



INFORMATIONAL MEMORANDUM

00-001M

February 3, 2000

Florida Department of Insurance

Bill Nelson

Treasurer, Insurance Commissioner and
Fire Marshal

ALL LICENSED VIATICAL SETTLEMENT PROVIDER COMPANIES AND ALL LICENSED VIATICAL SETTLEMENT BROKERS Notice of Requirement to Report Fraud

The purpose of this memorandum is to remind licensed viatical settlement providers and licensed viatical settlement brokers of their responsibility under current statute to report instances of fraud.

A very important issue in the viatical industry today is the increased incidence of the viatication of life policies that may have been fraudulently obtained.

Section 626.989(6), Florida Statutes, provides that any insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed shall send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may require.

Pursuant to Section 817.234(1)(a)3, any person who, with the intent to injure, defraud, or deceive any insurer knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of an application for any insurance policy, or who conceals information concerning any fact material to such application, commits a felony of the third degree.

Furthermore, knowingly making a false or fraudulent statement in an application for insurance is an unfair or deceptive act, and a violation of Section 626.9521(1), Florida Statutes. Pursuant to Section 624.15, such a violation is a misdemeanor.

Viatical settlement providers, brokers, and sales agents are all "licensees" under the Code, and must, therefore, comply with Section 626.989(6) and report to the Division of Insurance Fraud all instances where they believe a fraudulent application has been made.

Section 626.989(4)(c) provides immunity from civil liability arising out of making such a report, in the absence of fraud or bad faith on the part of the reporting party.

Reports of fraud in this regard or related questions should be directed to:

Denise Prather
Insurance Administrator
Division of Insurance Fraud
Department of Insurance
222 East Gaines Street
Tallahassee, FL 32399-0324
(850)922-3115