

60A.970 GENERAL REQUIREMENTS.

Subdivision 1. **Required documents.** A viatical settlement provider entering into a viatical settlement contract with a person with a catastrophic or life threatening illness or condition shall first obtain:

(1) a written statement from a licensed attending physician that the person is of sound mind and under no constraint or undue influence; and

(2) a witnessed document in which the person consents to the viatical settlement contract, acknowledges the catastrophic or life threatening illness, represents that the person has a full and complete understanding of the viatical settlement contract, acknowledges that the person has a full and complete understanding of the benefits of the life insurance policy, releases the person's medical records, and acknowledges that the person has entered into the viatical settlement contract freely and voluntarily.

Subd. 2. **Confidentiality of medical information.** All medical information solicited or obtained by a licensee is subject to the applicable provisions of state law relating to confidentiality of medical information.

Subd. 3. **Unconditional refund provision.** All viatical settlement contracts entered into in this state must contain an unconditional refund provision of at least 30 days from the date that the viator signs an agreement to transfer an insurance policy or 15 days of the receipt of the viatical settlement proceeds, whichever is less.

Subd. 4. **Payment of proceeds.** Immediately upon receipt from the viator of documents to effect the transfer of the insurance policy, the viatical settlement provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a bank approved by the commissioner, pending acknowledgment of the transfer by the issuer of the policy. The trustee or escrow agent must transfer the proceeds due to the viator immediately upon receipt of acknowledgment of the transfer from the insurer. Payment of the proceeds must be made by means of wire transfer to the viator or by certified check or cashier's check.

Subd. 5. **Lump sum payment.** Payment of the proceeds under a viatical settlement must be made in a lump sum. Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible. Payment must not be made by installments unless the viatical settlement company has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank.

Subd. 6. **Additional payment.** With respect to policies containing a provision for double or other additional indemnity for accidental death, the additional payment must remain payable to

the beneficiary last named by the viator before entering into the viatical settlement agreement, or to a beneficiary designated by the viator, other than the viatical settlement provider, or in the absence of a designation, to the estate of the viator.

Subd. 7. **Prohibited payments.** A viatical settlement provider or broker must not pay or offer to pay a finder's fee, commission, or other compensation to a viator's physician, attorney, accountant, or other person providing medical, legal, or financial planning services to the viator, or to any other person acting as an agent of the viator with respect to the viatical settlement.

Subd. 8. **Discrimination prohibited.** A viatical settlement provider or broker must not discriminate in the making of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or sexual orientation, or discriminate between viators with dependents and without.

Subd. 9. **Health status contacts.** Contacts for the purpose of determining the health status of the viator by the viatical settlement provider or broker after the viatical settlement has occurred must not exceed one every three months for viators with a life expectancy of more than one year and must not exceed one per month for viators with a life expectancy of one year or less. The provider or broker must explain the procedure for these contacts at the time the viatical settlement contract is entered into.

Subd. 10. **Prohibited investor solicitation.** Viatical settlement providers and brokers shall not solicit investors who may influence the treatment of the illness of the viators whose coverage is the subject of the investment.

Subd. 11. **Contract null and void.** Failure to tender the viatical settlement by the date disclosed to the viator renders the contract null and void.

History: *1995 c 151 s 11*