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Viatical Settlement Act of 2008 – Anti-Fraud Plan

Each Viatical Settlement Broker and Provider applicant must provide an Anti-Fraud Plan (“AFP”). The purpose of the plan is to formulate a plan of action pursuant to 36 O.S. § 4055.13(G).

An applicant must include, but is not limited to, a plan which includes the following key elements:

- **Description of procedure for detecting and investigating fraudulent acts**
- **Procedure for resolving *material inconsistencies or misrepresentations between medical records and insurance applications**
- **Description of procedure for reporting fraudulent viatical settlement acts to the commissioner**
- **Description of the plan for anti-fraud education and training of underwriters and other personnel**
- **Descriptions or chart outlining organizational arrangement for anti-fraud personnel responsible for investigation and reporting fraudulent acts and investigating unresolved material inconsistencies between medical records and insurance applications**

*An inconsistency or misrepresentation is material if, had the party known the truth, the party would not have entered into the contract.

If the applicant is an individual/sole proprietor, then the AFP must be written based upon what the individual is going to do in order to ensure that the individual does not participate in any fraudulent transaction.

For your convenience, an excerpt of Title 36 O.S. § 4055.13(G), taken from the Viatical Settlement Act of 2008, is listed below for review and to use as reference material when preparing the AFP.

Title 36 O.S. §4055.13(G)

G. 1. Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute and prevent

fraudulent viatical settlement acts. At the discretion of the Commissioner, the Commissioner may order, or a licensee may request and the Commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

2. Antifraud initiatives shall include:

a. fraud investigators, who may be viatical settlement provider or viatical settlement broker employees or independent contractors, and

b. an antifraud plan, which shall be submitted to the Commissioner. The antifraud plan shall include, but not be limited to:

(1) a description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications,

(2) a description of the procedures for reporting possible fraudulent viatical settlement acts to the Commissioner,

(3) a description of the plan for antifraud education and training of underwriters and other personnel, and

(4) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

3. Antifraud plans submitted to the Commissioner shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.