

## CHAPTER 2767

### DEPARTMENT OF COMMERCE

### SELF-INSURANCE PLAN ADMINISTRATORS

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#### 2767.0100 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 2767.0100 to 2767.0950 unless the context clearly indicates a different meaning.

Subp. 2. **Administrator.** "Administrator" means vendors of risk management services and entities administering self-insurance plans or insurance plans as defined in Minnesota Statutes, section 60A.23, subdivision 8, clause (2), that provide coverage to residents of and risks located in Minnesota.

Subp. 3. **Affiliated company.** "Affiliated company" means any company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the applicant company.

Subp. 4. **Key employees.** "Key employees" means those persons who, notwithstanding their titles, are of substantial importance to the operation of the plan administrator. Persons who have substantial discretionary, supervisory, or decision making authority which has a significant impact on the operation of the plan administration are key employees. Officers and managers are presumptively included within this definition.

Subp. 5. **Financial statements.** "Financial statements" means an income statement and a balance sheet prepared in conformity with generally accepted accounting principles.

Subp. 6. **Area or areas of risk management.** "Area" or "areas of risk management" means the following lines of insurance: life; accident and health; workers' compensation; other liability; and property or casualty.

Subp. 7. **Services or risk management services.** "Services" or "risk management services" includes accounting and record retention, actuarial in conjunction with other services, claims administration, general administration, insurance, legal, loss control and safety, rehabilitation, risk management and analysis, and other services related to the establishment and maintenance of a program of self-insurance or a program of insurance.

**Statutory Authority:** *MS s 45.023; 60A.23 subd 8*

**History:** *9 SR 2580; 12 SR 846*

#### 2767.0200 PURPOSE AND SCOPE.

Parts 2767.0100 to 2767.0950 are designed to assure that administrators are capable of providing risk management services, financially solvent, and able to process claims in a prompt and equitable manner; and to allow the commissioner to authorize qualified entities to engage in the business in a manner which is fair, equitable, and consistent with all applicable Minnesota statutes.

**Statutory Authority:** *MS s 45.023; 60A.23 subd 8*

**History:** *9 SR 2580; 12 SR 846*

#### 2767.0300 [Repealed, 12 SR 846]

#### 2767.0400 REQUIREMENTS FOR LICENSING.

Subpart 1. **Application procedure.** Any person or entity desiring to be licensed as an administrator pursuant to Minnesota Statutes, section 60A.23, subdivision 8, shall apply to the commissioner in writing and on forms available from the commissioner. The licensee shall designate areas of risk management services which the administrator may perform. Any license granted is effective for a period of two years unless surrendered by the licensee, or unless the license is revoked or suspended by order of the commissioner. The license is transferable only upon prior written approval by the commissioner as to new ownership or new management of the administrator.

Subp. 2. **Application contents.** Each application for a license as an administrator must:

A. Be signed and sworn to by the applicant, or its owners, and be accompanied by the license fee required by Minnesota Statutes, section 60A.23. If the applicant is a corporate applicant, it must be verified by the president and secretary of the corporation. All fees must be paid by check, draft, or other negotiable instrument. Cash will not be accepted.

B. Describe the specific areas of risk management services intended to be provided.

C. Identify the owners of the company, including all partners of a partnership and all officers of a corporation.

D. Describe the organization and staff, with specific information concerning their expertise to provide service in the areas stated. This information must include detailed resumes of the applicant's key employees and all officers of any subcontractor. Resumes must state each person's name, age, resident address, licensing history, and qualifications and experience relating to the work they are to perform. The information must include:

(1) the experience and history of accountants, if applicable;

(2) if the applicant or its subcontractor intends to provide workers' compensation and other liability claims adjusting, a resume detailing the experience of the supervisor who shall possess at least three years' experience adjusting claims in the area of services to be provided; and

(3) a copy of the license of the adjuster responsible for adjusting workers' compensation or other liability claims, if applicable. The administrator or its subcontractor shall have at least one adjuster who holds a license under Minnesota Statutes, chapter 72B and that adjuster shall be a resident of Minnesota.

E. Fully describe violations or investigations by any governmental agency which are known to the applicant concerning any person who is or may be affiliated with the applicant as an owner, shareholder, officer, employee, subcontractor, or employee of a subcontractor.

F. Submit proof of coverage under a fidelity bond for all persons involved in collecting money and making claims payments, and all officers of the company. The bond must cover losses from dishonesty, theft, forgery or alteration, and misplacement or mysterious and unexplainable disappearance. The bond must cover the actions of the persons subject to the bond as to their handling of clients' money as well as the administrator's money.

G. State the name and address of a resident agent who is authorized to act on behalf of the administrator and to accept service of process.

H. Include financial statements for the previous three years, or for as many years as the administrator has been in business up to three years. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or the financial condition of the applicant since the date of the last financial statement.

I. Contain a statement that the applicant and its officers and supervising managers shall be responsible for the supervision of the actions of any and all personnel and subcontractors acting on behalf of the applicant.

**Statutory Authority:** *MS s 45.023; 60A.23 subd 8*

**History:** *9 SR 2580; 12 SR 846*

**2767.0500** [Repealed, 12 SR 846]

## **2767.0600 LICENSE RENEWALS.**

Subpart 1. **Time of filing.** Application for renewal of a license must be filed with the commissioner at least 60 days prior to the expiration date of that license.

Subp. 2. **Required information.** In support of the application for license renewal, an administrator shall submit:

A. Any changes in the description of the administrative services intended to be provided.

B. Any changes in ownership of the company, including detailed information about the new owners.

C. Any changes in key staff or an employee's responsibilities, including resumes of all new key staff members or additional information to show qualifications of current staff to take on new responsibilities.

D. An explanation of any changes of the responsibilities of any subcontractor, including changes in firms contracted with, services provided, or individuals providing services contracted for.

E. Financial statements for the previous two years, including a certified financial statement for the most recent fiscal year of the administrator or the parent guarantor, if applicable. Certified financial statements for a period ending more than six months prior to the date of the renewal application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or financial condition of the applicant since the date of the certified financial statement. If the administrator has a gross income from sources within the state of Minnesota of less than \$100,000 per year so that the completion of the certified financial statement proves to be an undue financial burden, the applicant may have this requirement waived if:

(1) it has two years of operation within Minnesota on a solvent basis with no history of corporate bankruptcy or personal bankruptcy among chief officers and stockholders; and the administrator provides for "reviewed financial statements" by an independent certified public accountant or licensed public accountant, and provides to the department a copy of those reviewed financial statements along with corporate bank references; or

(2) it posts a surety bond in a form satisfactory to the commissioner in an amount equal to the amount of the claims handled by the applicant in the prior year with a minimum of \$100,000.

F. Proof of coverage under a fidelity bond for all persons involved in making claims payments, and all officers of the company.

G. Information relating to any changes in personnel acting as resident agent for the administrator.

**Statutory Authority:** *MS s 45.023; 60A.23*

**History:** *9 SR 2580; 12 SR 846; 19 SR 2004*

## **2767.0700 LICENSE REPORTING REQUIREMENTS.**

Subpart 1. **Time limit.** Within 30 days after signing an administrator contract, a licensee shall inform the department in writing of the name or names of the client under contract and the areas for which the client is self-insured or insured.

Subp. 2. **Examinations.** The commissioner may make examinations within or outside of the state of each licensee's records at a reasonable time and in the scope necessary to enforce the provisions of Minnesota Statutes and rules of the Department of Commerce.

Subp. 3. **Report compliance.** Each licensee shall file or ensure that the clients it services file all required reports relating to those services which the administrator provides within the times established by statute, rule, or order of the commissioner. Required reports include:

A. an annual activity report, filed within 60 days of the end of the calendar year, stating:

(1) the name and address of clients administered by the licensee in Minnesota during the previous calendar year;

(2) the area and type of service provided to each plan;

(3) the starting and/or termination date each client was serviced;

(4) the total number and total amount of claims paid and loss payments disbursed on behalf of each client; and

(5) the reserves established for each client;

B. loss information reports required by part 2780.0500;

C. any reports required by the Workers' Compensation Reinsurance Association, if applicable;

D. any report required by the Minnesota Department of Labor and Industry, if applicable; and

E. any other report required by the Department of Commerce.

Subp. 4. **Notification of contract termination.** If the contract between a licensee and a client is terminated, the licensee shall notify the commissioner in writing within 30 days after termination. The licensee shall maintain copies of all records relating to the client for six years after the termination date of each contract, if the records are not returned to the client.

Subp. 5. **Notification of cessation of business activities.** If a licensee ceases doing business as an administrator, the license must be surrendered and the commissioner must be informed in writing of the name and address of the custodian and the location of any files of clients formerly administered by the licensee.

Subp. 6. **Notification of material changes.** The administrator shall notify the commissioner in writing of any change in supervisory personnel, management, or any other material change within 30 days after the change and shall include a detailed explanation of the change.

**Statutory Authority:** *MS s 45.023; 60A.23 subd 8*

**History:** 9 SR 2580; 12 SR 846

**2767.0800** [Repealed, 12 SR 846]

**2767.0900 BOND AMOUNTS.**

Subpart 1. **Administrator not commingling funds.** The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that does not commingle funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$100,000, whichever is greater, up to a maximum of \$1,000,000.

Subp. 2. **Administrator commingling funds.** The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that commingles funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$250,000, whichever is greater, up to a maximum of \$2,000,000.

**Statutory Authority:** *MS s 60A.23 subd 8 cl (5)*

**History:** 9 SR 2580

**2767.0950** [Repealed, 12 SR 846]