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Viatical Settlements

Sec. 38a-465-1. Definitions

As used in sections 38a-465-1 to 38a-465-10, inclusive:

(1) "Commissioner" means the Insurance Commissioner of the State of Connecticut;

(2) "Insured" means the person covered under a life insurance policy or the holder of a certificate being considered for viatication;

(3) "Life expectancy" means the average of the number of months the individual insured under the life insurance policy to be viaticated can be expected to live as determined by the viatical settlement provider considering medical records and appropriate experiental data;

(4) "Patient identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number or any other information that is likely to lead to identification of the insured;

(5) "Viatical settlement" means viatical settlement as defined in section 38a-465 of the Connecticut general statutes;

(6) "Viatical settlement agent" means viatical settlement agent as defined in section 38a-465 of the Connecticut general statutes;

(7) "Viatical settlement broker" means viatical settlement broker as defined in section 38a-465 of the Connecticut general statutes;

(8) "Viatical settlement provider" means viatical settlement provider as defined in section 1 of Public Act 99-104;

(9) "Viator" means viator as defined in section 38a-465 of the Connecticut general statutes.

(Adopted effective November 9, 1998; amended March 1, 2000)

Sec. 38a-465-2. Annual statement reporting requirements

(a) Each viatical settlement provider shall file with the Commissioner on or before March 1 each year, commencing with March 1, 2001, an annual statement containing the following information regarding business transacted in this state for the previous calendar year:

(1) For each policy viaticated, the date that the viatical settlement was entered into; the life expectancy of the viator at the time of the contract; the face amount of the policy; the amount paid by the viatical settlement provider to viaticate the policy and the percentage that amount represents of the face amount; and if the viator has died, the date, the total insurance premiums paid by the viatical settlement provider to maintain the policy in force and the primary ICD diagnosis code, in numeric format, as defined by the International Classification of Diseases, as published by the U.S. Department of Health and Human Services;

(2) a breakdown of applications received, accepted, and rejected, by disease category;

(3) a breakdown of policies viaticated by issuer and policy type;

(4) the number of secondary market versus primary market transactions;

(5) the total number of policies viaticated, the total policy premiums paid, the total paid to all viators, and the total commissions paid to viatical settlement brokers;

(6) the source and amount of outside borrowing or financing; and

(7) the name and address of each viatical settlement broker through whom the reporting company purchased a policy from a viator who resided in Connecticut at the time of contract.

(Adopted effective November 9, 1998; amended March 1, 2000)

Sec. 38a-465-3. Verification of license status of viatical settlement providers

Each licensed viatical settlement broker shall file on or before March 1 of each year, commencing March 1, 2001, a notarized statement, signed under oath or affirmation, verifying that each viatical settlement provider from which such viatical settlement broker receives a commission or other payment or benefit is licensed in the State of Connecticut.

(Adopted effective November 9, 1998; amended March 1, 2000)

Sec. 38a-465-4. Confidentiality of identity of viator

(a) No person may submit the report required by Section 38a-465-2 in such a manner as would identify any viator except with the express written consent of such viator or the viator's estate or representative;

(b) A viatical settlement agent, viatical settlement broker or viatical settlement provider shall not provide patient identifying information to any person, unless the viator and the insured provide written consent to the release of the information at or before the time of the viatical settlement transaction.

(Adopted effective November 9, 1998; amended March 1, 2000)

Sec. 38a-465-5. Evaluation standards for reasonable payments

(a) A viatical settlement broker, company or provider shall not enter into a viatical settlement that provides payment to the viator that is unreasonable, unjust or inequitable. In determining whether a payment is unreasonable, unjust or inequitable, the commissioner may consider, among other factors, the life expectancy of the viator, the applicable rating of the insurance company that issued the subject policy by a rating service generally recognized by the insurance industry, regulators and consumer groups and the prevailing discount rates in the viatical settlement market in Connecticut, or if sufficient data is unavailable for Connecticut, the prevailing discount rates nationally or in other states that maintain this data; and

(b) A viatical settlement provider shall not use a longer life expectancy than is realistic in order to reduce the payout to which the viator is entitled.

(Adopted effective March 1, 2000)

Sec. 38a-465-6. Amounts payable to viator

(a) Payment of the proceeds of a viatical settlement pursuant to subsection (c) of section 38a-465g of the Connecticut General Statutes shall be made by means of wire transfer to the account of the viator or by certified check or cashier's check.

(b) Payment of the proceeds to the viator pursuant to a viatical settlement shall be made in a lump sum except where the viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the viatical settlement provider or escrow agents is not permissible.

(Adopted effective March 1, 2000)

Sec. 38a-465-7. Prohibited practices

(a) A viatical settlement agent, viatical settlement broker or viatical settlement provider shall not discriminate in the creation or solicitation of a viatical settlement contract on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, sexual orientation, or based on whether the viator has children.

(b) A viatical settlement agent, viatical settlement broker or viatical settlement provider shall not pay or offer to pay any finder's fee commission or other compensation to any viator's physician, attorney, accountant, or any other person providing

financial planning services, legal services or medical services to the viator, or to any other person acting as an agent of the viator with respect to the viatical settlement transaction.

(c) A viatical settlement provider shall not knowingly solicit investors who have treated or have been asked to treat the illness of the insured whose coverage would be the subject of the investment.

(d) A viatical settlement provider shall not act also as a viatical settlement broker, whether entitled to collect a fee directly or indirectly, in the same viatical settlement.

(e) A viatical settlement broker shall not, without the written agreement of the viator obtained prior to performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

(Adopted effective March 1, 2000)

Sec. 38a-465-8. Advertising practices

(a) Advertising related to the viatical settlement shall be truthful and not misleading by fact or implication.

(b) If the advertiser references the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(c) If the advertising references the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percentage of face value obtained by viators contracting with the advertiser during the past six (6) months.

(Adopted effective March 1, 2000)

Sec. 38a-465-9. Interest retained by viator

If a viatical settlement provider enters a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions: (1) A provision that the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company; (2) a provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either (A) advise the insured, in writing that the insurance company has confirmed the viator's interest in the policy or (B) send a copy of the instrument sent from the insurance company to the viatical settlement company that acknowledges the viator's interest in the policy; and (3) a provision that apportions the premiums to be paid by the viatical settlement company and the viator. It is permissible for the viatical settlement contract to specify that all premiums shall be paid by the viatical settlement company. The contract may also require that the viator reimburse the viatical settlement provider for the premiums attributable to the retained interest.

(Adopted effective March 1, 2000)

Sec. 38a-465-10. Disclosure requirements

(a) A disclosure document containing the disclosures required in section 38a-465f of the Connecticut General Statutes and sections 38a-465-1 to 38a-465-10, inclusive, of the Regulations of Connecticut State Agencies shall be provided before or concurrent with taking an application for a viatical settlement contract.

(b) The disclosure document shall contain the following language "all medical, financial or personal information solicited or obtained by a viatical settlement company or viatical settlement broker about a viator and an insured, including the

viator and insured's identity of family members, a spouse or a significant other, is confidential.''

(c) The disclosed information required in section 38a-465f of the Connecticut General Statutes and sections 38a-465-1 to 38a-465-10, inclusive, of the Regulations of Connecticut State Agencies shall not be disclosed in any form to any person, unless disclosure: (1) is necessary to effect the viatical settlement; (2) is for an insurer to determine its obligation or responsibility under a policy or certificate and the viator and the insured have provided written consent; or is permitted by law to be disclosed.

(Adopted effective March 1, 2000)