

Viatical Settlements

General Information

Basic Business Rules Applicable to Viatical Settlements

- NGS 58-58-210(a) – “No person shall operate as a provider or broker without first obtaining a license from the insurance regulator of the state of residence of the viator.”
- NGS 58-58-210(14) – “Viator” means the owner of a policy or certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. A viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically address.”
- Viatical Settlement Broker Application and questions about Viatical Settlement Broker should be made to the Agent Services Division, 919-807-6811.
- Viatical Settlement Provider Licenses must be renewed annually. Refer to NGS 58-58-210(c).
- Notice of upcoming renewal of Viatical Settlement Provider license will be sent by the Department approximately 45 days prior to the expiration of the current license.
- NGS 58-58-220 – “A person shall not use a contract or provide a viator a disclosure statement form in this State unless filed with and approved by the Commissioner.” The commissioner may also require the submission of advertising material.

Viatical Settlement Provider Licensing Instructions

Initial Application

- License application fee – Five hundred dollars (**\$500.00**) in a check made payable to the North Carolina Department of Insurance.
- Complete the following forms:
 - Viatical Settlement Provider Transmittal Form

- Viatical Settlement Provider license application Form
- Viatical Settlement Provider Power of Attorney Form (Partnership)
- Viatical Settlement Provider Power of Attorney Form (Company)
- Viatical Settlement Provider Biographical Affidavit Form

Application Enclosures/Required Material

- A list of the names of the provider's directors and management personnel, including job titles and descriptions of the job duties.
- Biographical affidavits must be completed for each officer and director.
- Current letter of good standing or evidence of Viatical Settlement Provider license from Provider's domestic state.
- A plan of operation, including the manner in which the provider proposes to operate in this State and the type or types of insurance policies or contracts it intends to viaticate. This shall be a narrative overview of the provider's business and shall include the following information:
 - A certified copy of the provider's charter and by-laws, if corporation or limited liability company, and a copy of the partnership agreement, if a partnership.
 - A chart showing the relationship of the provider to any parent, affiliated, or subsidiary corporation.
 - A description of the provider' marketing techniques, including a description of training programs for those individuals who will have direct contract with viators.
 - A schedule listing the names of financial institutions with which the provider has escrow trust agreements.
 - A description of what steps through which the viator will have access to funds, including the source that will make such funds available.
 - A financing plan

- A statement disclosing the identities of all stockholders holding 10% or more of the provider, and all partners, directors, officers, and members of the providers, depending on whether the provider is a partnership, corporation, or limited liability company.
- A schedule listing the names of financial institutions with which the provider has escrow trust agreements.
- A description of what steps through which the viator will have access to funds, including the source that will make such funds available.
- An Antifraud plan containing:
 - 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.
 - A description of the procedures for reporting possible fraudulent viatical settlement acts to the Commissioner.
 - A description of the plan for antifraud education and training of underwriters and other personnel.
 - 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 investigating unresolved material inconsistencies between medical records and insurance applications.

Contract Forms

- NCGS 58-58-220 – “A person shall not use a contract or provide a viator a disclosure statement from in this State unless filed with and approved by the Commissioner.” The Commissioner may also require the submission of advertising material.
- GS-58-58-245 – With each application for viatical settlement, the provider or broker shall provide the viator with at least the disclosures listed in this section no later than the time the application for the contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the viator and the provider or broker and should mirror information in this statute.

- T11 NCAC 12.1716 – Two specimen copies of the contract, application, brochure, and proposal shall be filed with the Division for approval.
- Checklist of Viatical Settlement Form Requirements (coming soon)

Renewal License Application

- T11 NCAC 12.1711(b) – “A provider license may be renewed yearly by payment of the applicable fee, a notarized certification from the company’s president attesting there has been no change to information on file and a copy of a letter of good standing obtained from the provider’s domiciliary regulator.”
- A list of the current officers and directors and their positions, even if there has been no change in the last year.
- License renewal fee – Five hundred dollars **(\$500.00)** in a check made payable to the North Carolina Department of Insurance.
- Viatical Settlement Provider license renewal application Form

Annual Reports

- GS 58-58-225 – “Each licensee shall file with the Commissioner on or before June 1 of each year an annual statement containing such information as the commissioner prescribes by administrative rule.”
- The report must include all viatical settlement transactions in which the viators are residents of this State. Refer to Title 11 NCAC 12.1714.
- Contact the Life & Health Division for a copy of the Report Format.