

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 408

An Act to amend and reenact §§ 38.2-316, 38.2-4402.1, 38.2-4410, and 59.1-441.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-4410.1, relating to the regulation of legal services plans.

[H 1240]

Approved March 23, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-316, 38.2-4402.1, 38.2-4410, and 59.1-441.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-4410.1 as follows:

§ 38.2-316. Policy forms to be filed with Commission; notice of approval or disapproval; exceptions.

A. No policy of life insurance, industrial life insurance, variable life insurance, modified guaranteed life insurance, group life insurance, accident and sickness insurance, or group accident and sickness insurance; no annuity, modified guaranteed annuity, pure endowment, variable annuity, group annuity, group modified guaranteed annuity, or group variable annuity contract; no health services plan, legal services plan, dental or optometric services plan, or health maintenance organization contract; no dental plan organization dental benefit contract; and no fraternal benefit certificate nor any certificate or evidence of coverage issued in connection with such policy, contract, or plan issued or issued for delivery in Virginia shall be delivered or issued for delivery in this Commonwealth unless a copy of the form has been filed with the Commission. In addition to the above requirement, no policy of accident and sickness insurance shall be delivered or issued for delivery in this Commonwealth unless the rate manual showing rates, rules, and classification of risks applicable thereto has been filed with the Commission.

B. Except as provided in this section, no application form shall be used with the policy or contract and no rider or endorsement shall be attached to or printed or stamped upon the policy or contract unless the form of such application, rider or endorsement has been filed with the Commission. No individual certificate and no enrollment form shall be used in connection with any group life insurance policy, group accident and sickness insurance policy, group annuity contract, or group variable annuity contract unless the form for the certificate and enrollment form have been filed with the Commission.

C. 1. None of the policies, contracts, and certificates specified in subsection A of this section shall be delivered or issued for delivery in this Commonwealth and no applications, enrollment forms, riders, and endorsements shall be used in connection with the policies, contracts, and certificates unless the forms thereof have been approved in writing by the Commission as conforming to the requirements of this title and not inconsistent with law.

2. In addition to the above requirement, no premium rate change applicable to individual accident and sickness insurance policies, subscriber contracts of health services plans, dental or optometric services plans, or fraternal benefit contracts providing individual accident and sickness coverage as authorized in § 38.2-4116 shall be used unless the premium rate change has been approved in writing by the Commission. No premium rate change applicable to individual or group Medicare supplement policies shall be used unless the premium rate change has been approved in writing by the Commission.

D. The Commission may disapprove or withdraw approval of the form of any policy, contract or certificate specified in subsection A of this section, or of any application, enrollment form, rider or endorsement, if the form:

1. Does not comply with the laws of this Commonwealth;
2. Has any title, heading, backing or other indication of the contents of any or all of its provisions that is likely to mislead the policyholder, contract holder or certificate holder; or
3. Contains any provisions that encourage misrepresentation or are misleading, deceptive or contrary to the public policy of this Commonwealth.

E. Within 30 days after the filing of any form requiring approval, the Commission shall notify the organization filing the form of its approval or disapproval of the form which has been filed, and, in the event of disapproval, its reason therefor. The Commission, at its discretion, may extend for up to an additional 30 days the period within which it shall approve or disapprove the form. Any form received but neither approved nor disapproved by the Commission shall be deemed approved at the expiration of the 30 days if the period is not extended, or at the expiration of the extended period, if any; however, no organization shall use a form deemed approved under the provisions of this section until the organization has filed with the Commission a written notice of its intent to use the form together with a copy of the form and the original transmittal letter thereof. The notice shall be filed in the offices of the

Commission at least 10 days prior to the organization's use of the form.

F. If the Commission proposes to withdraw approval previously given or deemed given to the form of any policy, contract or certificate, or of any application, rider or endorsement, it shall notify the insurer in writing at least 15 days prior to the proposed effective date of withdrawal giving its reasons for withdrawal.

G. Any insurer or fraternal benefit society aggrieved by the disapproval or withdrawal of approval of any form may proceed as indicated in § 38.2-1926.

H. This section shall not apply to any special rider or endorsement on any policy, except an accident and sickness insurance policy that relates only to the manner of distribution of benefits or to the reservation of rights and benefits under such policy, and that is used at the request of the individual policyholder, contract holder or certificate holder.

I. The Commission may exempt any categories of such policies, contracts, and certificates and any applicable rate manuals from (i) the filing requirements, (ii) the approval requirements of this section, or (iii) both such requirements. The Commission may modify such requirements, subject to such limitations and conditions which the Commission finds appropriate. In promulgating an exemption, the Commission may consider the nature of the coverage, the person or persons to be insured or covered, the competence of the buyer or other parties to the contract, and other criteria the Commission considers relevant.

J. *In lieu of complying with the requirements of subsections A, B, and C, any legal services organization operating, conducting, or administering a legal services plan may provide the Commission with an informational filing regarding a subscription contract, enrollment form, rider, or endorsement used by the legal services organization in connection with a legal services plan offered in the Commonwealth together with written notice of its intent to use the form. Upon providing such informational filing and notice, the legal services organization may use the subscription contract, enrollment form, rider, or endorsement without its prior approval by the Commission. This subsection shall not limit the authority of the Commission to review a legal services plan and any subscription contract, enrollment form, rider, or endorsement used in connection therewith and to disapprove the use of such form for any of the grounds set forth in subsection D.*

K. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to set standards for policy and other form submissions required by this section or § 38.2-3501.

§ 38.2-4402.1. Corporate organization required.

Each plan shall be conducted by or through (i) a nonstock or stock corporation organized pursuant to the laws of this Commonwealth or; (ii) a foreign corporation that is subject to regulation and licensing under the laws of its domiciliary jurisdiction that are substantially similar to those provided by this chapter; or (iii) a foreign corporation that is licensed as an insurer in its state of domicile and authorized to operate, conduct, or administer a legal services plan under the laws of any state. Any foreign insurer licensed pursuant to this chapter shall not be authorized to write any other classes of insurance under this title.

§ 38.2-4410. Financial reports.

~~In addition to the annual statement required by § 38.2-1300, the Commission shall require each organization to file on a quarterly basis any additional reports, exhibits or statements the Commission considers necessary to furnish full information concerning the condition, solvency, experience, transactions or affairs of the organization. The Commission shall establish deadlines for submitting any additional reports, exhibits or statements. The Commission may require verification by any officers of the organization the Commission designates. On or before March 1 of each year, each legal services organization shall file with the Commission a financial statement in accordance with § 38.2-1300. In lieu of a financial statement filed in accordance with § 38.2-1300, a foreign legal services organization may file a financial statement that is (i) prepared using an annual statement convention blank developed by the National Association of Insurance Commissioners (NAIC); (ii) prepared in accordance with the annual statement instructions and the accounting practices and procedures manuals adopted by the NAIC, or any other successor publications; and (iii) filed by the foreign legal services organization in its state of domicile.~~

On or before May 15, August 15, and November 15 of each year, each legal services organization shall file with the Commission a financial statement in accordance with § 38.2-1301. In lieu of a financial statement filed in accordance with § 38.2-1301, a foreign legal services organization, may file a financial statement that is (i) prepared using a quarterly statement convention blank developed by the NAIC; (ii) prepared in accordance with the quarterly statement instructions and the accounting practices and procedures manuals adopted by the NAIC, or any other successor publications; and (iii) filed by the foreign legal services organization in its state of domicile.

On or before June 1 of each year, each legal services organization shall file with the Commission an audited financial statement. The Commission may request supplemental financial information to ensure a legal services organization's financial stability.

A legal services organization operating, conducting, or administering a legal services plan shall not be required to file with the Commission any management discussion and analysis of financial condition

and results of operations.

§ 38.2-4410.1. Examinations.

The Commission may investigate or examine the affairs, transactions, accounts, records, and assets of a legal services organization as it deems necessary. Examinations shall be conducted pursuant to Article 4 (§ 38.2-1317 et seq.) of Chapter 13.

§ 59.1-441.2. Registration; fees.

A. It shall be unlawful for any legal services plan seller to offer, advertise, or execute, or cause to be executed by the subscriber, any subscription contract in the Commonwealth unless the legal services plan seller at the time of the offer, advertisement, sale, or execution of a subscription contract has been properly registered with the Commissioner. The registration shall (i) disclose the address, ownership, and affiliation with the legal services organization and such other information as the Commissioner may require consistent with the purposes of this chapter, (ii) be renewed annually on July 1, and (iii) be accompanied by the appropriate registration fee of \$50 per each annual registration. Further, the registration shall be accompanied by a late fee of \$25 if the registration renewal is neither postmarked nor received on or before July 1. *A legal services plan seller's initial or renewal registration may be accomplished either by the legal services plan seller or on behalf of such seller by the legal services organization for which the seller offers subscription contracts, and the Commissioner shall accept any registration information or fee required to be submitted pursuant to this chapter that is submitted to the Commissioner on a monthly basis by the organization on behalf of such a legal services plan seller.*

B. Any legal services plan seller that sells a subscription contract prior to registering pursuant to this section shall pay a late filing fee of \$100 for each 30-day period the registration is late. This fee shall be in addition to all other penalties allowed by law.

C. A registration shall be amended within 21 days if there is a change in the information included in the registration.

D. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.

E. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.

F. All insurance agent licenses issued by the State Corporation Commission including authority to sell legal services plan subscription contracts shall continue in effect for a period of 90 days following the effective date of this chapter, during which time those holding such authority from the State Corporation Commission shall apply for registration with the Department. At the end of the 90-day period, no insurance agent license shall include the authority to sell legal services plan subscription contracts.