

HOUSE BILL NO. 1189 TESTIMONY

Presented by: Tyler Erickson
Legal Counsel
North Dakota Insurance Department

Before: Senate Industry & Business Committee
Senator Doug Larsen, Chairman

Date: March 14, 2023 @ 10:00 am in Fort Union Room

Good morning, Chairman Larsen and members of the Senate Industry and Business Committee. My name is Tyler Erickson, and I'm an attorney with the North Dakota Insurance Department. I was the Department's primary point of contact on this bill and after an in-depth review, the Department determined that the proposed exemptions to chapters 26.1-19 and 26.1-43 should likely not result in any regulatory shortfalls. As a result, the Department is offering this neutral testimony on HB 1189.

1. Initially, there was some slight disagreement between the Department and Legal Shield about whether these products were covered by our current law, and after a review of our current law, we ultimately concluded that they were covered. As a result, they brought this bill to carve out their specific product from our code.
2. Under current law, all prepaid legal services contracts and legal expense insurance plans are subject to the regulatory oversight of our agency.
 - a. And although there are slight differences between prepaid legal services and legal expense insurance plans, the common denominator between them rests in their use of indemnity, assumption of risk, or reimbursement for services.
 - b. Differences: prepaid legal services are typically used in a discounted legal services plan, where multiple people pay a subscription fee, those fees are pooled, and in the event an insured experiences an insurable event, the insured receives a discounted rate of services from provider law firm // legal expense insurance on the other hand covers situations where a group of people pay a set premium and receive legal services anticipated and covered in the insurance contract and the legal expenses as a result of those services are covered.
3. Legal Shield's product, as they have mentioned, does not use any indemnity, assumption of risk, or reimbursement for services. In other words, their product, although it may look like insurance, in effect it does not act as insurance. Therefore, the Department, through its research of the product did not identify a legislative intent in the current code to indicate these products should be regulated.