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Choosing a Lawyer- Why You Should Use A Registered Intermediary Organization

In an effort to protect Tennesseans, regulations have been established by the Tennessee Supreme Court to govern “Intermediary Organizations,” which include lawyer referral services, prepaid legal services, and Internet lawyer referral services. Today the Internet is such a strong marketing force that virtually anything and anybody can be found in cyberspace - including professionals such as doctors and lawyers. In fact, finding lawyers online has become commonplace. But rapid access has created its own pitfalls, which is why the Knoxville Bar Association has put together this material to encourage consumers to understand the difference in using a registered lawyer referral service.

Beware, however, because not all intermediary organizations are in compliance with the rules of the Tennessee Supreme Court. The importance of dealing with a registered Intermediary Organizations lies within the requirements of operation. Besides the “administrative” requirements there are also operational requirements which hold these organizations to a higher standard. Requirements such as: lawyers must meet reasonable and objectively determinable standards of competence and experience; the organization shall utilize reasonable procedures to assure that the participating lawyers are properly licensed and competent to handle the matters referred to them; the organization can not request or require that a participating lawyer reveal information that is privileged or protected by RPC 1.6.

What is an Intermediary Organization?

When obtaining a referral from a source whose business includes *the referral to lawyers for the performance of fee-generating legal services OR the payment for or provisions of legal service to the organizations’ customers, members, or the payment for or provisions of legal service to the organizations’ customers, members, or beneficiaries in matter for which the organization does not bear ultimate responsibility, then, you are dealing with an intermediary organization.*

Why you should only use a registered intermediary organization?

1. **MONITORING BY THE BOARD OF PROFESSIONAL RESPONSIBILITY**

All approved intermediary organizations have registered with and file annual statements to the Board of Professional Responsibility, the organization with the power and authority to monitor a lawyer's behavior and discipline lawyers for unethical conduct. Thus, if you use a registered organization, you have the assurance that the Board of Professional Responsibility has examined that organization and continues to monitor its activities in the State of Tennessee.

A complete list of registered intermediary organizations can be found on the Board of Professional Responsibility website at <http://www.tbpr.org/Attorneys/InterOrgR44>. The Knoxville Bar Association (KBA) Lawyer Referral & Information Service meets the requirements set by the Tennessee Supreme Court, but is not listed on the Board's website since as a part of the Knoxville Bar Association it is exempt from filing an annual registration statement.

2. **FINANCIAL REVIEW**

As part of the initial registration and annual statements that only approved intermediary organizations file with the Board of Professional Responsibility, a copy of the organization's financial statements audited by an independent certified public accountant must be submitted for review.

3. **QUALIFIED AND EXPERIENCED LAWYERS**

Only approved intermediary organizations are required to take reasonable steps to determine that the lawyers they refer are in good standing with the Board of Professional Responsibility and properly licensed. In addition, registered intermediary organizations require their lawyers to meet standards of competence and experience.

What businesses are considered "Intermediary Organizations"?

"Intermediary Organizations," include prepaid legal services, lawyer referral services, and Internet lawyer referral services.

Prepaid Legal Service Plans

Sometimes called the "legal industry's version of HMOs," prepaid legal service plans were owned by about 115 million Americans in 1999 and continue to gain in popularity nationwide. These plans are organized in different ways and are typically available through individual memberships, but they usually offer a fairly standard mix of legal services to their members—consumers, who sign a membership agreement—in exchange for a fixed monthly fee. The legal services are actually provided by lawyers or law firms who are paid directly by the plan's provider. The plan provider often uses only one or two law firms in a state, which are

responsible for handling all the legal services provided under that plan to its members in that state. (For instance, one of these prepaid legal service plan provider in Tennessee uses only one law firm, located in Nashville, to cover potential claims and needs of all that plan's members across all of Tennessee.)

The legal services offered by these plans are often limited to a fixed amount of legal advice over a fixed period of time (for instance, two telephone consultations, one contract review, etc.) during the course of one year. Limits not only exist as far as *who* provides legal services to you under a prepaid legal plan - there are often big limits as to *what kind* of legal services are actually available under these plans.

The recruitment of consumers for prepaid legal plans is a very competitive business but—unlike insurance or health care policies or HMOs—currently it is not an extensively regulated business. While state regulators now govern prepaid legal plan providers' activities in 16 states, no similar regulatory controls are required in most other states. What this means to the consumer, is that in most states, there are not a lot of regulatory officials whose job it is to look over the shoulders of prepaid legal plan providers, in case any issues or problems come up.

Lawyer Referral ServicesA referral service is “*any organization in which a person or entity receives requests for lawyer services, and allocates such requests to a particular lawyer or lawyers or that holds itself out to the public as a lawyer referral service*”. In Tennessee, lawyers are prohibited from accepting referrals from a non-registered intermediary organization. However, this does not mean that ALL lawyer referral services operating in Tennessee are registered and in compliance with Rule 44.

The availability of referral services on the Internet has exploded in recent years. Most services advertise itself to prospective clients as a method to “Find the Right Lawyer” for their particular legal problem. Most Internet referral services specifically and repeatedly disclaim being a “referral” service, instead calling itself a “matching” service. Tennessee has found that when the Service makes subjective judgments about which lawyers to connect to which prospective clients, that it therefore functions as a referral service.

Most people don't have lawyers until legal matters arise – and then they don't know how to find them. A bar association sponsored lawyer referral service can help consumers locate a lawyer experienced in the area in which they need help. Lawyers who are registered with lawyer referral programs are in good standing with their state licensing authority and are considered qualified in their areas of practice. Callers will speak with trained staff who will determine the nature of the legal questions at hand and will suggest lawyers who can answer them.

The service also can help callers determine whether a lawyer is needed, or if a community or government agency would be more helpful. In some cases, all the client may need is a brief phone or office consultation to resolve their legal issue. If not, after the initial consultation, it's up to the client to determine whether to hire the lawyer.

More than 5,000 inquiries are made annually to the Knoxville Bar Association Lawyer Referral Service through phone calls and the Internet. Family law issues rank first in the number of inquiries made to Lawyer Referral programs. But lawyers can assist clients with a number of situations, including legal matters pertaining to wills, accidents and injuries, buying or selling real estate, starting a business, civil rights, employment, housing and consumer issues.

The Knoxville Bar Association is a non-profit corporation organized to work for the improvement and increased effectiveness of the legal profession and the administration of justice. The Association, which has close to 1600 members, offers continuing legal education and service to the community through programs such as the Lawyer Referral & Information Service, Community Law School, LawTalk and LawLine OnLine. Additional public service information may be found at the Association's website at www.knoxbar.org.