

Title 210 NEBRASKA DEPARTMENT OF INSURANCE

Chapter 76 VIATICAL SETTLEMENTS

001. Authority

This regulation is adopted by the director pursuant to the authority in Neb. Rev. Stat. § 44-1114.

002. Definitions

In addition to the definitions in Neb. Rev. Stat. § 44-1102, the following definitions apply to this regulation:

- (002.01) Insured means the person covered under the policy being considered for viatication.
- (002.02) Life expectancy means the mean of the number of months the individual insured under the life insurance policy to be viaticated can be expected to live as determined by the viatical settlement provider considering medical records and appropriate experiential data.
- (002.03) Net death benefit means the amount of the life insurance policy or certificate to be viaticated less any outstanding debts or liens.
- (002.04) Patient identifying information means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the insured.

003. License Requirements

- (003.01) The Director may require an individual applying for a viatical settlement broker license to pass a written examination designated by the Department testing the knowledge of the individual concerning viatical settlements, the duties and responsibilities of a viatical settlement broker, and the laws, rules and regulations applicable to viatical settlement sales in Nebraska.
- (003.02) In addition to the information required in Neb. Rev. Stat. § 44-1103, the director may ask for other information necessary to determine whether the applicant for a license as a viatical settlement provider or viatical settlement broker complies with the requirements of Neb. Rev. Stat. § 44-1103.
- (003.03) The application for a viatical settlement broker shall be accompanied by a fee of \$40.00. The broker license may be renewed by payment of \$40.00 and a current copy of a letter of good standing obtained from the filing officer of the applicant's state of domicile. The application for a viatical settlement provider shall be accompanied by a fee of \$1,000. The provider license may be renewed annually by payment of \$100 and a current copy of a letter of good standing from the state of domicile. If a viatical settlement provider or viatical settlement broker fails to pay the renewal fee within the time prescribed, or a viatical settlement provider fails to submit the reports required in Section 006 of this regulation, such

Neb. Rev. Stat. § 44-1103(1) shall be exempt from the requirements of section 003.04.

- (003.04C) Each continuing education biennium shall begin at the end of the licensee's birth month when licensee's age ends in an even number.
- (003.04D) The license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with the procedures set forth in Neb. Rev. Stat. § 44-4054(6) shall terminate and shall be promptly surrendered to the director without demand.
- (003.05) A viatical settlement broker or viatical settlement provider shall file with the director, and thereafter for as long as the license remains in effect shall keep in force, evidence of financial responsibility. Evidence of financial responsibility shall be in the form of:
  - (003.05A) A surety bond executed and issued by an insurer authorized to issue surety bonds in this state in the amount of \$250,000; or
  - (003.05B) A deposit of cash, certificates of deposit, or securities, or any combination thereof, in the amount of \$250,000.
- (003.06) The license issued to a viatical settlement provider or viatical settlement broker shall be a limited license that allows it to operate only within the scope of its license.

#### 004. Appointments

- (004.01) A viatical settlement broker shall not act as an agent of a viatical settlement provider unless the viatical settlement broker becomes an appointed agent of that provider. A viatical settlement broker who is not acting as a viatical settlement broker of a provider is not required to be appointed.
- (004.02) To appoint a viatical settlement broker as its agent, the appointing provider shall file, in a format approved by the director, a notice of appointment within fifteen (15) days from the date the agency contract is executed or the first viatical settlement contract is negotiated on behalf of the provider.
- (004.03) Upon receipt of the notice of appointment, the director shall verify within a reasonable time not to exceed thirty (30) days that the viatical settlement broker is determined to be eligible for appointment. If the viatical

settlement broker is determined to be ineligible for appointment, the director shall notify the provider within ten (10) days of its determination.

- (004.04) A provider shall pay an annual appointment fee, in the amount and method of payment set forth in Neb. Rev. Stat. § 44-4064(1)(b) not to exceed \$10.00, for each viatical settlement broker appointed by the provider.
- (004.05) A licensed life insurance producer acting as a viatical settlement broker pursuant to Neb. Rev. Stat. § 44-1103(1) who is an appointed agent of a viatical settlement provider under the Insurance Producer's Licensing Act

(006.01A(2)) A report of the individual mortality of Nebraska insureds, which shall be submitted on Form VSP 002 (Appendix C);

(006.01A(3)) A certification of the information contained in the reports, which shall be submitted on Form VSP 003 (Appendix D) and shall be filed with the reports.

(006.02) Each viatical settlement provider shall remit an annual statement filing fee of \$200.00 in accordance with Neb. Rev. Stat. § 44-114(7).

#### 007. General Rules

(007.01) With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may thereafter designate, or in the absence of a beneficiary, to the estate of the viator.

(007.02) Payment of the proceeds of a viatical settlement pursuant to Neb. Rev. Stat. § 44-1109(4) shall be by means of wire transfer to the account of the viator or by certified check or cashier's check.

(007.03) Payment of the proceeds of the viator pursuant to a viatical settlement shall be made in a lump sum except where the viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible.

(007.04) A viatical settlement provider or viatical settlement broker shall not discriminate in the making or solicitation of viatical settlements or discriminate between viators with dependents and without dependents.

(007.05) A viatical settlement provider or viatical settlement broker shall not pay or offer to pay any finder's fee, commission or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a viatical settlement broker, with respect to the viatical settlement.

(007.06) If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions;

(007.06A) A provision that the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company.

(007.06B) A provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either;

(007.06B(1)) Advise the insured in writing that the insurance company

(008.03) A viatical settlement broker shall not, without the written agreement of the viator obtained prior to performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

(008.04) A viatical settlement provider shall not use a longer life expectancy than is reasonable in order to reduce the pay-out to the viator.

#### 009. Insurance Company Practices

(009.01) Life insurance companies authorized to do business in this state shall respond to a request for verification of coverage from a viatical settlement provider or a viatical settlement broker within thirty (30) calendar days of the date a request is received, including the insurer's intent whether to pursue an additional investigation regarding possible fraud or the validity of the insurance contract, subject to the following conditions:

(009.01A) A current authorization consistent with applicable law, signed by the policyowner or certificateholder, accompanies the request;

(009.01B) In the case of an individual policy or group insurance coverage where details with respect to the certificate holder's coverage are maintained by the insurer, submission of a form substantially similar to Appendix A, which has been completed by the viatical settlement provider or viatical settlement broker in accordance with the instructions on the form.

(009.02) Nothing in this section shall prohibit a life insurance company and a viatical settlement provider or a viatical settlement broker from using another verification of coverage form that has been mutually agreed upon in writing in advance of submission of the request.

(009.03) A life insurance company may not charge a fee for responding to a request for information from a viatical settlement provider or viatical settlement broker in compliance with this section in excess of any usual and customary charges to contractholders, certificateholders or insureds for similar services.

(009.04) The life insurance company may send an acknowledgement of receipt of the request for verification of coverage to the policyowner or certificateholder and, where the policy owner or certificate owner is other than the insured, to the insured. The acknowledgment may contain a general description of any accelerated death benefit that is available under a provision of or rider to the life insurance contract.

#### 010. Severability.

If any section or portion of a section of this chapter, or the applicability thereof to any person or circumstance, is held invalid by a court, the remainder of this chapter, or the applicability of such provision to other persons shall not be affected thereby.

APPENDIX A

VERIFICATION OF COVERAGE FOR LIFE INSURANCE POLICIES

SUBMITTED TO: \_\_\_\_\_ NAIC # \_\_\_\_\_  
Name of Insurance Company

POLICY NUMBER: \_\_\_\_\_

SUBMITTED FROM: \_\_\_\_\_  
Name of Viatical Settlement Broker/Provider

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

CONTACT: \_\_\_\_\_ TITLE: \_\_\_\_\_

IF INFORMATION IS CORRECT, INSURER REPRESENTATIVE MAY PLACE A CHECKMARK IN THE BOX. OTHERWISE PROVIDE CORRECTED INFORMATION THROUGHOUT THIS FORM. AN ASTERISK INDICATES INFORMATION THE VIATICAL SETTLEMENT PROVIDER/BROKER MUST PROVIDE.

POLICY OWNER S AND INSURED S INFORMATION

	This column to be completed by Viatical Settlement Broker/Provider	This column to be used by Insurance Company
Owner s name	*	
Address	*	
City, state, ZIP code	*	
Tax ID or social security number	*	
Insured s name	*	
Insured s date of birth	*	
Second insured s name (if applicable)	*	
Second insured s date of birth (if applicable)	*	

I hereby consent by my signature below to release of information requested by this form by the insurance company to the viatical settlement broker/provider.

\_\_\_\_\_  
Signature of policy owner

\_\_\_\_\_  
Date signed

Form VOC

IS THE POLICY IN FORCE? \_\_\_\_\_ YES \_\_\_\_\_ NO  
IF NO, SIGN, AND DATE ON PAGE 4 AND RETURN TO THE VIATICAL SETTLEMENT  
BROKER OR PROVIDER THAT SUBMITTED THE VERIFICATION OF COVERAGE.

POLICY TYPE, RIDERS & OPTIONS:

\* \_\_\_\_\_ TERM \_\_\_\_\_ WHOLE LIFE \_\_\_\_\_ UNIVERSAL LIFE \_\_\_\_\_ VARIABLE LIFE

If a question is not applicable to the type of policy, write N/A in the column.

POLICY VALUES

This column to be completed  
by Viatical Settlement  
Broker/Provider

This column to be used by  
Insurance Company

Policy values as of (insert date)

Current face amount of policy \*

Amount of accumulated  
dividends

Current face amount of riders

Amount of any outstanding  
loans \*

Amount of outstanding interest  
on policy loans

Current net death benefit \*

Current account value \*

Current cash surrender value \*

Is policy participating? \*

If yes, what is the current  
dividend option?

PREMIUM INFORMATION

This column to be completed  
by Viatical Settlement  
Broker/Provider

This column to be used by  
Insurance Company

Current payment mode \*

Current modal premium \*

Date last premium paid \*

Date next premium due \*

Current monthly cost of  
insurance as of (insert date)

Date of last cost of insurance  
deduction

TO BE COMPLETED BY VIATICAL SETTLEMENT BROKER/PROVIDER

The information submitted for verification by the viatical settlement broker/provider is correct and accurate to the best of my knowledge and has been obtained through the policy owner and/or insured.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

TO BE COMPLETED BY INSURANCE COMPANY

The information provided by verification by the insurance company is correct and accurate to the best of my knowledge as of \_\_\_\_\_(date).

Insurance company: \_\_\_\_\_ NAIC # \_\_\_\_\_

Printed name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

APPENDIX B

Viatical Settlement Provider s Name				Viatical Settlement Provider Report Nebraska Transactions Only					Calendar year 20__	
1	2	3	4	5	6	7	8	9	10	11

Initials of Preparer: \_\_\_\_\_

VSP 001

Viatical Settlement Provider Report Nebraska Insureds Only Instructions

1. List the settlement number, case number or unique identifying number used to identify the specific viatical settlement transaction.
2. List the date the viatical settlement contract was purchased by the provider during the current calendar year, whether or not the insured is still alive at the end of the calendar year.

APPENDIX C

Individual Mortality Report

Calendar year

Viatical Settlement Provider s  
Name

Nebraska Insureds Only

20\_\_

1            2            3            4            5            6            7            8            9            10

Completed by Viatical Settlement Providers

Initials of preparer: \_\_\_\_\_

VSP 002

Individual Mortality Report Nebraska Insureds Only Instructions

1. List the settlement number, case number, or unique identifying number used to identify the specific viatical settlement transaction.
  
2. List the date of the viatical settlement contract.
  
3. List the age of the insured at the time of the contract.



APPENDIX D

Viatical Settlement Provider Certification Form

This section should be completed by viatical settlement providers.

Please check all forms submitted:

- Viatical Settlement Provider Reporting Form - Nebraska Viators Only (VSP 001)
- Individual Mortality Report - Nebraska Insureds Only (VSP 002)

I hereby certify that the information contained in the reports indicated above is true and accurate. I acknowledge that providing false and misleading information in the reports, or failing to divulge a fact material thereto, is sufficient grounds for administrative action by the commissioner and potentially, applicable criminal penalties.

_____	Date: ____/____/____
Signature of individual that prepared reports	
_____	
Print or type name	
_____	Date: ____/____/____
Signature of Authorized Representative	
_____	
Print or type name	