



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Loretta Medved, Ohio Department of Insurance

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: February 2, 2021

RE: CSI Review – Viaticals Rules (OAC 3901-9-01, 3901-9-02, 3901-03 and 3901-9-04)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This Ohio Department of Insurance (Department) rule package consists of two amended and two no change rules. The package was submitted to the CSI Office on December 23, 2020, and the public comment period was open through January 8, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on December 23, 2020.

The proposed rules enforce standards for viatical settlement providers and viatical settlement brokers and establish education requirements and the requirements for the prevention of stranger originated life insurance. Amendments have been proposed to correct citations.

During the early stakeholder outreach period, the Department sent a request for comments to stakeholders including the Ohio Insurance Institute (OII), the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurance (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), Ohio Association of Health Plans (OAHP), the Professional Independent Agents Association (PIAA), and other stakeholders that have requested

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notification. The rules were also posted to the Department's website. No comments were submitted during the early stakeholder outreach period or the CSI public comment period.

Impacted communities include those seeking registration as a viatical settlement broker or as a viatical settlement provider and life insurers. Potential impacts may include administrative costs associated with applications, meeting requirements for licensure, meeting records maintenance requirements, continuing education requirements, and maintaining Department requirements to identify stranger originated life insurance policies. Additionally, a failure to comply with the rules may result in a monetary fine from the Department. Fees associated with the rules include fees for Viatical Settlement Educators (VSE) which may choose a fee schedule by what the VSE may find the most suitable based on the number, and length, of courses offered. Among the fee schedules are a flat fee of \$1,000 annually that covers all application fees and course approval fees; An individual fee of \$100 for the approval of a provider application and \$40 for every course approval; or a limited provider fee of \$25 per course approval and \$25 per provider application. However, VSEs that are a limited VSE provider are limited to offering three courses at a length of no more than three hours, per year. Additional fees include VSE licensee participation fees of \$1 per person or per course approved credit hour, a \$100 fee for a request of VSE credit requirement extensions, and processing charges of \$30. The proposed rules protect Ohio's consumers from the inherent risk associated with viatical settlements. Furthermore, the rules institute national insurance industry standards that ensure uniformity in the insurance industry. ORC 3916.05 allows for the Department to adopt appropriate fees, without specifically outlining those fee amounts.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.