

CHAPTER 319B

PROFESSIONAL FIRMS

<p>319B.02 Definitions.</p> <p>319B.04 Authority of foreign firms to furnish professional services; election by foreign firms to invoke the act.</p>	<p>319B.08 Effect of death or disqualification of owner.</p> <p>319B.10 Mergers and other reorganizations.</p> <p>319B.11 Professional regulation.</p>
--	--

319B.02 DEFINITIONS.

[For text of subs 1 to 9a, see M.S.1998]

Subd. 10. **Minnesota firm.** "Minnesota firm" includes a corporation organized under chapter 302A or 317A, limited liability company organized under chapter 322B, limited liability partnership registered under section 323.44, and limited liability partnership that has an effective statement of qualification under section 323A.10-01.

[For text of subd 11, see M.S.1998]

Subd. 12. **Organizational document.** "Organizational document" means:

- (1) with respect to a corporation organized under chapter 302A or 317A, that corporation's articles of incorporation;
- (2) with respect to a limited liability company organized under chapter 322B, that limited liability company's articles of organization;
- (3) with respect to a limited liability partnership registered under section 323.44, that limited liability partnership's registration and any notice filed under section 323.44, subdivision 9, in connection with that registration; and
- (4) with respect to a limited liability partnership that has an effective statement of qualification under section 323A.10-01, that statement of qualification.

[For text of subs 13 to 20, see M.S.1998]

Subd. 21. **Statement of foreign qualification.** "Statement of foreign qualification" means:

- (1) with respect to a foreign firm that is a limited liability partnership and has filed a statement of qualification under section 323.49, that statement of qualification and any notice filed under section 323.49, subdivision 9; and
- (2) with respect to a limited liability partnership that has an effective statement of foreign qualification under section 323A.11-02, that statement of foreign qualification.

Subd. 22. **Update.** "Update" means:

- (1) with respect to a Minnesota professional firm that is either a Minnesota corporation or a Minnesota limited liability company, amend the organizational document;
- (2) with respect to a Minnesota professional firm that is a Minnesota limited liability partnership registered under section 323.44, file a notice under section 323.44, subdivision 9, in connection with the Minnesota limited liability partnership's registration;
- (3) with respect to a foreign professional firm that is a foreign corporation, file a notice under section 303.115 in connection with the foreign corporation's certificate of authority;
- (4) with respect to a foreign firm that is a limited liability company, file a notice under section 322B.92, clause (3), in connection with the foreign limited liability company's certificate of authority;
- (5) with respect to a foreign professional firm that is a foreign limited liability partnership and has filed a statement of qualification under section 323.49, file a notice under section 323.49, subdivision 9, in connection with that statement of qualification;
- (6) with respect to a Minnesota professional firm that is a limited liability partnership and has an effective statement of qualification under section 323A.10-01, amend that statement of qualification; and

(7) with respect to a foreign professional firm that is a limited liability partnership and has an effective statement of foreign qualification under section 323A.11-02, amend that statement of foreign qualification.

History: 1999 c. 85 art. 3 s. 1-4

319B.04 AUTHORITY OF FOREIGN FIRMS TO FURNISH PROFESSIONAL SERVICES; ELECTION BY FOREIGN FIRMS TO INVOKE THE ACT.

[For text of subd. 1, see M.S.1998]

Subd. 2. Election to invoke authority under this act. To elect to become a foreign professional firm and be authorized to furnish professional services according to sections 319B.01 to 319B.12, a foreign firm must in its certificate of authority or statement of foreign qualification:

- (1) state that the firm elects to operate under sections 319B.01 to 319B.12;
- (2) acknowledge that the firm is subject to those sections;
- (3) state that, to the extent its generally applicable governing law conflicts or differs with those sections, the foreign firm has made the necessary changes to the agreements and other documents controlling its structure, governance, operations, and internal affairs so as to comply with those sections; and

(4) specify from the list stated in section 319B.02, subdivision 19, the category or categories of professional services the foreign firm is authorized to provide within Minnesota.

The statements, acknowledgment, and specification may be made when the foreign firm initially files for a certificate of authority or statement of foreign qualification or may be added at a later time by updating that document.

Subd. 3. Rescission and amendment of election. (a) A foreign firm may rescind its election by updating its certificate of authority or statement of foreign qualification to delete the statements, acknowledgment, and specification required by subdivision 2.

(b) A foreign firm may update its certificate of authority or statement of foreign qualification to change the specification required by subdivision 2, clause (4).

History: 1999 c. 85 art. 3 s. 5,6

319B.08 EFFECT OF DEATH OR DISQUALIFICATION OF OWNER.

Subdivision 1. Acquisition of interests or automatic loss of professional firm status.

(a) If an owner dies or becomes disqualified to practice all the pertinent professional services, then either:

(1) within 90 days after the death or the beginning of the disqualification, all of that owner's ownership interest must be acquired by the professional firm, by persons permitted by section 319B.07 to own the ownership interest, or by some combination; or

(2) at the end of the 90-day period, the firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded, the firm loses its status as a professional firm, and the authority created by that election and status terminates.

An acquisition satisfies clause (1) if all right and title to the deceased or disqualified owner's interest are acquired before the end of the 90-day period, even if some or all of the consideration is paid after the end of the 90-day period. However, payment cannot be secured in any way that violates sections 319B.01 to 319B.12.

(b) If automatic rescission does occur under paragraph (a), the firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign qualification. Even without that updating, however, the rescission, loss of status, and termination of authority provided by paragraph (a) occur automatically at the end of the 90-day period.

[For text of subs. 2 to 4, see M.S.1998]

History: 1999 c. 85 art. 3 s. 7

319B.10 MERGERS AND OTHER REORGANIZATIONS.

[For text of subd. 1, see M.S.1998]

Subd. 2. **Effect on participating professional firm.** (a) If a professional firm participates in and survives a reorganization but the reorganization causes the surviving firm to be out of compliance with section 319B.07 or 319B.09, or both:

(1) the surviving firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded;

(2) the surviving firm immediately loses its status as a professional firm and the authority created by that election and status terminates; and

(3) the surviving firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign qualification. Even without that amendment, however, the rescission, loss of status, and termination of authority occur automatically when the reorganization takes effect.

(b) If, before a reorganization takes effect, the 90-day deadline established in section 319B.07, subdivision 1, has been triggered but has not yet elapsed with regard to an ownership interest in a professional firm participating in the reorganization, the surviving firm is not out of compliance with sections 319B.07 and 319B.09 merely because the reorganization accords a comparable ownership interest in the surviving firm to the disqualified owner or the representative of the deceased owner's estate. The original 90-day deadline applies to the comparable ownership interest and the surviving firm.

[For text of subs 3 and 4, see M.S.1998]

History: 1999 c 85 art 3 s 8

319B.11 PROFESSIONAL REGULATION.

[For text of subs 1 and 2, see M.S.1998]

Subd. 3. **Filing of organizational document and report information.** (a) No professional firm may furnish professional services within Minnesota until the firm files with each board having jurisdiction over the pertinent professional services:

(1) a copy of the firm's organizational document, certificate of authority, or statement of foreign qualification;

(2) a report containing the same information as required by subdivision 4; and

(3) except as stated in paragraph (b), a fee of \$100.

(b) If a firm has previously been organized under sections 319A.01 to 319A.22, that firm is not required to pay the filing fee under paragraph (a).

Subd. 4. **Annual report.** (a) Every professional firm must file annually on or before January 1 with the board or boards having jurisdiction over the pertinent professional services a report containing the following:

(1) the name and address of the professional firm;

(2) the contents of any amendment made to the firm's organizational document, certificate of authority, or statement of foreign qualification since the filing of the most recent report under subdivision 3 or this subdivision;

(3) a designation of the position or positions within the firm that have governance authority;

(4) the name and address of each owner of an ownership interest and each person occupying a position with governance authority;

(5) a statement as to whether all employees, agents, and independent contractors furnishing professional services within Minnesota on behalf of the professional firm are professionals authorized to furnish at least one category of the pertinent professional services;

(6) except in the case of a professional firm that is organized under chapter 317A or the nonprofit corporation statute of another state, a statement as to whether all owners and persons occupying a position with governance authority are professionals authorized to furnish at least one category of the pertinent professional services;

(7) in the case of a professional firm that is organized under chapter 317A or the nonprofit corporation statute of another state, a statement as to whether at least one person occu-

pying a position with governance authority is a professional authorized to furnish at least one category of the pertinent professional services; and

(8) any additional information as the board may by rule prescribe as appropriate to assist in determining whether a professional firm is complying with sections 319B.01 to 319B.12.

The statement required by clauses (5), (6), and (7) must be made and signed under oath by a professional who is an owner or employee of the professional firm, licensed in at least one category of the pertinent professional services and duly authorized to make the statement on behalf of the professional firm.

(b) For filing each annual report under paragraph (a), each firm must pay a fee of \$25 to each board with which the report is filed.

[For text of subds 5 to 7, see M.S.1998]

Subd. 8. Involuntary dissolution and rescission of professional firm status. A board, through the attorney general, may institute proceedings in a district court of this state or a contested case proceeding under chapter 14 to involuntarily rescind a professional firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, to impose restrictions or conditions on that election or to reprimand the professional firm due to a violation of sections 319B.01 to 319B.12, the relevant licensing statute as listed in section 319B.02, subdivision 19, or the rules of the board. A board, through the attorney general, may institute proceedings in a district court of this state to have a Minnesota professional firm involuntarily dissolved, or a foreign professional firm's certificate of authority or statement of foreign qualification revoked on those grounds, as well as on any other grounds provided by Minnesota law. A board may seek reprimands, restrictions, conditions, involuntary rescission, and, as appropriate, dissolution or revocation within a single proceeding in a district court of this state. After a court enters a decree imposing rescission, dissolution, or revocation upon a professional firm, a board shall cause a certified copy of the decree to be filed with the secretary of state. The secretary of state shall not charge a fee for filing the decree. A board's claim against a professional firm for involuntary dissolution or revocation does not abate simply because the professional firm has rescinded its election under section 319B.03, subdivision 2, or 319B.04, subdivision 2. A voluntary rescission does abate a board's claim to obtain reprimands, restrictions, conditions, or involuntary rescission.

[For text of subd 9, see M.S.1998]

History: 1999 c 85 art 3 s 9-11