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§8–606.

(a) Before an offer to purchase a policy can be made to a viator, a viatical settlement provider shall:

(1) provide the viator with a disclosure statement that:

(i) contains the disclosures required in subsections (b) and (c) of this section; and

(ii) has been signed by the viatical settlement provider; and

(2) receive from the viator the disclosure statement signed by the viator.

(b) Before an offer to purchase a policy can be made to the viator, a viatical settlement provider shall provide to the viator a disclosure statement that contains the following disclosures:

(1) there are possible alternatives to viatical settlement contracts, including any accelerated death benefits or policy loans offered under the viator's policy;

(2) some or all of the proceeds of the viatical settlement may be taxable under federal or State income tax law, and assistance should be sought from a professional tax adviser;

(3) proceeds of the viatical settlement could be subject to the claims of creditors;

(4) receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies;

(5) (i) the viator has the right to rescind a viatical settlement contract for 15 calendar days after receipt of the viatical settlement proceeds by the viator, subject to repayment of all viatical settlement proceeds and any premiums and loan interest paid by the viatical settlement provider; and

(ii) if the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds and any premiums, loans, and loan interest to the viatical settlement provider;

(6) funds will be sent to the viator within 3 business days after the viatical settlement provider has received the insurer's or group administrator's

acknowledgment that ownership of or interest in the policy has been transferred and the beneficiary has been designated;

(7) entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator, and assistance should be sought from a financial adviser; and

(8) (i) the insured may be contacted by either the viatical settlement provider or the viatical settlement broker or its authorized representative for the purpose of determining the insured's health status; and

(ii) this contact is limited to:

1. once every 3 months if the insured has a life expectancy of more than 1 year; and

2. not more than once per month if the insured has a life expectancy of 1 year or less.

(c) (1) Disclosure to a viator also shall include distribution of a brochure that describes the process of viatical settlements and contains a description of the statutory fiduciary duty of a viatical settlement broker to a viator.

(2) The National Association of Insurance Commissioners form for the brochure shall be used unless a brochure is:

(i) developed by the Commissioner; or

(ii) developed by a viatical settlement broker or viatical settlement provider and approved by the Commissioner.

(d) The disclosure statement shall contain the following language: "All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every 2 years.".

(e) A viatical settlement provider or viatical settlement broker shall provide the viator with a copy of the disclosure statement signed by the viator and the viatical settlement provider or viatical settlement broker, at the time that an application for a viatical settlement contract is provided to the viator.

(f) (1) A viatical settlement provider shall provide the viator with at least

the disclosures required by this subsection no later than the date that the viatical settlement contract is signed by all parties.

(2) The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker.

(3) The disclosures required under this subsection shall provide the following information:

(i) a statement of the affiliation, if any, between the viatical settlement broker, viatical settlement provider, and the insurer that issued the policy to be viaticated;

(ii) the name, address, and telephone number of the viatical settlement provider;

(iii) if the policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with an insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement;

(iv) 1. the dollar amount of the current death benefit payable to the viatical settlement provider under the policy; and

2. if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the viatical settlement provider's interest in those benefits; and

(v) 1. the name, business address, and telephone number of the independent third party escrow agent; and

2. the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(g) If the viatical settlement provider transfers ownership or changes the beneficiary of the policy, the viatical settlement provider shall communicate the change in ownership or beneficiary to the insured within 20 days after the change.

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