



Ohio Revised Code

Section 3916.07 Viatical settlement provider - duties - confidentiality of medical information.

Effective: September 11, 2008

Legislation: House Bill 404 - 127th General Assembly

(A) A viatical settlement provider entering into a viatical settlement contract shall first obtain all of the following:

(1) If the viator is the insured, a written statement from an attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract. As used in this division, "physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) A document in which the insured consents in writing, as required by division (E) of section 3916.13 of the Revised Code, to the release of the insured's medical records to a viatical settlement provider or viatical settlement broker and to the insurance company that issued the policy covering the life of the insured.

(B) Within twenty days after a viator executes documents necessary to transfer any rights under a policy or within twenty days of entering any expressed or implied agreement, option, promise, or other form of understanding to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by division (C) of this section.

(C) The viatical settlement provider shall deliver a copy of the medical release required under division (A)(2) of this section, a copy of the viator's application for the viatical settlement contract, the notice required under division (B) of this section, and a request for verification of coverage to the insurer that issued the policy that is the subject of the viatical transaction. The viatical settlement provider shall use the NAIC's form for verification of coverage unless another form is developed or approved by the superintendent of insurance.

(D) The insurer shall respond to a request for verification of coverage submitted on an approved



form by a viatical settlement provider or viatical settlement broker within thirty calendar days after the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding possible fraud or the validity of the life insurance policy that is the subject of the request. The insurer shall accept an original or facsimile or electronic copy of such request and any accompanying authorization signed by the viator.

(E) Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract and a full and complete understanding of the benefits of the policy, and acknowledges that the viator is entering into the viatical settlement contract freely and voluntarily and, for persons who are terminally or chronically ill, acknowledges that the insured is terminally or chronically ill and that the terminal or chronic illness was diagnosed after the policy was issued.

(F) If a viatical settlement broker performs any of the activities specified in this section on behalf of the viatical settlement provider, the viatical settlement provider is deemed to have fulfilled the requirements of this section.

(G) All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information.