

Effective 5/2/2024

Chapter 68

Lawyer Referral Consultants Registration Act

Effective 5/2/2024

Part 1

General Provisions

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13-68-101 Definitions.

As used in this chapter:

- (1) "Attorney" means an individual who is authorized to provide legal services in any state or territory of the United States.
- (2) "Client" means a person that is provided lawyer referral services by a lawyer referral consultant.
- (3) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to a person for or in consideration of:
 - (a) services;
 - (b) personal or real property; or
 - (c) another thing of value.
- (4) "Digital marketing service" means an Internet-based company that:
 - (a) advertises legal services on behalf of a law firm; and
 - (b) does not contact prospective clients individually.
- (5) "Division" means the Division of Consumer Protection in the Department of Commerce.
- (6) "Law firm" means an entity consisting of one or more licensed lawyers lawfully engaged in the practice of law.
- (7) "Lawyer referral consultant" means an individual that engages in lawyer referral service.
- (8)
 - (a) "Lawyer referral service" means assisting a person to find an attorney or law firm that provides legal services in the legal field appropriate for the person's legal matter.
 - (b) "Lawyer referral service" does not include a digital marketing service.
- (9) "Legal services" means any form of legal advice or legal representation that is subject to the laws of this state.

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Part 2

Registration Requirements

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13-68-201 Requirement to be registered as a lawyer referral consultant.

- (1)
 - (a) Except as provided in Subsection (1)(b), an individual may not engage in an activity of a lawyer referral consultant for compensation unless the individual is registered under this chapter.

- (b) Except as provided in Subsections 13-68-303(3) and (4), this chapter does not apply to an attorney.
- (2) A lawyer referral consultant may only offer nonlegal assistance or advice in providing lawyer referral services.

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13-68-202 Application for registration.

- (1) To register as a lawyer referral consultant an individual shall:
 - (a) submit an annual application in a form prescribed by the division;
 - (b) pay an annual registration fee determined by the division in accordance with Section 63J-1-504, which shall include the costs of the criminal background check required under Subsection (1)(e);
 - (c) have good moral character in that the individual has not been convicted of:
 - (i) a felony; or
 - (ii) within the prior 10 years, a misdemeanor involving theft, fraud, or dishonesty;
 - (d) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and
 - (e) consent to a fingerprint background check of the individual by the Bureau of Criminal Identification regarding the application.
- (2) The division shall register an individual who qualifies under this chapter as a lawyer referral consultant.

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13-68-203 Requirement to submit to criminal background check.

- (1) The division shall require an applicant for registration as a lawyer referral consultant to:
 - (a) submit a fingerprint card in a form acceptable to the division; and
 - (b) consent to a fingerprint criminal background check by the Bureau of Criminal Identification.
- (2)
 - (a) The division shall obtain information from a criminal background history record maintained by the Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
 - (b) The information obtained under Subsection (2)(a) may only be used by the division to determine whether an applicant for registration as a lawyer referral consultant meets the requirements of Subsection 13-68-202(1)(c).

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13-68-204 Bonds -- Exemption -- Statements dependent on posting bond.

- (1) A lawyer referral consultant shall post a cash bond or surety bond:
 - (a) in the amount of \$50,000; and
 - (b) payable to the division for the benefit of any person damaged by any of the following acts that a lawyer referral consultant or the lawyer referral consultant's agent, representative, or employee commits:

- (i) fraud;
 - (ii) misstatement;
 - (iii) misrepresentation;
 - (iv) unlawful act;
 - (v) omission; or
 - (vi) failure to provide lawyer referral services.
- (2) A bond under this section shall be:
- (a) in a form approved by the division;
 - (b) conditioned upon the faithful compliance of a lawyer referral consultant with this chapter and division rules; and
 - (c) maintained at all times while the lawyer referral consultant provides lawyer referral services.
- (3) A lawyer referral consultant shall keep the bond required under this section in force for one year after:
- (a) the lawyer referral consultant's registration expires; or
 - (b) the lawyer referral consultant notifies the division in writing that the lawyer referral consultant has ceased all activities regulated under this chapter.
- (4)
- (a) If a surety bond posted by a lawyer referral consultant under this section is canceled due to the lawyer referral consultant's negligence, the division may assess a \$300 reinstatement fee.
 - (b) No part of a bond posted by a lawyer referral consultant under this section may be withdrawn:
 - (i) during the one-year period the registration under this chapter is in effect; or
 - (ii) while a revocation proceeding is pending against the lawyer referral consultant.
- (5)
- (a) A bond posted under this section by a lawyer referral consultant may be forfeited if the lawyer referral consultant's registration under this chapter is revoked.
 - (b) Notwithstanding Subsection (5)(a), the division may make a claim against a bond posted by a lawyer referral consultant for money owed to the division under this chapter without the division first revoking the lawyer referral consultant's registration.
- (6) An individual may not disseminate by any means a statement indicating that the individual is a lawyer referral consultant, or proposes to engage in the business of a lawyer referral consultant, unless the individual has posted a bond under this section that is maintained throughout the period covered by the statement.
- (7) A lawyer referral consultant may not make or authorize the making of an oral or written reference to the lawyer referral consultant's compliance with the bonding requirements of this section except as provided in this section.

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Part 3 Operational Requirements

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13-68-301 Requirements for written contract -- Prohibited statements.

(1)

- (a) Before a lawyer referral consultant may provide lawyer referral services to a client, the lawyer referral consultant shall provide the client with a written contract.
 - (b) The contents of the written contract described in Subsection (1)(a) shall comply with this section and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c) A prospective client may cancel a written contract on or before midnight of the third business day after execution of the written contract, excluding weekends and state and federal holidays.
- (2) A written contract under this section shall be stated in both English and in the client's native language.
- (3) A written contract under this section shall:
- (a) state the purpose for which the lawyer referral consultant has been hired;
 - (b) state the one or more lawyer referral services to be performed;
 - (c) state the price for a lawyer referral service to be performed;
 - (d) include a statement printed in 10-point boldface type that the lawyer referral consultant is not an attorney and may not perform the legal services that an attorney performs;
 - (e) include a provision stating that the client may report complaints relating to a lawyer referral consultant to the division, including a toll-free telephone number and Internet website;
 - (f) include a provision stating that complaints concerning the unauthorized practice of law may be reported to the Utah State Bar, including a toll-free telephone number and Internet website; and
 - (g) in accordance with Subsection (1)(b), include a provision stating in boldface on the first page of the written contract in both English and in the client's native language in accordance with Subsection (2): "You may cancel this contract on or before midnight of the third business day after execution of the written contract."
- (4) A written contract may not contain a provision relating to a guarantee or promise unless the lawyer referral consultant has some basis in fact for making the guarantee or promise.
- (5) A lawyer referral consultant may not make a guarantee or promise described in Subsection (4) orally to a client.
- (6) A written contract is void if not written in accordance with this section.

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13-68-302 Accounting for services -- Receipts.

- (1)
- (a) A lawyer referral consultant shall provide a signed receipt to a client for each payment made by that client.
 - (b) A receipt described in Subsection (1)(a) shall be typed or computer generated on the lawyer referral consultant's letterhead.
- (2) A lawyer referral consultant shall make a statement of accounting for the lawyer referral services rendered and payments made:
- (a) in the client's native language;
 - (b) that is typed or computer generated on the lawyer referral consultant's letterhead;
 - (c) that lists the individual and total charges for services; and
 - (d) that lists the payments made by the client.

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13-68-303 Notice to be displayed -- Disclosure to be provided in writing.

- (1) A lawyer referral consultant shall conspicuously display in the lawyer referral consultant's office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width, that contains the following information:
 - (a) the full name, address, and evidence of compliance with any applicable bonding requirement including the bond number;
 - (b) a statement that the lawyer referral consultant is not an attorney; and
 - (c) the name of each lawyer referral consultant employed at each location.
- (2)
 - (a) Before providing any services, a lawyer referral consultant shall provide a client with a written disclosure in the native language of the client that includes the following:
 - (i) the lawyer referral consultant's name, address, and telephone number;
 - (ii) the lawyer referral consultant's agent for service of process;
 - (iii) evidence of compliance with any applicable bonding requirement, including the bond number; and
 - (iv) a list of the services that the lawyer referral consultant provides and the current and total fee for each service.
 - (b) A lawyer referral consultant shall obtain the signature of the client verifying that the client received the written disclosure described in Subsection (2)(a) before a service is provided.
- (3)
 - (a) Except as provided in Subsection (3)(b), a lawyer referral consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as a lawyer referral consultant, shall include in that advertisement a clear and conspicuous statement that the lawyer referral consultant is not an attorney.
 - (b)
 - (i) Subsection (3)(a) does not apply to a person who is not an active member of the Utah State Bar, but is an attorney licensed in another state or territory of the United States.
 - (ii) A person described in Subsection (3)(b)(i) shall include in any advertisement for lawyer referral services a clear and conspicuous statement that the person is not an attorney licensed to practice law in this state, but is an attorney licensed in another state or territory of the United States.
- (4) If an advertisement subject to this section is in a language other than English, the statement required by Subsection (3) shall be in the same language as the advertisement.

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13-68-304 Translations -- Prohibited acts.

- (1) As used in this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.
- (2) A lawyer referral consultant may not, with the intent to mislead, literally translate, from English into another language, words or titles, including, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the lawyer referral consultant is an attorney, in

any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the lawyer referral consultant.

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13-68-305 Documents -- Treatment of original documents.

A lawyer referral consultant shall:

- (1) deliver to a client a copy of a document completed on behalf of the client;
- (2) include on a document delivered to a client the name and address of the lawyer referral consultant;
- (3) retain a copy of a document of a client for not less than three years from the date of the last service the lawyer referral consultant provides to the client; and
- (4) return to a client all original documents that the client has provided to the lawyer referral consultant.

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**Part 4
Prohibited Acts and Penalties**

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13-68-401 Unlawful acts.

- (1) It is unlawful for a lawyer referral consultant to:
 - (a) make a false or misleading statement to a client while providing services to that client;
 - (b) make a guarantee or promise to a client, unless the guarantee or promise is in writing and the lawyer referral consultant has some basis in fact for making the guarantee or promise; or
 - (c) charge a client a fee for referral of the client to another person for services that the lawyer referral consultant cannot or will not provide to the client.
- (2) A sign describing the prohibition described in Subsection (1)(c) shall be conspicuously displayed in the office of a lawyer referral consultant.

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13-68-402 Violations -- Actions by division.

- (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.
- (2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this chapter.
- (3)
 - (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:
 - (i) the division director may impose an administrative fine of up to \$2,500 for each violation of this chapter; and

- (ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.
- (b) In a court action by the division to enforce a provision of this chapter, the court may:
 - (i) declare that an act or practice violates a provision of this chapter;
 - (ii) issue an injunction for a violation of this chapter;
 - (iii) order disgorgement of any money received in violation of this chapter;
 - (iv) order payment of disgorged money to an injured purchaser or consumer;
 - (v) impose a fine of up to \$2,500 for each violation of this chapter; or
 - (vi) award any other relief that the court deems reasonable and necessary.
- (4) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:
 - (a) reasonable attorney fees;
 - (b) court costs; and
 - (c) investigative fees.
- (5)
 - (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than \$5,000 for each violation.
 - (b) A civil penalty authorized under this section may be imposed in any civil action brought by the attorney general on behalf of the division.
 - (c) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund created in Section 13-2-8.
- (6)
 - (a) A person who intentionally violates this chapter:
 - (i) is guilty of a class A misdemeanor; and
 - (ii) may be fined up to \$10,000.
 - (b) A person intentionally violates this part if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that the person is in violation of this chapter.

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13-68-403 Action by attorney general or district or county attorney.

- (1) Upon referral from the division, the attorney general or any district or county attorney may:
 - (a) bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of this part;
 - (b) bring an action in any court of competent jurisdiction for the collection of penalties authorized under Subsection 13-68-402(2); or
 - (c) bring an action under Subsection 13-68-402(4).
- (2) A court may, upon entry of final judgment, award restitution when appropriate to any person suffering loss because of a violation of this part if proof of loss is submitted to the satisfaction of the court.

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13-68-404 Recovery of losses.

In addition to any other remedies, a person suffering pecuniary loss because of a violation by another person of this chapter may bring an action in any court of competent jurisdiction and may recover:

(1) the greater of:

(a) \$500; or

(b) twice the amount of the pecuniary loss; and

(2) court costs and reasonable attorney fees as determined by the court.

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