

APPLICATION FOR LICENSURE AS A VIATICAL SETTLEMENT PROVIDER FORM

Instructions

The information required by this Application is based upon the Viatical Settlement Provider Act, N.J.S.A. 17B:30B-1 et seq. Additional information may also be required by the Commissioner of Banking and Insurance as deemed necessary in the course of reviewing the information submitted.

Submit the application, including all of the items identified on the VIATICAL SETTLEMENT PROVIDER LICENSING APPLICATION CHECKLIST, in a three-ring hard cover binder that identifies the submission on the front and spine of the binder to the:

New Jersey Department of Banking and Insurance
Office of Life and Health
Attn: Timothy Costello
Viatical Settlement Provider Application
20 West State Street, 11th Floor
P.O. Box 325
Trenton, NJ 08625-0325

Complete the application cover sheet and provide responses to all items with supporting documentation. Number each response and document according to the item number to which it is intended to respond. Number each page within the section in the upper right hand section and corner in consecutive order.

Also attached for information purposes is a copy of [Bulletin No. 09-05](#). Upon approval a viatical settlement provider will be required to file their rates and forms using the NAIC System (SERFF).

VIATICALSETTLEMENT PROVIDER LICENSING APPLICATION CHECKLIST

All Checklist items are to be addressed. If you believe an item does not apply, provide why it does not apply. N/A is not an acceptable response to any of these items.

1. A Viatical Settlement Provider License Application including the payment of a non-refundable application fee of \$1,000 made payable to "State of New Jersey – General Treasury";
2. A copy of the applicant's charter, articles of incorporation, or articles of formation, including all amendments, as currently in force, certified by the lawful custodian of the original document;
3. A copy of the applicant's bylaws or operating agreement, as currently in force, certified by a senior officer of the applicant;
4. A certificate of good standing from the state of domicile and from the New Jersey Department of Treasury;
5. One copy of the current audited annual financial statements, including all supplemental exhibits and holding company organizational chart;
6. If assets include insurance policies, a valuation of those policies certified by an actuary who is a member of the American Academy of Actuaries or the Society of Actuaries;
7. For foreign entities, the following completed and executed forms:
 - a) Appointment of Attorney for the State of New Jersey appointing the Commissioner as attorney for service of process (form enclosed);
 - b) Irrevocable Consent to the Jurisdiction of the Commissioner of Banking and Insurance and the New Jersey Courts (form enclosed);
8. For publicly traded entities, any Federal and/or State filings made within the past year;
9. A copy of any agreements by which the right to conduct or influence any of the affairs of the applicant is transferred to others;
10. Any employment or deferred compensation agreements in which any officer, director or shareholder who controls five (5) percent or more of the outstanding shares of the applicant, directly or indirectly, participates;
11. Any tender offer materials (advertisements, invitations etc.), if any tender offer has been made by the corporation or its parent to acquire another company within the three (3) years preceding;
12. A statement of ownership of the applicant which shall include all shareholders of record who control five (5) percent or more of the outstanding shares of the applicant, directly or indirectly;
13. A list of the names and official positions of the persons responsible for the conduct of the affairs of the applicant, including, but not limited to if applicable:
 - a) The members of the board of directors, executive committee or other governing board or committee;

- b) The principal officers or partners;
 - c) Shareholders owning or having the right to acquire 5% or more of the voting securities of the corporation or partnership interest of a partnership, or equity interest, in the case of another form of business organization; and
 - d) Any person or entity who has loaned funds to the applicant for the operation of the business.
14. A fully completed and notarized NAIC Biographical Affidavit for each of those persons identified in response 13 above. (Form #11, Biographical Affidavit enclosed; also located on the web at http://www.naic.org/industry_ucaa.htm);
15. A schedule listing the following:
- a) All jurisdictions from which the applicant has withdrawn during the preceding ten (10) years, and the reasons for withdrawal; and
 - b) All administrative, civil or criminal actions, orders, proceedings and determinations thereof to which the applicant, or its affiliates, or any of its directors, principal officers and/or any shareholder of record who controls five (5) percent or more of the outstanding shares of the corporation, directly or indirectly, have been subject in any jurisdiction during the preceding ten (10) years. If an insurance or viatical license has been refused, suspended or revoked by any jurisdiction, the applicant shall furnish an explanation and a copy of any orders, proceedings, and determinations related thereto;
16. A corporate plan of operation consisting of:
- a) A description of the applicant's present business plan(s) for conducting viatical business, including, but not limited to:
 - i. States in which business will be conducted;
 - ii. **Marketing methods** – describe how the applicant advertises and markets its business in general. More particularly, detail how the applicant contacts and communicates with individual clients/viators. Explain how marketing representatives and other individuals who have direct contact with clients/viators are recruited, trained and compensated;
 - iii. **Viatical Settlement Advertising or Solicitation** – submit a copy of all advertising or solicitation materials that the applicant uses or plans to use to attract potential viators, or to otherwise market, promote or publicize its business or services;
 - iv. **Confidential Information** – Explain the applicant's procedures for keeping all medical, financial and viator identity information confidential. Attach and describe applicant's form letters, form medical releases, or other formatted written material used for this purpose;
 - v. Financing strategy, including a description of controls in place to ensure that the strategy is followed;
 - vi. Criteria or limitation on size and quantity of policies. Is there a limit on the aggregate limit on one life? If so, what is the limit? Is there a cap on total exposures on all lives? If so, what is the cap?
 - vii. Antifraud plan in compliance with N.J.S.A. 17B:30B-12.i(2) et seq.;
 - viii. Record Retention policies and procedures in compliance with N.J.S.A. 17B:30B-7 et seq. and;
 - ix. Underwriting policies and procedures.
 - b) A description of the applicant's proposed plan for conducting a viatical business in this State if it differs from Section a);
 - c) A summary of arrangements with insurers to transfer risk, indicating the name of the insurers, retentions, maximum risks, types of business, types of agreements;

- d) Copies of all management, exclusive agency, administrative services, or any other operating contracts with insurers and affiliates of applicant where applicable, signed by the parties and certified to by the viatical's secretary and chief operating officer;
- 17. Identify the financial institution where an escrow or trust account will be established. Identify the independent trustee or escrow agent;
- 18. Pursuant to N.J.S.A.17B:30B-6c provide a description of the method for determining compensation paid to life insurance producers for negotiating a viatical settlement contract;
- 19. Evidence that the applicant can meet the deposit requirement of \$100,000;
- 20. Pursuant to N.J.S.A. 17B:30B-15a provide a description of the methodology for determining payments under viatical settlement contracts for persons terminally or chronically ill.

Certifications

I certify that the proposed applicant, and all officers, directors, controlling shareholders or partners of the applicant, and all other individuals employed or affiliated with the applicant who are performing any of the acts listed in the definition of viatical settlement provider contained in N.J.S.A. 17B:30B-1 et seq.:

1. Have not misrepresented any fact in this application for the certificate of registration.
2. Have not been convicted, within ten years prior to the date of the application, of a felony or other crime involving fraud in any jurisdiction.
3. Are not conducting the applicant's financial affairs in such a manner as to jeopardize a viator's rights under a viatical settlement with the applicant, or under N.J.S.A. 17B:30B-1 et seq.
4. Are engaging in the business of viatical settlement lawfully in all states.
5. Have not violated any provision of N.J.S.A. 17B:30B-1 et seq., any other insurance law made applicable to the business of viatical settlements by N.J.S.A. 17B:30B-1 et seq., or any state or federal securities laws applicable to the business of viatical settlements.

Signature of Applicant

Full Legal Name (Type or Print)

Title

Date

(or authorized representative)

STATE OF NEW JERSEY

Department of Banking and Insurance

Appointment of Attorney for the State of New Jersey

KNOW ALL MEN BY THESE PRESENTS: That the _____
of the _____ of _____ in the _____
of _____, desiring to do business in the State of New
Jersey in conformity with the laws thereof, hereby, constitutes and appoints the Commissioner of
Banking and Insurance of New Jersey, and his or her successor in office, to be its true and lawful
Attorney, upon whom all original process in any action or legal proceeding against said
_____ may be served. And the said
_____ hereby stipulates and agrees that any original process
against it, which is served upon said Attorney, shall be of the same legal force and validity as if
served upon said _____, and that the authority
of said Attorney shall continue in force irrevocable so long as any liability of said
_____ remains outstanding in New Jersey.

IN WITNESS WHEREOF, The said _____ has
caused these presents to be subscribed by its President, and attested by its Secretary, and its
corporate seal to be hereunto affixed, this _____ day of _____ 20_____.

(Corporate Seal--if applicable)

President
(or authorized representative)

Attest:

Secretary
(or authorized representative)

