copy of each of the following documents:

1. Certificate. Certificate of incorporation;
2. Bylaws. The bylaws;
3. Proposed contracts. Proposed contracts between the corporation and contracting attorneys and professional associations of attorneys showing the terms under which the legal services are to be furnished to subscribers;
4. Subscription rates and benefits. Contracts to be issued to subscribers showing a table of the subscription rates to be charged and the benefits to which they are entitled; and
5. Financial statement. Financial statement of the corporation, including the contributions paid or agreed to be paid to the corporation for working capital, the name of each contributor and the terms of each contribution. The contributions shall total at least \$5,000.

§ 3005. Issuance of licenses

The superintendent shall issue a certificate of authority on payment of a fee, which shall be the same as for an insurer as provided in Title 24-A, section 601, if the applicant meets the following requirements.

1. Plan. It is established to provide a bonafide nonprofit legal services plan.
2. Contracts. The contracts between the applicant and the contracting attorneys or professional association of attorneys obligate each participating party to render service to which each subscriber may be entitled under the terms of the contract issued to the subscriber and such contracts are otherwise reasonable.
3. Subscription rates and benefits. The subscription rates charged and benefits to be provided are reasonable.
4. Contributions. Contributions to the working funds of the applicant are repayable only out of earned premiums in excess of operating expenses, payments to contracting attorneys or professional associations of attorneys and adequate reserve required by the superintendent.
5. Money available. The money available for working capital must be sufficient to cover all acquisition costs and operating expenses for a reasonable time from the date of the issuance of the certificate of authority.

§ 3006. Reports

Every corporation organized under this chapter shall annually, on or before the first day of April, file in the office of the superintendent a statement verified by at least 2 of the principal officers of said corporation showing its condition on the 31st day of December, then next preceding, which shall be in such form and shall contain such matters as the superintendent shall prescribe.

§ 3007. Examination

The superintendent, or any deputy or examiner or any other person whom he shall appoint for the purpose, shall have the power of visitation and examination into the affairs of any corporation described in section 2401 and shall have free access to all of the books, papers and documents that relate to the business of the corporation, may summons and qualify witnesses under oath, and examine its officers, agents or employees or other persons in relation to the affairs, transactions and condition of the corporation.

The reasonable costs of such an examination shall be borne by the corporation examined.

§ 3008. Investments

Any corporation subject to this chapter shall be restricted in its investments in the same manner as are savings banks in this State.

§ 3009. Disputes

Any dispute arising between a corporation subject to this chapter and any contracting attorney or professional association of attorneys with which such corporation has a contract for legal services may be submitted to the superintendent for his decision with respect thereto. Any decision and findings of the superintendent made under said chapter shall not be any bar to constituted legal procedure for the de novo review of the facts and the law in a court of competent jurisdiction.

§ 3010. Dissolution

Any dissolution or liquidation of a corporation subject to this chapter shall be conducted under the supervision of the superintendent, who shall have all power with respect thereto granted to him under Title 24-A with respect to the dissolution and liquidation of insurance companies.

§ 3011. Taxation

Every corporation subject to this chapter is declared to be a charitable and benevolent institution and its funds and property shall be exempt from taxation.

§ 3012. Agents

No person, for himself or in behalf of any individual, firm, association or corporation, shall sell or offer to sell any such legal services benefit as is provided for in this chapter without being examined and licensed therefor by the superintendent.

§ 3013. Licenses; fees

The superintendent shall grant an agent's license to sell such service, as is provided for in this chapter in behalf of any individual, firm, association or corporation licensed therefor, to any applicant who shall furnish the superintendent with satisfactory evidence of his integrity, competence and authority to sell the service offered. Such license, when granted, shall expire on January 1st thereafter, and annually thereafter may be renewed so long as the superintendent shall be satisfied of the licensee's integrity, competence, authority and responsibility to provide the service stipulated.

The applicant shall pay a license fee to the superintendent, which shall be the same as the fee applicable to the agent of a domestic mutual nonlife insurer as provided for in Title 24-A, section 601, subsection 5, paragraph B.

§ 3014. Revocation of authority; license

The superintendent may revoke a certificate of authority or license granted under this chapter for cause at any time after notice and hearing.

§ 3015. Penalties

Any person, firm, association or corporation, or any officer, agent, servant or employee thereof, who shall violate any of the provisions of this chapter shall be punished by the fines and penalties provided in Title 24-A.

§ 3016. Certificates or contracts; approval by superintendent

No nonprofit legal service organization shall issue or deliver in this State any certificate or other evidence of any contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the superintendent and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The superintendent shall, within a reasonable time after the filing of any such form, notify the organization filing the same either of his approval of such form or his disapproval thereof. The superintendent may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the subscribers than the one or ones so required. The superintendent shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to Title 24-A, chapters 33 and 35. Where the superintendent deems inapplicable, either in part or in their entirety, the foregoing chapters, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the subscriber. Any filing made hereunder shall be deemed approved unless disapproved within 60 days from the date of such filing.

§ 3017. Other provisions applicable

The following chapters and provisions of Title 24-A, where and to the extent not inconsistent with this chapter and the reasonable implications

thereof, shall apply to such corporations only to the extent provided for by rules and regulations issued by the superintendent to such corporations:

1. Chapter 1. General definitions and provisions;
2. Chapter 3. The Insurance Superintendent;
3. Chapter 23. Trade practices and frauds;
4. Chapter 49. Continuity of management; and
5. Chapter 57. Delinquent insurers.

§ 3018. Operational agreements

Nonprofit, prepaid legal service corporations organized pursuant to the provisions of this chapter are authorized to enter into administrative agreements with any nonprofit organization organized pursuant to chapter 19, which is duly licensed and authorized to conduct business in this State. Any nonprofit hospital or medical organization organized pursuant to chapter 19, is authorized to enter into those administrative agreements with nonprofit legal services corporations organized pursuant to the provisions of this chapter.

STATEMENT OF FACT

The purposes of this bill are for nonprofit legal service organizations to:

1. Provide nonprofit legal services plans;
2. Prevent inadvertant payments;
3. Act as principal or agent;
4. Enter into contracts and agreements;
5. Provide services for governmental units; and
6. Have the right to contract.