

§6809. General provisions for settlement contracts

1. Prior conditions. A settlement provider entering into a settlement contract with a viator shall first obtain:

A. If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement contract; [PL 2003, c. 636, §12 (AMD).]

B. Prior to or at the time of execution of the settlement contract, a witnessed document in which the viator consents to the settlement contract, represents that the viator has a full and complete understanding of the settlement contract and that the viator has a full and complete understanding of the benefits of the life insurance policy, acknowledges that the viator has entered into the settlement contract freely and voluntarily and, for persons who are terminally ill or chronically ill, acknowledges that the insured is terminally ill or chronically ill and that the terminal or chronic illness was diagnosed after the life insurance policy was issued; and [PL 2003, c. 636, §12 (AMD).]

C. Notwithstanding section 2159, subsection 3 or any other provisions of state law, a document in which the insured consents to the release of the insured's medical records to a settlement provider and, if the life insurance policy was issued less than 2 years from the date of application for a settlement contract to the insurance company that issued the life insurance policy covering the life of the insured. [PL 2003, c. 636, §12 (AMD).]

The insurer shall respond to a request for verification of coverage submitted by a settlement provider not later than 30 calendar days from the date the request is received. The request for verification of coverage must be made on a form approved by the superintendent. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation regarding the validity of the insurance contract. [PL 2003, c. 636, §12 (AMD).]

2. Confidentiality of medical information. All medical information solicited or obtained by any licensee is subject to the applicable provisions of state law relating to confidentiality of medical information.

[PL 1997, c. 430, §1 (NEW); PL 1997, c. 430, §2 (AFF).]

3. Unconditional rescission. All settlement contracts must contain a provision that the viator has the right to rescind a settlement contract before the earlier of 30 calendar days after the date upon which the settlement contract is executed by all parties or 15 calendar days after the date upon which payment is received by the viator as provided in section 6808. Rescission if exercised by the viator is effective only if both notice of the rescission is given and a full repayment of all proceeds and any premiums, loans and loan interest to the settlement provider is made within the rescission period. If the insured dies during the rescission period, the settlement contract is deemed to have been rescinded, subject to repayment of all proceeds and any premiums, loans and loan interest to the settlement provider.

[PL 2003, c. 636, §12 (AMD).]

4. Transfer of insurance policy. The settlement provider shall designate an independent escrow agent and instruct the viator to send the executed documents required to effect the change in ownership or assignment or change in beneficiary directly to the independent escrow agent. Within 3 business days after the date the escrow agent receives the document, or from the date the settlement provider receives the documents, if the viator erroneously provides the documents directly to the provider, the settlement provider shall pay or transfer the proceeds of the settlement into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation or its successor. Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership or assignment or

change in beneficiary forms to the settlement provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership or assignment or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator.

[PL 2009, c. 376, §13 (AMD).]

5. Effect of failure to tender consideration. Failure to tender consideration for the settlement under the terms of the settlement contract renders the contract voidable for lack of consideration until the time consideration is tendered to and accepted by the viator.

[PL 2003, c. 636, §12 (AMD).]

6. Unlicensed provider.

[PL 2003, c. 636, §12 (RP).]

7. Income.

[PL 2003, c. 636, §12 (RP).]

8. Advertising standards.

[PL 2003, c. 636, §12 (RP).]

9. Contacts with the insured. An insured may designate one or more adult individuals in regular contact with the insured as the individual for all inquiries regarding the insured's health status and, if that designation is made, a settlement provider may not make these inquiries to the insured unless the settlement provider is unable, for more than 30 days, to contact the designee after diligent effort. The insured may change this designation at any time upon written notice to the settlement provider. Contacts with the insured for the purpose of determining the health status of the insured after the settlement has occurred are limited to once every 3 months for insureds with an estimated life expectancy of more than one year and once per month for insureds with a life expectancy of one year or less. The settlement provider shall explain to the insured the procedure for these contacts prior to the time the settlement contract is entered into. The limitation in this rule on contacts does not apply to contacts made for reasons other than determining the insured's health status or necessary to maintain the policy in force. Settlement providers are responsible for the actions of their authorized representatives.

[PL 2003, c. 636, §12 (AMD).]

SECTION HISTORY

PL 1997, c. 430, §1 (NEW). PL 1997, c. 430, §2 (AFF). PL 2003, c. 320, §1 (AMD). PL 2003, c. 636, §12 (AMD). PL 2009, c. 376, §13 (AMD).

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