
By Mr. Bulger, a petition (accompanied by bill, Senate, No. 613) of William M. Bulger for legislation relating to the formation and operation of prepaid legal service plans. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT RELATING TO THE FORMATION AND OPERATION OF PREPAID LEGAL SERVICE PLANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. *Definitions.*— In this chapter the following words
2 shall have the following meanings:
- 3 “Commissioner”, the commissioner of insurance.
- 4 “Prepaid legal service corporation”, a corporation organized
5 pursuant to this act for the purpose of establishing and oper-
6 ating a prepaid legal service plan providing prepaid legal
7 services.
- 8 “Prepaid legal service plan”, a plan operated by a prepaid
9 legal service corporation or any other entity under the pro-
10 visions of this chapter whereby all or part of the cost of legal
11 service furnished to subscribers and covered dependents is paid
12 by the prepaid legal service corporation or entity to partici-
13 pating attorneys.
- 14 “Prepaid legal services”, the legal services ordinarily pro-
15 vided by licensed attorneys and subject to the rules of the
16 supreme judicial court governing the practice of law.
- 17 “Participating attorney”, any attorney licensed to practice
18 law in the Commonwealth of Massachusetts as provided in
19 Section 37 of Chapter 221 of the General Laws.
- 20 “Bar association”, Massachusetts Bar Association; or in a
21 county, the bar association of that county.
- 22 “Subscriber”, a person who has subscribed to a prepaid legal
23 service plan and to whom a subscription certificate has been

24 issued in accordance with the provisions in this act.

25 “Covered dependent”, a dependent for whose legal service
26 provision is made in a subscription certificate issued by a
27 prepaid legal service corporation or entity to a subscriber.

28 “Advisory committee”, the committee designated under Sec-
29 tion 8 of this chapter to assist the Commissioner in the regu-
30 lation of prepaid legal service plans.

1 SECTION 2. *Incorporation, formation, articles of organization,*
2 *certification.* — For the purpose of establishing, maintaining
3 and operating a non-profit prepaid legal service plan, seven
4 or more persons may form a prepaid legal service corporation.
5 Such a corporation shall be formed in the manner prescribed
6 in and subject to Section 9 of Chapter 155 and Sections 6 and
7 8-12 inclusive of Chapter 156, except as follows:

8 The agreement of association of a corporation having no
9 capital stock may omit the statement of the amount of the
10 capital stock and the par value and number of its shares. The
11 fee to be paid to the state secretary upon the filing of the
12 articles of organization shall be twenty-five dollars.

13 The articles of organization specified in Section 10 of said
14 Chapter 156, with the records and by-laws of the corporation,
15 shall be submitted to the commissioner instead of the Com-
16 missioner of Corporations and Taxation, and the commission-
17 er shall have the powers and perform the duties relative
18 thereto specified in Section 11 of said Chapter 156. The certi-
19 ficate issued by the state secretary under Section 12 of said
20 Chapter 156 shall be modified to conform to the requirements
21 of this section.

22 The commissioner shall not approve the articles of organi-
23 zation of such corporation or other entity until he is satisfied by
24 such examination as he may make and such evidence as he
25 may require that the incorporators are of good repute and
26 intend in good faith to operate the corporation and that an
27 adequate initial reserve fund shall have been established with-
28 in a reasonable time to protect the subscribers. He shall exe-
29 cute a certificate of his findings, which shall be attached to
30 the articles of organization prior to the filing thereof with the

31 state secretary.

32 No corporation or other entity whose articles of organi-
33 zation have not been first approved in writing by the bar as-
34 sociation shall be established or formed or allowed to offer a
35 prepaid legal service plan to subscribers.

36 When the bar association or the commissioner of insurance
37 refuses to approve the articles of organization, the applicant
38 shall be notified in writing within thirty days; the notice
39 shall state the reasons for such refusal. The applicant shall
40 have the right to appeal such refusal within thirty days.

1 SECTION 3. *Contracts for legal services. Approval by com-*
2 *missioner.* — Any legal service corporation or entity may en-
3 ter into contracts with its subscribers whereby payment for
4 all or part of certain specified legal services will be paid either
5 to the subscriber or to a participating attorney. A contract
6 with the subscriber may provide for the legal services to the
7 dependent of the subscriber named therein. The rates to be
8 charged to the subscribers by such corporation, entity or other
9 association which purports to provide prepaid legal services
10 and the amount of the benefits offered subscribers or covered
11 dependents shall at all times be subject to the written approval
12 of the commissioner. Acquisition costs in connection with
13 solicitation of subscribers and costs of administration shall at
14 all times be limited to such amounts as the commissioner shall
15 approve. Nothing in this section or in this chapter shall be
16 interpreted or in any way interfere with the power of the
17 supreme judicial court to regulate the practice of law.

1 SECTION 4. *Disputes or controversies.* — Any dispute
2 arising between a non-profit prepaid legal service corpora-
3 tion and any participating attorney, or any subscriber or
4 any person whose subscription certificate has been can-
5 celled or to whom such corporation has refused to issue
6 such certificate may within thirty days after such dispute
7 or controversy arises be submitted by any person aggrieved
8 to a board serving in the division of insurance and con-
9 sisting of the commissioner or a person designated by him,

10 the president of the bar association or any person designated
11 by him, and the attorney general or a person designated by
12 him for its decision with respect thereto. Such an appeal to
13 said board shall be conducted as an adjudicatory proceeding
14 in accordance with the provision of Section 11 of Chapter 30-A.
15 All decisions and orders of the board or of the commissioner
16 made under any provision of this chapter may be revised as
17 justice and equity may require upon a petition in equity filed
18 in the superior court within and for the county where any
19 party aggrieved by such decision lives or has a usual place of
20 business. Such proceedings in equity for judicial review shall
21 be conducted in accordance with Section 14 of Chapter 30-A.

1 SECTION 5. *Grounds for enjoining transaction of business;*
2 *receivers.* — If the commissioner is satisfied, as to any non-
3 profit prepaid legal service corporation, that (1) it has failed to
4 comply with the provisions of its charter, or (2) it is being
5 operated for profit, or (3) it is fraudulently conducted, or (4)
6 its condition is such as to render its further transaction of
7 business hazardous to the public or to its subscribers, or (5)
8 it has exceeded its powers, or (6) it has violated any provi-
9 sion of law, or (7) that it is financially unable to pay its claims
10 in full, or (8) it is insolvent, or (9) that its prepaid legal ser-
11 vice plan interferes with the subscriber's freedom to select any
12 attorney of his choice, he may apply to the supreme judicial
13 court for an injunction restraining it from further proceeding
14 with its business. The court may forthwith issue a temporary
15 injunction restraining the transaction of any business, and it
16 may, after a full hearing, make the injunction permanent, and
17 appoint one or more receivers to take possession of the books,
18 papers, monies and other assets of the corporation, settle its
19 affairs, and distribute its fund to those entitled thereto, sub-
20 ject to such rules and orders as the court may prescribe.

1 SECTION 6. *Status; immunity; exceptions.* — Every non-
2 profit prepaid legal service corporation is hereby declared to
3 be a charitable corporation. No such corporation shall be
4 liable for damages resulting from negligence or malpractice on

5 the part of any participating attorneys, but said corporation
6 shall be liable for damages resulting from negligence or mal-
7 practice on the part of any attorney employed by it or of its
8 agents, servants or employees. Every such corporation shall
9 be exempt from all provisions of the insurance laws of the
10 commonwealth, except as otherwise provided in this chapter.
11 The property of every such corporation shall, except as here-
12 inafter provided, be exempt from all state and local taxes. Any
13 profit-making corporation or other profit-making entity which
14 purports to provide prepaid legal services shall not be exempt
15 from the provisions of the insurance laws of the common-
16 wealth, but shall be subject to Sections 1, 2, 3, 4, 5 and 8 of
17 this chapter.

1 SECTION 7. *Operators of prepaid legal service plan.*—It
2 shall be unlawful for any person, firm, corporation or asso-
3 ciation, except a prepaid legal service corporation, to establish,
4 maintain or operate a non-profit prepaid legal service plan;
5 provided, however, that this chapter shall not render unlawful
6 or affect any operation or activity of any company organized
7 under the provisions of Chapter 175, or any society or frater-
8 nal benefit society organized under the provisions of Chapter
9 176 or subject to any of the provisions thereof, or of any cor-
10 poration organized or to be organized under Chapter 180, the
11 existence, purposes, activities and operations of which were
12 lawful or would be lawful notwithstanding the provisions of
13 this chapter.

1 SECTION 8. *Enforcement.*—The commissioner shall issue
2 rules and regulations for the execution of his duties under the
3 provisions of this chapter; all such rules, regulations, decisions
4 or other actions of the said commissioner under this chapter
5 shall be subject to Chapter 30-A.

6 Before promulgating any such rules or regulations the com-
7 missioner shall consult with the advisory committee. Said
8 advisory committee shall be composed of the presidents of the
9 Massachusetts Bar Association and each county bar associa-
10 tion or their designees, and ten persons appointed by the com-

11 missioner, who are not members of the bar.

12 The provisions of this chapter may be enforced by a bill in
13 equity brought in the supreme judicial court by the Commis-
14 sioner, the attorney general, any district attorney or by the
15 president or the bar association or his designee.

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