

VERMONT DEPARTMENT OF BANKING, INSURANCE AND SECURITIES

**REGULATION 95-4
VIATICAL SETTLEMENTS**

Feb. 5, 1996

Table of Contents

Section 1.	Purpose
Section 2.	Authority
Section 3.	Definitions
Section 4.	License Requirements for Viatical Settlement Providers
Section 5.	License Requirements for Viatical Settlement Brokers
Section 6.	Examination of Viatical Settlement Providers and Viatical Settlement Brokers
Section 7.	Life Insurance Companies: Responsibilities and Relationships
Section 8.	Standards for Evaluation of Reasonable Payments
Section 9.	Viatical Settlement Contracts
Section 10.	Disclosures Required Prior to Signature of the Contract
Section 11.	Rules of Conduct for Providers and Brokers
Section 12.	Approval of Contract Form and Related Forms
Section 13.	Reporting Requirements
Section 14.	Separability Provision
Section 15.	Effective Date
Attachment A:	Notice Regarding Viatication of Your Life Insurance Policy
Attachment B:	Viatical Settlement Provider Annual Report

Section 1. Purpose

The purpose of this regulation is to regulate the affairs of persons and institutions engaged in viatical settlements in Vermont, to encourage competition among them, and to protect the public against unfair and unconscionable practices in the course of that business. This regulation sets forth requirements pertaining to: licensing of viatical settlement providers and viatical settlement brokers; viatical settlement contracts and payouts; reporting; examination; marketing; advertising; disclosure; and rules applicable to life insurers which will facilitate viatical settlement transactions.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Banking, Insurance and Securities (“Commissioner”) by Title 8 V.S.A. Sections 75 and 3833 and Chapter 129.

Section 3. Definitions

As used in this regulation:

A. “Viatical settlement broker” means any person or his or her agent who, for a fee, commission or other valuable consideration, offers or advertises the availability of viatical settlements, introduces viators to viatical settlement providers, or solicits for, or offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. “Viatical settlement broker” does not include an attorney, accountant or financial planner retained to represent the viator whose compensation is not paid by the viatical settlement provider.

B. “Viatical settlement contract” means an agreement between a viatical settlement provider and a person who owns, controls or has rights to the benefits or values of a life insurance policy, or who owns, is covered by, controls or has rights to the benefits or values of a group policy, either of which insures the life of a person who has a catastrophic or life threatening illness or condition and under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator’s assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

C. “Viatical settlement provider” means any person or entity which enters into an agreement with a person who owns, is covered by, controls or has rights to the benefits or values of a life insurance policy or who owns, controls or has rights to the benefits or values of a group policy either of which insures the life of a person who has a catastrophic or life threatening illness or condition, under the terms of which the viatical settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

Viatical settlement provider does not include:

- 1) Any bank, savings bank, savings and loan association, credit union or other licensed lending institution which takes an assignment of the subject life insurance policy as collateral for a loan;
- 2) The issuer of the subject life insurance policy providing accelerated benefits;

- 3) Any natural person who enters into no more than one agreement in a calendar year for the transfer of a life insurance policy for any value less than the expected death benefit; or,
- 4) Any corporation, partnership or partner that purchases a life insurance contract of an employee or retiree of the corporation or of a partner.

The settlement made on any contract exempt under section 4. of this regulation shall be reasonable and subject to the standards imposed on viatical settlement providers in 8 V.S.A. Sections 3831, 3832 and 3833 and Sections 9, 10 and 11 of this regulation.

D. "Viator" means any person who owns, controls or has rights to the benefits or values of a life insurance policy or who owns, is covered by, controls or has rights to the benefits or values of a group policy, either of which insures the life of a person who has a catastrophic or life threatening illness or condition; and, who enters into an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

Section 4. License requirements for Viatical Settlement Providers

A. A viatical settlement provider shall not solicit or enter into a viatical settlement contract without first obtaining a license from the commissioner. Applicants for a license shall complete and submit an application in a form approved by the commissioner together with the required fee.

B. The commissioner may require such additional information as is necessary to determine whether the applicant complies with the requirements of 8 V.S.A. Section 3827(f). If the commissioner determines that additional information is required, any cost related to acquiring the information shall be borne by the applicant.

C. In any case where there are changes or additions to the list of persons within the viatical settlement provider organization who are authorized to offer or negotiate viatical settlement contracts, the licensed viatical settlement provider must submit a list of those persons for the commissioner's approval. No person added to the list may offer or negotiate viatical settlement contracts until approved by the Commissioner. Any persons authorized to offer or negotiate viatical settlement contracts whose positions change within the organization must notify the commissioner of such change no later than the next license renewal date.

D. Viatical settlement providers shall acquire and maintain an initial surety bond or letter of credit for the benefit of the commissioner in the amount of \$50,000. A copy of the executed bond or letter of credit shall be filed with the commissioner at the time of

application for a license. On March 31 of each subsequent year of licensing, the viatical settlement provider must file and maintain a surety bond or letter of credit to the benefit of the commissioner equal to not less than 5% of the sum of the prior year's total viatical settlement contracts which were executed in Vermont, but not less than \$50,000, or such other amount as the commissioner may require.

E. In cases where the applicant is not a resident of Vermont, the applicant must submit a written designation of a resident of the state as his or her agent for service of process. This designation shall be maintained at all times by the viatical settlement provider.

F. The commissioner shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement provider if the commissioner finds that

- 1) there was any misrepresentation in the application for the license;
- 2) the holder of the license has engaged in fraudulent or dishonest practices, is subject to a final administrative action in any state, or is otherwise shown to be untrustworthy or incompetent to act as a viatical settlement provider;
- 3) the licensee demonstrates a pattern of unreasonable payments to viators;
- 4) the licensee has been convicted of a misdemeanor involving moral turpitude or has been convicted of a felony; or,
- 5) the licensee has violated any requirements of Title 8, including the requirements outlined in 8 V.S.A. Chapter 103, Subchapter 5A, or this regulation.

G. Before the commissioner shall suspend, revoke or refuse to issue or renew the license of a viatical settlement provider, the licensee shall be entitled to notice and an opportunity to be heard in accordance with 3 V.S.A. Chapter 25.

H. All licenses issued shall continue in force not longer than 12 months, but shall expire as of 12:01 a.m. o'clock on the first day of April of the year next following date of issuance unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by the commissioner, a request for renewal of such license for an ensuing 12-month period. Such request must be accompanied by payment of the required renewal fee. Failure to pay the fee within the terms prescribed shall result in the automatic revocation of the license.

Section 5. License Requirements for Viatical Settlement Brokers

- A. A viatical settlement broker shall not solicit a viatical settlement contract, or in any way engage in the procurement of a contract, without first obtaining a license from the commissioner. The license shall be a limited license which allows solicitation and brokering of viatical settlements only.
- B. The applicant shall follow the licensing procedures as outlined in 8 V.S.A. Chapter 131 and related regulations and bulletins. The applicant must take and pass the qualifying life insurance examination and must have had two years experience as an insurance agent, or comparable employment.
- C. A viatical settlement broker may not be an agent for, or employee of, a viatical settlement provider. A viatical settlement broker who solicits a viatical settlement contract has a fiduciary duty to represent the viator and not the viatical settlement provider.
- D. As part of the application, the applicant shall include proof of acquisition of an errors and omissions policy with a value of \$250,000, or such greater amount as shall be required by the commissioner. In subsequent years of licensing, the viatical settlement broker must forward continuing proof of coverage equal to not less than 10% of the sum of the prior year's viaticated settlement contracts brokered, but not less than \$250,000, or such other amount as the commissioner may require.
- E. In cases where the applicant is not a resident of Vermont, the applicant must submit a written designation of a resident of the state as his or her agent for service of process. This designation shall be maintained at all times by the broker.
- F. The commissioner shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement broker if the commissioner finds that:
- 1) there was any misrepresentation in the application for the license;
 - 2) the holder of the license has engaged in fraudulent or dishonest practices, is subject to a final administrative action in any state or is otherwise shown to be untrustworthy or incompetent to act as a viatical settlement broker;
 - 3) the licensee has been convicted of a misdemeanor involving moral turpitude or has been convicted of a felony;
 - 4) the broker or applicant has placed or attempted to place a viatical settlement with a viatical settlement provider who is required to be, but is not, licensed in this state; or

5) the licensee has violated any requirements of Title 8, including the requirements outlined in 8 V.S.A. Chapter 131 and Chapter 103, Subchapter 5A or this regulation.

G. Before the commissioner shall suspend, revoke or refuse to issue or renew the license of a viatical settlement broker, the licensee shall be entitled to notice and an opportunity to be heard in accordance with 3 V.S.A. Chapter 25 and 8 V.S.A. Chapter 131.

H. All licenses issued shall continue in force not longer than 12 months, but shall expire as of 12:01 a.m. o'clock on the first day of April of the year next following date of issuance unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by the commissioner, a request for renewal of such license for an ensuing 12-month period. Such request must be accompanied by payment of the required renewal fee. Failure to pay the fee within the terms prescribed shall result in the automatic revocation of the license.

I. No viatical settlement broker may charge or receive a fee, commission or other valuable consideration in excess of two percent (2%) of the amount paid by the viatical settlement company to the viator on a policy that is the subject of the viatical settlement broker's services. Upon the written request of the viatical settlement broker, and after conferring with the viator, the commissioner may approve another rate of compensation as reasonable and appropriate under highly unusual circumstances.

Section 6. Examination of Viatical Settlement Providers and Viatical Settlement Brokers

A. The commissioner may examine the business and affairs of any licensee or applicant for a license whenever the commissioner deems it to be prudent for the protection of policyholders or the public.

B. The commissioner shall have the authority to examine any person and to order the production of any records, books, files or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public.

C. The expense incurred in conducting any examination shall be paid by the licensee or applicant.

D. The names and individual identification data for all viators who have or may enter into a viatical settlement contract shall be considered private and confidential information and shall not be publicly disclosed by the commissioner, unless in furtherance of any legal or regulatory action, as otherwise required by law, or with the consent of the viator.

E. The records of all transactions of viatical settlement contracts, including the records of disclosure required under Title 8 V.S.A. Section 3831, shall be maintained by the licensee and shall be available to the commissioner for inspection and copying during normal business hours.

Section 7. Life Insurance Companies: Responsibilities and Relationships

A. No life insurance company authorized to do business in Vermont may be required to pay a viatical settlement provider under a viatical settlement contract on any viator who is a resident of this state, or was a resident of this state on the date the viatical settlement contract was signed, or was a resident of this state except for having left the state for medical care or nursing home care, unless the viatical settlement provider is licensed in this state or is exempt from licensure.

B. No viatical settlement provider may viaticate life insurance policies issued by any life insurance company with which it is affiliated or of which it is a subsidiary, unless the relationship between the life insurance provider and the viatical settlement provider is fully disclosed, in writing, to the viator.

C. Upon direction of the viator, in the case of a life insurance policy which has an accidental death provision or rider, any additional payment in case of accidental death shall remain payable to the viator or beneficiary last named by the viator prior to entering into the viatical settlement agreement, or to such other beneficiary as the viator may thereafter designate, or in the absence of a designation, to the estate of the viator, notwithstanding the designation of the viatical settlement provider as beneficiary of the other policy death benefits.

D. If the life insurance policy to be viaticated provides a guaranteed option to purchase additional insurance, such option may only be exercised for the benefit of a person who has an insurable interest in the life to be insured, or such other person as the viator may designate, in writing.

E. If a life insurance policy is viaticated, that viatication does not alter any of the policy terms and conditions except as contained in the policy in the event that ownership is transferred.

F. A life insurance company which receives an authorization signed by the viator to release specified information regarding the policy or certificate to a named viatical settlement provider or broker, shall release the information requested within ten (10) business days of receipt of the authorization. The request to release information must clearly indicate that the information is being requested for the purpose of entering into a viatical settlement agreement, and is covered by Vermont regulations which require the insurer to process the request within ten (10) business days.

G. An issuer of a group life insurance policy shall, within ten (10) business days of receipt of a written request from a certificate holder for a conversion to an individual life insurance policy, deliver the conversion policy to the certificate holder, where:

- 1) the request for conversion is in compliance with the conversion provision in the policy; and,
- 2) the certificate holder has indicated that the conversion is being requested for the purpose of entering into a viatical settlement agreement.

The request to convert the subject coverage to an individual life insurance policy must clearly indicate that the conversion is being requested for the purpose of entering into a viatical settlement agreement, and is covered by Vermont regulations which require the insurer to process the request within ten (10) business days.

Section 8. Standards for Evaluation of Reasonable Payments

A. In order to assure that viators receive a reasonable return for viaticating an insurance policy, the following shall be minimum payouts:

Viator's or Insured Person's Remaining Life Expectancy At Time of Viatication	Minimum Percentage of Expected Death Benefit (Net of Loans and Any Cash Surrender Value) to be Received by Viator
Less than 6 months	85%
At least 6, but less than 12 months	80%
At least 12, but less than 18 months	75%
At least 18, but less than 24 months	70%
At least 24, but less than 36 months	60%
Thirty-six months or more	50%

B. The expected death benefit is the death benefit provided under the terms of the policy being viaticated, assuming the death of the insured were to occur on the date the viatical settlement contract is signed.

C. The payout shall be increased by 100% of any net cash surrender value of the insurance at the time the viatical settlement contract is issued.

D. Payouts may be reduced by the minimum premium (including premiums payable for additional benefits retained at the option of the viator), if any, required to keep the contract in force for the duration of the viator's remaining life expectancy. Other than this allowable reduction in payout, there shall be no other retention for expenses or broker's fees.

At the time of settlement, the viatical settlement provider shall place in trust a sum equal to the amount the payout was reduced for future premiums. Sums placed in trust under this section shall only be reduced by the viatical settlement provider upon payment of policy premiums as they come due. If the viator dies with a sum held in trust under this section, the sum remaining in trust shall become the property of the viatical settlement provider.

E. If the viatical settlement provider becomes insolvent or is the subject of a bankruptcy or other insolvency proceeding during the life of the viator whose policy had riders retained, the viatical settlement provider shall notify the viator and other insureds of the insolvency or initiation of insolvency proceedings. Persons with an interest in the continuation of riders retained may pay any premiums required to keep riders retained in force.

F. In computing the minimum percentage of expected death benefit (net of loans and cash surrender value) the death benefit value of any accidental death benefit rider shall not be included. There shall be no minimum percentage payment required for the transfer of an accidental death benefit rider to the viatical settlement company.

G. Life expectancy shall be determined by a physician selected by the viator, on the basis of medical records. The physician selected will send life expectancy information to the viatical settlement provider. If the viatical settlement provider disagrees with the life expectancy estimate of the physician selected by the viator, the viator will select a second physician to make an estimate of life expectancy, based on medical records. The second physician's decision shall be final.

Section 9. Viatical Settlement Contracts

A. All viatical settlement contracts must be in writing, and must establish the terms under which the viatical settlement provider will pay compensation to the viator and the terms of the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

B. The contract must contain and give notice of a seven-day unconditional right to cancel the contract. The seven-day cancellation period shall begin the day after the date of execution of the contract and shall end midnight seven days thereafter, or the next business day, if the seventh day falls on a weekend or is a state or federal holiday.

C. If the potential viator or the person whose life is insured by the policy and who has a life threatening illness or condition dies during the seven-day cancellation period, the viatical settlement contract is considered rescinded.

D. The contract shall provide a method for notice of cancellation. If notice of cancellation is given by mail, it shall be deemed given when deposited in the United States mail, addressed and postage prepaid.

E. After the expiration of the cancellation period described above, and upon receipt from the viator of documents to effect the transfer of the insurance policy:

1) the viatical settlement provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a bank with which the viatical settlement provider has no affiliation other than as a depositor, and approved by the commissioner, pending acknowledgment of the transfer from the insurer;

2) payment shall be by means of wire transfer or by cashier's check; and

3) the trustee or escrow agent shall transfer the proceeds due the viator immediately upon receipt of acknowledgment of the transfer from the insurer.

F. Payment of the proceeds pursuant to a viatical settlement shall be made in a lump sum. Neither retention of a portion of the proceeds nor installment payments by the viatical settlement provider are permissible. Installment payments by the trustee or escrow agent shall not be made except at the written request of the viator and unless the viator, in writing, has authorized the trustee or escrow agent to purchase an annuity or similar financial instrument issued by a company authorized to issue the type of instrument used. The viator's estate shall be paid any amounts due under the annuity, should the viator die before the annuity is fully paid.

G. Failure to tender the proceeds of the viatical settlement by the date disclosed to the viator renders the contract and the transfer of the policy null and void and makes the viatical settlement provider and/or broker subject to administrative action.

H. The viator has the right to retain additional benefits or optional riders which were part of the life insurance policy, including but not limited to: disability income, accidental death and dismemberment, and spouse, children and family riders. Any premiums payable on the viaticated insurance policy or certificate (including premiums payable for additional benefits retained at the option of the viator) shall be paid by the viatical settlement provider when due, for the remaining duration of the viator's life.

I. If any benefits are retained by the viator, the viatical settlement provider shall not have the right to any cash surrender value unless all additional benefits, either by rider,

endorsement, or boilerplate, are in a paid-up status. If those additional benefits are in a paid-up status and will be unaffected by any change in cash surrender value, then the viatical settlement provider shall have the right to any cash surrender value.

J. In any instance where the disposition of additional benefits, riders, or endorsements is determined by the viatical settlement contract, the contract must clearly delineate the disposition. Upon signature of the viatical settlement contract, the contract shall be transmitted to the life insurance company, with a summary of any provisions made for the disposition of any additional benefits, riders, or endorsements.

Section 10. Disclosures Required Prior to Signature of the Contract

A. Upon receipt of an application or other notice of a request to viaticate, and after determining the value to be offered in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of a life insurance policy or certificate to the viatical settlement provider, the viatical settlement provider shall deliver a proposal to the viator before the contract is required to be signed. The proposal shall include a copy of Attachment A to this regulation, with the required specific information filled in by the viatical settlement provider, or the same general and specific information as is contained in Attachment A in substantially similar form.

The commissioner reserves the right to update the list of service and support agencies and their telephone numbers through the issuance of Bulletins containing the current approved list.

B. The viatical settlement provider must keep a copy of the disclosure statement in the provider's file on the contract, along with an affidavit signed by the provider showing the date the disclosure statement was delivered to the viator and attesting to the provider's belief that the viator read and understood the disclosure statement. A copy of the disclosure statement and the signed affidavit will be sent to the viatical settlement broker, who will also retain the copies with the broker's files in the contract.

Section 11: Rules of Conduct for Providers and Brokers

A. A viatical settlement broker may not be an agent for, or employee of, a viatical settlement provider. A viatical settlement broker who solicits a viatical settlement contract has a fiduciary duty to represent the viator and not the viatical settlement provider.

B. A viatical settlement provider entering into a viatical settlement contract with any viator shall first obtain a statement signed in the presence of two witnesses in which:

- 1) the viator acknowledges the catastrophic or life threatening illness or condition, represents that the viator has a full and complete

understanding of the viatical settlement contract and understands the benefits of the life insurance that is to be sold or otherwise transferred; and,

2) the viator acknowledges that he or she has entered into the viatical settlement contract freely and voluntarily.

C. Contacts for the purpose of determining the health status of the viator or person whose life is insured by the viatical settlement provider or broker after the viatical settlement has occurred shall be limited to:

1) once every two (2) months in cases where life expectancy is less than six months; and,

2) once every three (3) months in cases where life expectancy is six months or more.

The provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is executed.

D. A viatical settlement provider or broker shall not pay or offer to pay any finder's fee, commission or other compensation to any viator's physician, attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as a representative or agent of the viator with respect to the viatical settlement. For the purposes of this section, "representative or agent" does not include a licensed viatical settlement broker.

E. Viatical settlement providers and brokers shall not solicit investors who could influence the treatment of the illness of the viator or person whose life is insured and whose coverage would be the subject of the investment.

F. No individual, partnership, corporation or other entity acting as a viatical settlement provider or broker shall aid or assist a health care facility or practitioner in coercing or requiring, or attempting to coerce or require, a person to enter into a viatical settlement contract as a condition of admission, or of providing or continuing care.

G. Advertising shall be truthful and not misleading in fact or by implication.

1) If the advertiser represents the speed with which the viatication will occur, the advertising must disclose the average time frame from the completed application to the date of offer and from acceptance of the offer to receipt of funds by the viator.

2) If the advertising represents the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of the face value obtained by viators contracting with the advertiser during the

past six (6) months and must indicate that amounts may vary depending on life expectancy.

3) No advertisements shall indicate or imply that viatical settlements are the only means of obtaining access to a policy's values.

H. All medical information solicited or obtained by any viatical settlement provider or viatical settlement broker shall be confidential. Individual investors of viatical settlement providers shall not have access to names or to individually-identifiable information about viators, unless such information is disclosed in the course of regulatory proceedings under 8 V.S.A., Section 3830.

The viatical settlement provider and the viatical settlement broker shall not disclose any medical information acquired in the course of the negotiation of a viatical settlement contract except as otherwise ordered by the commissioner to assist in the investigation of a crime or violation of any provision of Title 8 V.S.A. or regulations promulgated under that title.

The viatical settlement provider will pay any costs connected with obtaining medical information required in the course of negotiations.

I. A viatical settlement provider or broker shall not unfairly discriminate in the making of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between viators with dependents and viators without dependents.

J. A violation of the either Title 8 V.S.A., Chapter 103, Subchapter 5A, Viatical Settlements, or of this regulation shall be considered an unfair trade practice under Chapter 129 of Title 8 V.S.A. and shall subject the violator to the penalties contained in that chapter. The penalties contained in that chapter shall be in addition to any other penalties that may be imposed under Chapter 103, Subchapter 5A, Viatical Settlements.

Section 12. Approval of Contract Form and Related Forms

A. No viatical settlement provider may use any viatical settlement contract form or related form in this state unless it has been filed with and approved by the commissioner.

Related forms include, but are not necessarily limited to, any disclosure form containing the information required by law and by Section 10 of this regulation, the viator's statement of understanding form as required by Section 11 of this regulation, any medical records release form to be used, any application form to be used by the viator to request a contract, and any form describing how and when contacts for the purpose of determining current health status may occur, as found in Section 11 of this regulation.

B. Any viatical settlement contract form or related form filed with the commissioner shall be deemed approved if it has not been disapproved within 60 days of the filing. The commissioner may extend by not more than 30 additional days the period within which

affirmative approval or disapproval of any such form may be given, by notifying the viatical settlement provider of such extension before expiration of the initial 60-day period.

C. All contracts and related forms submitted for review must:

- 1) include an explanatory paragraph related to each form, describing its intended use and how it will accomplish its goal and the marketing targets and techniques to be used for these forms.
- 2) supply a side-by-side comparison of the new and the old forms, if replacement or revised forms are involved. The submission shall show deleted material in brackets and new material underlined. The submission shall describe what the new form intends to accomplish, how a replacement form differs from its predecessor, and how the forms will accomplish their goals.
- 3) use a Department File number, once it has been assigned.
- 4) be accompanied by the required filing fee and a 4" by 6" silver emulsion microfiche with completed header strip (see Regulation 86-10), a postage paid return envelope, and two copies of the cover letter so that one copy can be stamped and returned.

D. Contracts and all forms must be written in non-technical, readily understandable language, using words of common usage. The viatical settlement provider must test the readability of its contracts and forms by use of the Flesch Readability Formula, as set forth in Rudolf Flesch's publication, "The Art of Readable Writing" (1949, revised 1974). A total readability score of forty (40) or more on the "Flesch" scale is required. A certification that the viatical settlement provider has tested the contract and forms under this section must be submitted with the contract for approval.

E. At the request of the viator, the viatical settlement provider must provide contracts and forms in Braille, large print, on audiotape, or any other reasonable accommodation which will allow the viator to fully comprehend the words and substance of the form.

F. The commissioner may withdraw approval of a previously approved contract form or related form. Any order of the commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonable to inform the viatical settlement provider thereof. Any withdrawal of a previously approved form shall be effective at expiration of such period as the commissioner shall in the notice prescribe.

G. Any request for a hearing relative to the commissioner's withdrawal of approval of a form which has been received by the commissioner prior to the effective date of such withdrawal shall stay such action pending the hearing thereon.

H. The commissioner shall disapprove a viatical settlement contract form if the contract or any provision contained therein is unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the policyholder, or contrary to the provisions of law or this regulation.

I. Any viatical settlement provider aggrieved by the disapproval or withdrawal of approval of any form required to be filed under this section may file a written request for a hearing within 30 days of the date of the notice of the disapproval or withdrawal. Any hearing requested under this section shall be conducted pursuant to Chapter 25 of Title 3 V.S.A.

Section 13. Reporting Requirements

A. The commissioner may require each viatical settlement provider and viatical settlement broker to report such information at such intervals as the commissioner deems necessary.

B. On March 31 of each calendar year, each viatical settlement provider licensed in this state shall make a report to the commissioner as outlined in Attachment B to this regulation for the previous calendar year.

Section 14. Separability Provision

Should a court hold any provision of this regulation invalid in any circumstances, the invalidity shall not affect any other provisions or circumstances of this regulation.

Section 15. Effective Date

This regulation shall become effective February 5, 1996.