

Chapter 17, consisting of §§ 12-2601 and 12-2602, was added by Laws 1995, Ch. 296, § 1, effective July 13, 1995.

Laws 1993, Ch. 90, § 14, purportedly transferred for placement here Chapter 17, Periodic Payments, consisting of Article 1, General Provisions, §§ 12-2601 to 12-2614, (formerly in Title 12 as Chapter 5.1, Article 2, consisting of §§ 12-581 to 12-594). The transfer did not take place as a result of ballot referendum failure at the 1994 general election.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of §§ 12-2601 and 12-2602, was added by Laws 1995, Ch. 296, § 1, effective July 13, 1995.

§ 12-2601. Definitions

In this article, unless the context otherwise requires:

1. "Claim" means a legal cause of action except for actions relating to health care under §§ 12-561 through 12-563 of this title or under title 46, chapter 4 or an affirmative defense to which all of the following apply:

(a) The claim is asserted against a licensed professional in a complaint, answer, cross-claim, counterclaim or third party complaint.

(b) The claim is based on the licensed professional's alleged breach of contract, negligence, misconduct, errors or omissions in rendering professional services.

(c) Expert testimony is necessary to prove the licensed professional's standard of care or liability for the claim.

2. "Expert" means a person who is qualified by knowledge, skill, experience, training or education to express an opinion regarding a licensed professional's standard of care or liability for the claim.

3. "Licensed professional" means a person, corporation, professional corporation, partnership, limited liability company, limited liability partnership or other entity that is licensed by this state to practice a profession or occupation under title 20 or 32 or that is admitted to the state bar.

Added by Laws 1999, Ch. 194, § 3.

§ 12-2602. Preliminary expert opinion testimony; certification

A. If a claim against a licensed professional is asserted in a civil action, the claimant or the claimant's attorney shall certify in a written statement that is filed and served with the claim whether or not expert opinion testimony is necessary to prove the licensed professional's standard of care or liability for the claim.

B. If the claimant or the claimant's attorney certifies pursuant to subsection A that expert opinion testimony is necessary, the claimant shall serve a preliminary expert opinion affidavit with the initial disclosures that are required by rule 26.1, Arizona rules of civil procedure. The claimant may provide affidavits from as many experts as the claimant deems necessary. The preliminary expert opinion affidavit shall contain at least the following information:

1. The expert's qualifications to express an opinion on the licensed professional's standard of care or liability for the claim.

2. The factual basis for each claim against a licensed professional.

3. The licensed professional's acts, errors or omissions that the expert considers to be a violation of the applicable standard of care resulting in liability.

4. The manner in which the licensed professional's acts, errors or omissions caused or contributed to the damages or other relief sought by the claimant.

C. The court may extend the time for compliance with this section on application and good cause shown or by stipulation of the parties to the claim. If the court extends the time for compliance, the court may also adjust the timing and sequence of disclosures that are required from the licensed professional against whom the claim is asserted.

D. If the claimant or the claimant's attorney certifies that expert testimony is not required for its claim and the licensed professional who is defending the claim disputes that certification in good faith, the licensed professional may apply by motion to the court for an order requiring the claimant to obtain and serve a preliminary expert opinion affidavit under this section. In its motion, the licensed professional shall identify the following:

1. The claim for which it believes expert testimony is needed.

2. The prima facie elements of the claim.

3. The legal or factual basis for its contention that expert opinion testimony is required to establish the standard of care or liability for the claim.

E. After considering the motion and any response, the court shall determine whether the claimant shall comply with this section and, if the court deems that compliance is necessary, shall set a date and terms for compliance. The court shall stay all other proceedings and applicable time periods concerning the claim pending the court's ruling on the motion to compel compliance with this section.

F. The court, on its own motion or the motion of the licensed professional, shall dismiss the claim against the licensed professional without prejudice if the claimant fails to file and serve a preliminary

expert opinion affidavit after the claimant or the claimant's attorney has certified that an affidavit is necessary or the court has ordered the claimant to file and serve an affidavit.

G. A claimant may supplement a claim or preliminary expert opinion affidavit with additional claims, evidence or expert opinions that are timely disclosed under the Arizona rules of civil procedure or pursuant to court order. An action under this chapter does not preclude a party from using a preliminary expert opinion affidavit for any purpose, including impeachment.

Added by Laws 1999, Ch. 194, § 3.

§§ 12-2603 to 12-2614. Rejected (See, now, §§ 12-583 to 12-594)

CHAPTER 18

IMMIGRATION AND NATIONALITY LAW PRACTICE ACT

ARTICLE 1. GENERAL PROVISIONS

Section

12-2701. Definitions.

12-2702. Representation; definition.

12-2703. Violation; classification; civil remedies.

Chapter 18, consisting of Article 1, §§ 12-2701 to 12-2703, was added as Title 1, Chapter 5, consisting of Article 1, §§ 1-501 to 1-503 by Laws 1993, Ch. 251, § 1, effective July 17, 1993, and was renumbered by the Reviser.

ARTICLE 1. GENERAL PROVISIONS

§ 12-2701. Definitions

In this chapter, unless the context otherwise requires:

1. "Immigration consultant" means any person who renders services, including the completion of forms and applications, to a client if the services are related to the client's desire to determine his legal status in an immigration or naturalization matter and who is beyond the scope of federal regulations regulating appearances and practice under the immigration and nationality act of 1952, as amended.¹

2. "Immigration or naturalization matter" includes all matters implicating any law, action, filing or proceeding related to a person's immigration or citizenship status in the United States.

3. "Original document" means any document of the United States government or any department

or agency of the United States government, any foreign government, any state government or any political subdivision of any state or any other document, including signed affidavits, that would demonstrate physical presence by a person in the United States.

4. "Unauthorized practice of immigration and nationality law" means:

(a) The act of any person appearing in any case, either in person or through preparation or filing of any brief or other document, paper, application or petition on behalf of another person or client before or with the immigration and naturalization service, or any officer of the immigration and naturalization service, the executive office for immigration review or the board of immigration appeals, without authorization under this chapter.

(b) The study of the facts of a case and the applicable laws, coupled with giving advice and auxiliary activities, including the incidental preparation of papers, without authorization under this chapter, but does not include the lawful functions of a notary public, nonprofit organization or service consisting solely of assistance in the completion of blank spaces on printed immigration and naturalization service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.

Added as § 1-501 by Laws 1993, Ch. 251, § 1. Renumbered as § 12-2701.

¹ 8 U.S.C.A. § 1101 et seq.