

Amendments to Senate Bill 486
Third Reading Copy

Requested by the American Council of Life Insurers

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1. Page 3, line 23.

Strike: subsection (ii) in its entirety

Renumber: subsequent sections

2. Page 4.

Following: line 7

Insert: "(3) Regardless of the manner in which the viatical settlement broker or insurance producer is compensated, the viatical settlement broker or insurance producer must be considered to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interests of the viator.

Renumber: subsequent subsections

3. Page 4.

Following: line 30

Insert: "Section 2. Section 33-20-1313, MCA, is amended to read:
"33-20-1313. Prohibitions on finder's fee -- solicitations -- discrimination -- false or misleading advertising or solicitation -- misuse of confidential information. (1) A person may not enter into a viatical settlement contract within a two year period commencing with the date of issuance of the insurance policy or certificate unless the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the two year period:

(1) (a) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months. The time covered under a group policy must be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(b) The viator submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the two-year period:

(i) the insured is terminally or chronically ill;

(ii) the viator or insured disposes of his ownership interests in a closely held corporation pursuant to terms of a buyout or other similar agreement in effect at the time the insurance policy was originally issued.

(c) Copies of the certifications and independent evidence

required by this section must be submitted to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

~~(1)~~ (2) A licensee may not pay or offer to pay a finder's fee, commission, or other compensation to a person described in this subsection ~~(1)~~ (2) in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection ~~(1)~~ (2) applies with respect to payments or offers of payment to:

(a) the physician, attorney, or accountant of the policyholder, the certificate holder, or the insured individual; (b) any person other than a physician, attorney, or accountant described in subsection ~~(1)(a)~~ (2)(a) who provides medical, legal, or financial planning services to the policyholder, to the certificate holder, or to the insured individual when the individual is other than the policyholder or certificate holder; or (c) any person other than one described in subsection ~~(1)(a)~~ (2)(a) or ~~(1)(b)~~ (2)(b) who acts as an agent of the policyholder, certificate holder, or insured individual.

~~(2)~~ (3) A licensee may not solicit an investor who could influence the treatment of the illness or condition of the individual whose life would be the subject of a viatical settlement contract.

~~(3)~~ (4) All information solicited or obtained from a policyholder or certificate holder by a licensee is subject to the confidentiality requirements set forth in Title 33, chapter 19. For purposes of this subsection, a licensee must be considered an insurance-support organization as defined in 33-19-104.

~~(4)~~ (5) A licensee may not discriminate in the making of a viatical settlement contract on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or sexual orientation and may not discriminate between persons who have dependents and persons who do not have dependents.

~~(5)~~ (6) A person licensed pursuant to 33-20-1304 may not engage in any false or misleading advertising, solicitation, or practice as described in 33-18-203. (6) A person licensed pursuant to 33-20-1304 may not sell another product of insurance to the contract holder unless approval is obtained from the commissioner."

Renumber: subsequent sections