



COLORADO

Department of
Regulatory Agencies

Division of Insurance

INSTRUCTIONS

VIATICAL SETTLEMENT PROVIDER LICENSE

Title 10, Article 7, Part 6 Colorado Revised Statutes

The Division of Insurance must license an entity desiring to operate as a viatical settlement provider. An application will be considered upon submission of the following. **NOTE: Only complete applications including ALL items will be reviewed.**

- Fee required by §10-3-207(1.5), C.R.S. of \$500.00
- Application Form
- NAIC Biographical affidavits for all owners, partners, officers and directors.
- For entities not domiciled in the State of Colorado, a Certificate of Good Standing, or equivalent from the domiciliary state. Please also include the company's Articles of Incorporation from the state of domicile.
- Evidence of a surety bond in an amount of at least \$100,000.
- Power of Attorney for Service of Process form and Board of Directors resolution.
- Detailed Plan of Operations verified by an officer of the corporation, member of the LLC or LLP who has knowledge of the facts set forth in the Plan.

Explain the types of business, e.g., viatical settlements contracts, real estate sales, financial investments, etc. that applicant transacts and the geographical locations of each particular type of business. Describe the percentage of overall income and expenses devoted to each type of business. Explain whether the viatical settlements contract business is or will be the applicant's primary or sole business.

Describe how the applicant, its officers, directors and management avoid conflicts of interests with any affiliates and also with viators. Purchasing or brokering—it may be a conflict of interest to both act as a viatical settlement producer and purchaser. A broker represents the viator in obtaining the best offer from various companies. This fiduciary obligation to the viator might/would conflict with the interests of the purchaser to select the best policies at the lowest rates for itself. Please explain whether the applicant's business is either brokering or purchasing or both.

Describe all sources and terms of applicant's financial resources.

Describe in detail applicant's escrow procedures to (1) ensure that the entire viaticum will be immediately paid to the viator, (2) prevent mismanagement of applicant's funds and (3) ensure that there are sufficient monies to back the officer. Submit copies of all escrow agreements and identify the financial institutions where the escrow accounts are held.

Submit a statement from the trustee of the trust designated to receive the proceeds of the settlement from the independent escrow agent. The trustee of a trust for a related provider must agree in writing with the provider of viatical settlements that the provider is responsible for ensuring compliance with all statutory and regulatory requirements and that the trustee will make all records and files related to viatical settlements available to the commissioner as if those records and files were maintained directly by the provider.

Describe applicant's procedure for obtaining a written statement from the attending physician concerning the viator's state of mind. Explain applicant's procedures for keeping this and all medical information confidential. Attach and describe applicant's form letters, form medical releases or other formatted written material used for this purpose.

Describe the applicant's procedures for obtaining the viator's statement setting forth his/her understanding and consent.

Explain in detail what information is provided to the viator and by whom concerning the catastrophic or life threatening nature of the viator's illness, the viatical settlements contract, the benefits of the viator's life insurance policy and the release of medical records. Attach and describe any related written materials, including forms that are used for these purposes.

Describe what steps applicant takes to ensure that the viator freely and voluntarily enters into the contract and that he/she acknowledges a full and complete understanding of the terms of the contract.

Describe applicant's procedures to disclose and advise the viator on the possible alternatives to viatical settlements contracts, tax consequences and effect on public assistance benefits. Explain what information is given, who gives the information and the qualifications of the informing party.

Describe applicant's procedures to provide the viator the absolute right to rescind the contract within the time frames outlined in statute.

Describe how applicant advertises and markets its business in general. Detail how individual viators are contacted and communicated with. Explain how marketing representatives and other individuals who have direct contact with viators are recruited and trained.

- Submit a discount rate/table signed by a corporate officer of the company. Describe in detail applicant's criteria for determining the discount rate or the amount of payment to the viator. Include the range of life expectancies and correlating percentages of face amount of the insurance policy to be paid to the viator. Explain how any other factors may affect the discount rate, such as the type of insurance contract, beneficiaries' interests, costs of financing, etc. Submit the Discount Rate Table showing life expectancies in 6 month increments up to 24 month life expectancy with the corresponding discount rates. Include a signed statement from the appropriate corporate officer verifying that the discount rate table will be the discount rates that are and will be advertised and paid by the provider. Explain how payment is made to the viator, whether in lump sum or installments, and the timing of the payment(s).
- Submit a copy of all viatical settlement contract forms to be used in Colorado.
- Submit an acceptable anti-fraud plan, which complies with Section 10-7-612(7)(a), C.R.S.
- Attach any additional forms, letters, marketing material used by the applicant not included above.

Email inquiries to: DORA_INS_CORPORATEAFFAIRS@STATE.CO.US

