

SENATE BILL NO. 388—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to insurance.
(BDR 57-1131)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; revising provisions relating to the Division of Insurance of the Department of Business and Industry, insurers, contracts or policies of insurance, viatical settlements, health insurance and employee leasing companies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 3** of this bill eliminates certain restrictions on out-of-state insurers.
2 (NRS 680A.300)
3 **Sections 7-9** of this bill require certain insurers to comply with newly enacted
4 federal acts.
5 **Section 10** of this bill authorizes insurers to include certain statements in
6 policies of insurance.
7 **Sections 12-58 and 72-77** of this bill revise provisions relating to viatical
8 settlements.
9 **Sections 61-64** of this bill make mandatory the provision of coverage for
10 certain conditions by group health insurance for small employers.
11 **Sections 59, 65 and 70** of this bill revise provisions relating to reviews and
12 examinations by the Commissioner of Insurance.
13 **Section 78** of this bill revises provisions relating to employee leasing
14 companies.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 679B.410 is hereby amended to read as
2 follows:
3 679B.410 The Commissioner shall:



1 1. Determine the relationship of premiums and related income
2 of insurers to costs and expenses of insurers, provide this
3 information to the Legislature and make this information available
4 to the general public.

5 2. Respond to requests by governmental agencies of this state
6 and by the Legislature for special studies and analysis of
7 information collected pursuant to NRS 679B.400 to 679B.460,
8 inclusive.

9 3. Report to each regular session of the Legislature concerning
10 his duties and findings pursuant to this section no later than *the first*
11 *Monday in* February. ~~HH~~

12 **Sec. 2.** NRS 680A.265 is hereby amended to read as follows:

13 680A.265 1. Except as otherwise provided in subsection 5,
14 every:

15 (a) Domestic insurer;

16 (b) Fraternal benefit society authorized to do business in this
17 State pursuant to chapter 695A of NRS; and

18 (c) Corporation subject to the provisions of chapter 695B of
19 NRS,

20 ➤ shall file with the Commissioner, on or before June 1 of each
21 year, a financial statement as of December 31 of the preceding
22 calendar year that is certified by a certified public accountant who is
23 not an employee of the insurer. The Commissioner may request a
24 financial statement from a foreign or alien insurer.

25 2. If a certified public accountant finds any violation of the
26 laws of this State during any audit he conducts pursuant to
27 subsection 1, he shall, if the Commissioner has adopted regulations
28 pursuant to subsection 6 pertaining to the reporting of a violation
29 found during an audit, report the violation in accordance with those
30 regulations.

31 3. An insurer who does not file a report pursuant to subsection
32 1 on or before June 1 of each year is subject to the penalty imposed
33 pursuant to NRS 680A.280.

34 4. A statement filed with the Commissioner must not be a
35 consolidated report with any other subsidiary, affiliate or parent
36 company.

37 5. The provisions of this section do not apply to a domestic
38 insurer who:

39 (a) Is not licensed or authorized to do business in any state other
40 than Nevada; ~~for~~ *and*

41 (b) Is exempted from the requirements of this section by order
42 of the Commissioner for good cause shown.

43 6. The Commissioner may adopt reasonable regulations
44 relating to annual audited financial reports to administer the
45 provisions of this section.



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Sec. 3. NRS 680A.300 is hereby amended to read as follows:

680A.300 1. Except as provided in NRS 680A.310, no authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy , **endorsement or contract** of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents , ~~[resident in this State,]~~ any one of whom shall countersign the policy ~~[]~~ , **endorsement or contract.**

2. Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a **duly appointed and** licensed agent ~~[resident in this State]~~ of any one insurer.

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~[resident]~~ commissioned agent ~~[]~~ who **is authorized to execute the bond. The commissioned agent who executes the bond** shall make and retain an adequate office record of the transaction.

~~4. [Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

~~—5.— On business produced by a licensed nonresident agent or broker, which is countersigned by a resident commissioned agent of this State, there must be a division of the usual commission between the licensed nonresident producing agent or broker and the resident countersigning commissioned agent which must produce for the latter a commission of at least 5 percent of the premium. No commission or fee is required as to policies with an annual premium of \$250 or less. The insurer issuing any policy or bond is responsible for payment to the countersigning agent of the fee or commission for the countersignature. Where the licensed nonresident agent or broker or the insurer assuming the risk desires the resident commissioned agent to render additional services during the life of a policy, the compensation to the countersigning commissioned registered agent is a matter of contract between the parties in interest.~~



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1 ~~—6.1~~ An insurer may use an endorsement to the policy for the
2 sole purpose of countersigning the policy, as required in this section,
3 only if:

4 (a) The endorsement is attached to the policy to which it applies;
5 and

6 (b) The policy insures persons or property in this State and one
7 or more other states.

8 **Sec. 4.** NRS 685B.120 is hereby amended to read as follows:

9 685B.120 1. ~~[Any]~~ *Except as otherwise provided in*
10 *subsection 2, a* person who provides coverage in this State for the
11 cost of:

12 (a) Medical care;

13 (b) Surgery;

14 (c) Chiropractic;

15 (d) Physical therapy;

16 (e) Speech pathology;

17 (f) Audiology;

18 (g) Professional care of mental health;

19 (h) Dental care;

20 (i) Hospital care;

21 (j) Ophthalmic care; or

22 (k) Ambulance services,

23 *↪* whether the coverage provides for direct payment, reimbursement
24 or any other method of payment, is subject to regulation by the
25 Division and to the provisions of this Code. ~~[unless he]~~

26 *2. A person who provides coverage pursuant to subsection 1*
27 *is not subject to regulation by the Division and to the provisions of*
28 *this Code if:*

29 (a) *He* shows that while providing such coverage he is subject to
30 regulation by the Federal Government ~~[-]~~

31 ~~—2.1~~ *pursuant to the provisions of NRS 685B.130; and*

32 (b) *Regulation by the Division and the provisions of this Code*
33 *conflict with the provisions of 29 U.S.C. § 1144(b)(6)(A).*

34 *3.* A nonprofit corporation that provides prepaid ambulance
35 services is not subject to regulation by the Division or to the
36 provisions of this Code if the corporation presents evidence
37 satisfactory to the Commissioner that the corporation is subject to
38 regulation by a political subdivision of this State pursuant to an
39 exclusive franchise which limits the number of times any such
40 prepaid services may be used to a defined number that are medically
41 necessary.



1 **Sec. 5.** Chapter 687B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 6 to 10, inclusive, of this
3 act.

4 **Sec. 6.** *An insurer or other organization providing health*
5 *coverage pursuant to chapter 689B, 689C, 695A, 695B or 695C of*
6 *NRS is not subrogated to the rights of the insured until after the*
7 *insured is reimbursed in full for the costs of covered health care*
8 *services paid by the insured.*

9 **Sec. 7.** *An insurer or other organization providing health*
10 *coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B,*
11 *695C, 695D or 695F of NRS shall comply with the provisions of*
12 *the Genetic Information Nondiscrimination Act of 2008, Public*
13 *Law No. 110-233, and any federal regulations issued pursuant*
14 *thereto.*

15 **Sec. 8.** *An insurer or other organization providing health*
16 *coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of*
17 *NRS shall comply with the provisions of the Paul Wellstone and*
18 *Pete Domenici Mental Health Parity and Addiction Equity Act of*
19 *2008, Public Law No. 110-343, Division C, Title V, Subtitle B, and*
20 *any federal regulations issued pursuant thereto.*

21 **Sec. 9.** *An insurer or other organization providing health*
22 *coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or*
23 *695F of NRS shall comply with the provisions of Michelle's Law,*
24 *Public Law No. 110-381, and any federal regulations issued*
25 *pursuant thereto.*

26 **Sec. 10. 1.** *An insurer may include in a policy of group life,*
27 *dental or health insurance:*

28 *(a) An informational statement that informs an employer of*
29 *the notice requirements established pursuant to subsection 2 of*
30 *NRS 608.1577; and*

31 *(b) Any other provisions not inconsistent with the laws of this*
32 *State and regulations adopted pursuant thereto.*

33 **2.** *Nothing in subsection 1 shall be construed to grant an*
34 *insurer the authority to waive the notice requirements established*
35 *pursuant to subsection 2 of NRS 608.1577. The failure of an*
36 *insurer to include in a policy of group life, dental or health*
37 *insurance an informational statement described in paragraph*
38 *(a) of subsection 1 shall not be construed as a waiver of the*
39 *notice requirements established pursuant to subsection 2 of*
40 *NRS 608.1577.*

41 **Sec. 11.** NRS 687B.120 is hereby amended to read as follows:

42 687B.120 1. *Except as otherwise provided in subsection 2:*

43 *(a) No life or health insurance policy or contract, annuity*
44 *contract form, policy form, health care plan or plan for dental care,*
45 *whether individual, group or blanket, including those to be issued by*



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1 a health maintenance organization, organization for dental care or
2 prepaid limited health service organization, or application form
3 where a written application is required and is to be made a part of
4 the policy or contract, or printed rider or endorsement form or form
5 of renewal certificate, or form of individual certificate or statement
6 of coverage to be issued under group or blanket contracts, or by a
7 health maintenance organization, organization for dental care or
8 prepaid limited health service organization, may be delivered or
9 issued for delivery in this state, unless the form has been filed with
10 and approved by the Commissioner. ~~[This subsection does not apply~~
11 ~~to any special rider or endorsement which relates to the manner of~~
12 ~~distribution of benefits or to the reservation of rights and benefits~~
13 ~~under life or health insurance policies, which special riders or~~
14 ~~endorsements are used at the request of the individual policyholder,~~
15 ~~contract holder or certificate holder.]~~

16 (b) As to group insurance policies effectuated and delivered
17 outside this state but covering persons resident in this state, the
18 group certificates to be delivered or issued for delivery in this state
19 must be filed, for informational purposes only, with the
20 Commissioner at his request.

21 2. *As to group insurance policies to be issued to a group*
22 *which was formed for the purpose of purchasing one or more*
23 *policies of group insurance pursuant to NRS 688B.030 or*
24 *689B.026, no policy of group insurance may be marketed to a*
25 *resident or employer of this State unless the policy and any form*
26 *of certificate to be issued pursuant to the policy has been filed with*
27 *and approved by the Commissioner.*

28 3. Every ~~[such]~~ filing *made pursuant to the provisions of*
29 *subsection 1 or 2* must be made not less than 45 days in advance of
30 any ~~[such]~~ delivery ~~[.]~~ *pursuant to subsection 1 or any marketing*
31 *pursuant to subsection 2.* At the expiration of 45 days the form so
32 filed shall be deemed approved unless prior thereto it has been
33 affirmatively approved or disapproved by order of the
34 Commissioner. Approval of any such form by the Commissioner
35 constitutes a waiver of any unexpired portion of such waiting
36 period. The Commissioner may extend by not more than an
37 additional 30 days the period within which he may so affirmatively
38 approve or disapprove any such form, by giving notice to the insurer
39 of the extension before expiration of the initial 45-day period. At the
40 expiration of any such period as so extended, and in the absence of
41 prior affirmative approval or disapproval, any such form shall be
42 deemed approved. The Commissioner may at any time, after notice
43 and for cause shown, withdraw any such approval.

44 ~~[3-]~~ 4. Any order of the Commissioner disapproving any such
45 form or withdrawing a previous approval must state the grounds



therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~[4-]~~ 5. The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

~~[5-]~~ 6. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 12. Chapter 688C of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 28, inclusive, of this act.

Sec. 13. *“Rescission period” means the shorter period of 60 days after the date on which a viatical settlement is signed by all parties thereto or 30 days after the viator receives the proceeds from that viatical settlement.*

Sec. 14. *“Viatical settlement investment” has the meaning ascribed to it in section 74 of this act.*

Sec. 15. *“Viatical settlement investment agent” or “investment agent of viatical settlements” means a person who is appointed by or contracts with a licensed provider of viatical settlements to solicit or arrange for the funding for the purchase of a viatical settlement by a purchaser of viatical settlements on behalf of the provider of viatical settlements.*

Sec. 16. *“Viatical settlement purchase agreement” means a contract or agreement to which the viator is not a party, and which is entered into by a purchaser of viatical settlements to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.*

Sec. 17. *A financial planner, as defined in subsection 3 of NRS 628A.010, who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.*

Sec. 18. 1. *Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:*



(a) NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.

(b) NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.

(c) Chapter 680A of NRS.

(d) Chapter 683A of NRS.

(e) NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.

2. Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator's designee acting pursuant to the authority granted by chapter 90 of NRS.

3. Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.

Sec. 19. A viatical settlement investment agent is deemed to represent the provider of viatical settlements who appointed or contracted with the viatical settlement investment agent.

Sec. 20. A viatical settlement investment agent shall not:

1. Have knowledge of the identity of; or

2. Communicate either directly or indirectly with, a viator or an insured whose policy of insurance is the object of a viatical settlement for which the viatical settlement investment agent solicits or arranges for the funding for the purchase.

Sec. 21. 1. Before the date on which an agreement to purchase a viatical settlement is signed by all parties thereto, the provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide the purchaser of viatical settlements with the following disclosures:

(a) A statement that the purchaser will receive no return on the viatical settlement investment, including dividends and interest, until the insured has died and a claim for a death benefit is made pursuant to the viaticated policy.

(b) A statement that the actual annual rate of return on a viatical settlement is dependent upon an accurate projection of the life expectancy of the insured and that a guaranteed annual rate of return is not determinable.

(c) A statement that a viaticated policy is not a liquid asset.

(d) A statement that the purchaser may lose all, or a substantial portion, of the benefits of the viaticated policy if the



insurer who issued the policy goes out of business during the term of the viatical settlement investment.

(e) A statement that the purchaser is responsible for the payment of premiums and other costs related to the viaticated policy and that those payments may reduce the purchaser's return on the viatical settlement investment.

(f) A statement as to whether the purchaser is entitled to a refund of all or a part of his payment pursuant to the viatical settlement investment if the viaticated policy is later determined to be void.

(g) A statement that a group insurance policy may contain provisions:

(1) Limiting or negating rights of conversion if the policy is terminated and replaced by another policy; and

(2) Requiring the payment of additional premiums if the policy is converted. If the group insurance policy requires a payment of additional premiums if the policy is converted, a disclosure statement pursuant to this subparagraph must also identify the name of the party responsible for the payment of the additional premiums.

(h) The cost of the premium to be paid by the purchaser.

(i) The costs of any fees or other expenses to be paid by the purchaser.

(j) The name, business address and telephone number of the designated independent escrow agent.

(k) The relationship between the designated independent escrow agent and the broker of viatical settlements.

(l) The risks associated with contestability of the policy, including, without limitation, the risk that the purchaser will have no claim or a limited claim to death benefits if the insurer rescinds the policy during the period of contestability.

(m) A statement as to whether the purchaser will be the owner of the policy in addition to being the beneficiary and, if the purchaser is the beneficiary only and not also the owner, the additional risks associated with that status, including, without limitation, the risk that the beneficiary may be changed or the premium may not be paid.

(n) A description of the experience and qualifications of the person who projects the life expectancy of the insured, the information on which the projection is based and the relationship, if any, between the person who makes the projection and the provider of viatical settlements.

2. The provider of viatical settlements or the viatical settlement investment agent shall also provide to the purchaser of viatical settlements a brochure that describes the process of



1 *investment in viatical settlements. The form of the brochure*
2 *created by the National Association of Insurance Commissioners*
3 *must be used unless an alternate is developed by the*
4 *Commissioner.*

5 **Sec. 22.** *Not later than the date of assignment, transfer or*
6 *sale of all or a portion of a viaticated policy, a provider of viatical*
7 *settlements or a viatical settlement investment agent who*
8 *contracted with or was appointed by the provider of viatical*
9 *settlements shall provide a purchaser of a viatical settlement with*
10 *the following disclosures:*

11 *1. All certifications relating to the life expectancy of the*
12 *viator that were obtained by the provider of viatical settlements in*
13 *the process of determining the price that was paid to the viator.*

14 *2. A statement as to whether premium payments or money for*
15 *the payment of other costs related to the policy has been deposited*
16 *in an escrow account.*

17 *3. If payments or money has been deposited in an escrow*
18 *account, a statement of the date that the escrow account will be*
19 *depleted and as to whether the purchaser of viatical settlements*
20 *will be responsible for payment of premiums thereafter and, if so,*
21 *a statement of the amount of the premiums.*

22 *4. A statement as to whether premiums or other costs related*
23 *to the policy have been waived.*

24 *5. If premiums or other costs have been waived, a statement*
25 *as to whether the purchaser will be responsible for payment of*
26 *the premiums if the insurer that issued the policy terminates the*
27 *waiver after the purchase, and a statement of the amount of the*
28 *premiums.*

29 *6. The type of policy offered or sold, any additional benefits*
30 *included with the policy and the status of the policy.*

31 *7. If the policy is term insurance, a statement of the*
32 *additional risks associated with term insurance, including, without*
33 *limitation, the purchaser's responsibility for additional premiums*
34 *if the viator renews the policy at the end of the term which is*
35 *effective at the time of the purchase.*

36 *8. The period of contestability, if any, remaining under the*
37 *policy.*

38 *9. A statement of rights held by the insurer that could*
39 *negatively affect or extinguish the rights of the purchaser of*
40 *viatical settlements and the conditions under which the rights can*
41 *be exercised.*

42 **Sec. 23.** *Disclosures made pursuant to sections 21 and 22 of*
43 *this act must be printed conspicuously in at least 12-point type in*
44 *any contract or in a separate document signed by the purchaser of*
45 *viatical settlements and:*



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- 1 1. *The provider of viatical settlements; or*
- 2 2. *The viatical settlement investment agent who contracted*
- 3 *with or was appointed by the provider of viatical settlements.*

4 **Sec. 24.** *If a broker or provider of viatical settlements is a*
5 *party to a plan, a transaction or a series of transactions to*
6 *originate, renew or continue a policy of life insurance for the*
7 *purpose of engaging in the business of viatical settlements before*
8 *or during the first 5 years after the issuance of the policy, the*
9 *broker or provider shall fully disclose the plan, transaction or*
10 *transactions to the issuer of the policy.*

11 **Sec. 25.** *With respect to a viatical settlement or a policy of*
12 *insurance:*

13 1. *A broker of viatical settlements shall not knowingly solicit*
14 *an offer from, effectuate a viatical settlement with or make a sale*
15 *to any provider, purchaser or investment agent of viatical*
16 *settlements.*

17 2. *A provider of viatical settlements shall not knowingly enter*
18 *into a viatical settlement with a viator if, in connection with that*
19 *viatical settlement, anything of value will be paid to a broker of*
20 *viatical settlements who controls, is controlled by or is under*
21 *common control with a provider, purchaser or investment agent of*
22 *viatical settlements who is involved in the viatical settlement.*

23 **Sec. 26.** *An insurer shall not, as a condition of responding to*
24 *a request for verification of coverage or of effecting the transfer of*
25 *a policy pursuant to a viatical settlement, require that the viator,*
26 *insured, provider or broker of viatical settlements sign a form or*
27 *disclosure that has not been expressly approved by the*
28 *Commissioner for use in connection with a viatical settlement in*
29 *this State.*

30 **Sec. 27.** *The Commissioner may place a broker or investment*
31 *agent of viatical settlements on probation if the Commissioner*
32 *finds that the broker or investment agent of viatical settlements*
33 *has acted in bad faith with regard to a viator.*

34 **Sec. 28.** 1. *If the Commissioner finds that a producer of life*
35 *insurance has violated a provision of this chapter or other*
36 *applicable provisions or has acted in bad faith with regard to a*
37 *viator, the Commissioner may:*

38 (a) *Refuse to:*

39 (1) *Issue a certificate of authority to the producer of life*
40 *insurance; or*

41 (2) *Renew a certificate of authority of the producer of life*
42 *insurance;*

43 (b) *Suspend the producer of life insurance for a period not to*
44 *exceed 12 months; or*

45 (c) *Place the producer of life insurance on probation.*



2. *If the Commissioner takes action as described in paragraphs (a), (b) and (c) of subsection 1, the producer of life insurance may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.*

Sec. 29. NRS 688C.010 is hereby amended to read as follows:

688C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 688C.020 to 688C.150, inclusive, *and sections 13 to 16, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 30. NRS 688C.020 is hereby amended to read as follows:

688C.020 "Advertising" means a written, electronic or printed communication or a communication by recorded telephone message, radio, television, the Internet or a similar medium of communication, including a film strip, motion picture or videotape, published, communicated or otherwise placed before the public to create an interest in, or induce a person to *purchase or* sell a policy of life insurance pursuant to, a viatical settlement.

Sec. 31. NRS 688C.030 is hereby amended to read as follows:

688C.030 "Broker of viatical settlements" means a person who on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate a viatical settlement between the viator and one or more providers *or brokers* of viatical settlements. The term does not include an attorney at law, certified public accountant or financial planner accredited by a nationally recognized accrediting agency who is retained by the viator and whose compensation is not paid by a provider or purchaser of viatical settlements.

Sec. 32. NRS 688C.080 is hereby amended to read as follows:

688C.080 "Provider of viatical settlements" means a person other than a viator who enters into or effectuates a viatical settlement. The term does not include:

1. A bank, savings and loan association, thrift company, credit union or other licensed lender that takes an assignment of a policy as security for a loan;

2. The issuer of a policy that provides accelerated benefits pursuant to the contract;

3. An authorized or eligible insurer that provides stop-loss coverage to a provider or purchaser of viatical settlements;

4. A natural person who enters into no more than one agreement in a calendar year for the transfer of policies for a value less than the expected death benefit;

5. A financing agent;

6. A special organization; *or*



7. ~~[A trust for a related provider; or
—8.]~~ A purchaser of viatical settlements.

Sec. 33. NRS 688C.090 is hereby amended to read as follows:

688C.090 “Purchaser of viatical settlements” means a person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. The term does not include:

1. A person licensed pursuant to this chapter;

2. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

3. A financing agent; *or*

4. A special organization . ~~[-; or~~

~~—5. A trust for a related provider.]~~

Sec. 34. NRS 688C.130 is hereby amended to read as follows:

688C.130 “Viatical settlement” means a written agreement *between a viator and a provider of viatical settlements or an affiliate thereof* for the payment of money, or anything else of value, which is less than the expected death benefit of a policy, in exchange for the viator’s assignment, sale, transfer or devise of the death benefit or ownership of any portion of the policy. The term includes ~~[-~~

~~—1. An agreement for a loan or other financing secured primarily by a policy, other than a loan by an insurer pursuant to or secured by the cash value of a policy; and~~

~~—2. An~~ *an* agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

Sec. 35. NRS 688C.150 is hereby amended to read as follows:

688C.150 *1. “Viator” means the owner of a policy or the holder of a certificate of insurance under a policy of group insurance [-] who resides in this State and who enters or seeks to enter into a viatical settlement.* The term is not limited to an owner who is terminally or chronically ill except where that limitation is expressly provided.

2. The term does not include:

(a) A producer of life insurance acting as a broker of viatical settlements pursuant to this chapter;

(b) A qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, 15 U.S.C. §§ 77a et seq., as amended;

(c) A financing agent; or



1 ***(d) A special organization.***

2 **Sec. 36.** NRS 688C.160 is hereby amended to read as follows:

3 688C.160 If there is more than one viator ***or purchaser of***
4 ***viatical settlements*** with respect to a single policy and they are
5 residents of different states, ***one of whom resides in this State and***
6 ***enters or seeks to enter into a viatical settlement or an agreement***
7 ***to purchase a viatical settlement,*** the legal effect of ~~the~~ the viatical
8 settlement ***or agreement to purchase a viatical settlement, as***
9 ***applicable,*** is governed by the law of the state in which the viator ***or***
10 ***purchaser*** having the largest fractional ownership resides. If the
11 viators ***or purchasers of viatical settlements*** own equal fractions,
12 they may agree in writing to choose ~~the~~ which state , ***among the***
13 ***states*** in which ~~one resides.~~ ***the viators or purchasers of viatical***
14 ***settlements reside, will be the state whose law will govern.***

15 **Sec. 37.** NRS 688C.190 is hereby amended to read as follows:

16 688C.190 1. Except as otherwise provided in NRS 688C.215,
17 a person shall not, without first obtaining a license from the
18 Commissioner, operate in or from this State as ***an investment agent***
19 ***or*** a provider or broker of viatical settlements.

20 2. Application for a license must be made to the Commissioner
21 on a form prescribed by him, accompanied by the prescribed fee. A
22 license may be renewed from year to year on its anniversary by
23 payment of the prescribed fee. The license expires if the fee is not
24 paid by that date.

25 3. An applicant shall provide information on forms required by
26 the Commissioner, who may at any time require the applicant to
27 disclose the identity of all stockholders, partners, members, officers
28 and employees. The Commissioner may refuse to issue a license to
29 an organization if he is not satisfied that a stockholder, partner,
30 member or officer who may materially influence the applicant's
31 conduct satisfies the requirements of this chapter.

32 4. A license issued to an organization authorizes all partners,
33 members, officers and designated employees to act as ***investment***
34 ***agents or*** providers or brokers of viatical settlements. Those persons
35 must be named in the application or a supplement to it.

36 **Sec. 38.** NRS 688C.200 is hereby amended to read as follows:

37 688C.200 1. Upon the filing of an application and payment
38 of the fee, the Commissioner shall investigate the applicant, and
39 issue a license if he finds that the applicant:

40 (a) If a provider of viatical settlements, has set forth a detailed
41 plan of operation;

42 (b) Is competent and trustworthy and intends to act in good faith
43 in the capacity for which the license is sought;



(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements ~~[-has]~~ :

(1) *Has* included a plan to prevent fraud which satisfies the requirements of NRS 688C.490 ~~[-]~~ ; and

(2) *Has demonstrated evidence of financial responsibility through either:*

(I) *A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than \$250,000; or*

(II) *A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of \$250,000.*

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a broker of viatical settlements.

5. *A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:*

(a) *Erroneous acts;*

(b) *Failure to act; or*

(c) *Conviction of:*

(1) *Fraud; or*

(2) *Unfair practices,*

↪ by the provider or broker of viatical settlements.

6. *The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time he deems necessary.*



Sec. 39. NRS 688C.210 is hereby amended to read as follows:

688C.210 1. After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

~~(1.)~~ **(a)** There was material misrepresentation in the application for the license;

~~(2.)~~ **(b)** The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

~~(3.)~~ **(c)** A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

~~(4.)~~ **(d)** The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

~~(5.)~~ **(e)** A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

~~(6.)~~ **(f)** A provider of viatical settlements has failed to honor obligations of a viatical settlement ~~;~~

~~—7.—~~ **or an agreement to purchase a viatical settlement;**

(g) The licensee no longer meets a requirement for initial licensure;

~~(8.)~~ **(h)** A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement ~~;~~ **or** a special organization ~~for a trust for a related provider;~~

~~—9.—~~ ;

(i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

~~(10.)~~ **(j)** The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~for~~

~~—11.—~~ **(k)** The applicant or licensee has violated a provision of this chapter ~~;~~ **or other applicable provisions; or**

(l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.



1 **3. If the Commissioner takes action as described in**
2 **subsection 1, the applicant or licensee may apply in writing for a**
3 **hearing before the Commissioner to determine the reasonableness**
4 **of the action taken by the Commissioner, pursuant to the**
5 **provisions of NRS 679B.310 to 679B.370, inclusive.**

6 **Sec. 40.** NRS 688C.215 is hereby amended to read as follows:

7 688C.215 1. A natural person who has been licensed for at
8 least 1 year and who is in good standing as a resident or nonresident
9 producer of insurance with a life insurance qualification is not
10 required to be licensed as **an investment agent or** a broker of
11 viatical settlements.

12 2. A licensed producer of insurance specified in subsection 1
13 must register with the Division not more than 30 days after first
14 operating as **an investment agent or** a broker of viatical settlements,
15 on a form prescribed by the Commissioner, and pay the fee for
16 registration pursuant to NRS 680B.010. Failure to register within
17 the required period or late payment of or failure to pay the fee may
18 result in the imposition of an administrative fine of not more than
19 \$500.

20 3. A producer of insurance who acts as **an investment agent or**
21 a broker of viatical settlements pursuant to subsection 1 shall
22 comply with the provisions of NRS 688C.220 to 688C.250,
23 inclusive, and 688C.310.

24 **Sec. 41.** NRS 688C.230 is hereby amended to read as follows:

25 688C.230 1. Each licensee under this chapter shall file with
26 the Commissioner on or before March 1 of each year an annual
27 statement containing such information as the Commissioner
28 prescribes by regulation. **Pursuant to subsection 7 of NRS**
29 **679B.190, the Commissioner shall classify as confidential any**
30 **information received pursuant to this subsection that is:**

31 **(a) Data of individual transactions in the business of viatical**
32 **settlements; or**

33 **(b) Data that could compromise the privacy of personal,**
34 **financial or health information of a viator or insured.**

35 2. Except as allowed or required by a statute other than this
36 chapter, a provider or broker of viatical settlements, **an investment**
37 **agent,** an insurer, a producer of insurance, an information bureau, a
38 rating agency or any other person knowing the identity of an insured
39 shall not disclose that identity as an insured to any other person
40 unless the disclosure is:

41 (a) Necessary to effect a viatical settlement between the viator
42 and a provider of viatical settlements and the viator and the insured
43 have given prior written consent to the disclosure;

44 **(b) Necessary to effect an agreement for the purchase of a**
45 **viatical settlement between the purchaser and a provider of**



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viatical settlements, and the viator and the insured have given prior written consent to the disclosure;

(c) Furnished in response to an investigation or examination by the Commissioner or another governmental officer or agency;

~~[(e)]~~ (d) A term of or condition to the transfer of a policy by one provider of viatical settlements to another provider; or

~~[(d)]~~ (e) Necessary to permit a financing agent to finance the purchase of a policy by a provider of viatical settlements and the insured has given prior written consent to the disclosure.

Sec. 42. NRS 688C.250 is hereby amended to read as follows:

688C.250 1. With each application for a viatical settlement, a provider or broker of viatical settlements shall furnish to the viator at least the following disclosures, *in at least 12-point type*, no later than the time the application for the settlement is signed by all the parties, in a separate document signed by the viator and the provider or broker:

(a) *A broker of viatical settlements represents the viator exclusively, and not the insurer or the provider of viatical settlements, and owes a fiduciary duty to the viator, including a duty to act according to the instructions of the viator and in the best interest of the viator.*

(b) The possible alternatives to viatical settlement, including any accelerated death benefits or *policy* loans offered under the viator's *life insurance* policy.

~~[(b)]~~ (c) Some or all of the proceeds of the viatical settlement may be taxable under the federal income tax or a state franchise or income tax, and assistance should be sought from a professional tax adviser.

~~[(e)]~~ (d) Proceeds of the viatical settlement may be subject to the claims of creditors.

~~[(d)]~~ (e) Receipt of proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other governmental benefits, and advice should be sought from the appropriate governmental agencies.

~~[(e)]~~ (f) The viator has a right to ~~terminate~~ *rescind* a viatical settlement within ~~[15 days after his receipt of the proceeds,]~~ *the rescission period*, as provided in NRS 688C.300, and if the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~terminated~~ *deemed rescinded*, and all proceeds must be repaid to the provider ~~[-~~

~~-(f)]~~ *within 60 days after the death of the insured. Rescission, if exercised by the viator, is effective only if the viator:*

(1) *Gives notice of the rescission to the provider or broker of viatical settlements; and*



(2) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

↳ within the rescission period.

(g) Money will be sent to the viator within 3 business days after the provider has received the insurer's or group administrator's **written** acknowledgment that ownership of or interest in the policy has been transferred and the beneficiary has been designated.

~~(g)~~ (h) Entering into a viatical settlement may cause other rights, including conversion and waiver of premium, that may exist under the policy to be forfeited by the viator, and assistance should be sought from a financial adviser.

~~(h)~~ (i) A brochure is provided which describes the process of viatical settlement, in the form prescribed by the National Association of Insurance Commissioners unless the Commissioner prescribes a different form.

(j) The name and address of the person responsible for monitoring the condition of the insured, the frequency of monitoring, the means of determining date of death and the means and time by which the date of death will be transmitted to the purchaser.

2. The document in which the disclosures required by paragraphs (a) to ~~(g)~~ (j), inclusive, of subsection 1 are made must also contain the following:

All medical, financial and personal information solicited or obtained by a provider or broker of viatical settlements about an insured, including his identity and that of members of his family, a spouse or other relationship, may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. Failure to consent may affect your ability to viaticate your policy. The information may be furnished to someone who buys the policy or provides money for the purchase.

Sec. 43. NRS 688C.260 is hereby amended to read as follows:

688C.260 A provider of viatical settlements shall furnish to the viator, no later than the date the viatical settlement is signed by all parties, at least the following disclosures, *in at least 12-point type*, conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the provider or broker of viatical settlements:

1. The affiliation, if any, between the provider *of viatical settlements* and the issuer of the policy to be viaticated.



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2. The name, *business* address and telephone number of the provider ~~[.]~~ *of viatical settlements.*

~~3. [The amount and method of calculating the broker's commission, including anything of value paid or given to the broker for placing the policy.]~~ *The name, business address and telephone number of the broker of viatical settlements.*

4. *Any affiliations or contractual agreements between the provider and purchaser of viatical settlements.*

5. *Any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement.*

6. If the policy to be viaticated was issued as a joint policy, contains family riders or covers a life other than that of the insured under it, any possible loss of coverage on the other lives under the policy, and that the viator should consult the producer of the insurance or the issuer of the policy for advice concerning the settlement.

~~[5.]~~ 7. The monetary amount of the current death benefit payable to the provider under the policy and, if known, the availability of any other guaranteed benefit, the monetary amount of any benefit for accidental death or dismemberment, and the ~~[provider's]~~ *extent to which the viator's* interest in those benefits ~~[~~ *—6.] will be transferred as a result of the viatical settlement.*

8. The name, business address and telephone number of the escrow agent, and the right of the viator or owner to inspect or receive copies of the relevant escrow or trust agreements or related documents.

9. *A complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed viatical settlement.*

10. *The amount and method of calculation of compensation of the broker of viatical settlements, including, without limitation, anything of value paid or given to the broker of viatical settlements for the placement of the policy.*

11. *A statement indicating the source of any compensation of the broker of viatical settlements from a proposed offer for the viatical settlement, the total amount of the offer for the viatical settlement and the compensation of the broker of viatical settlements expressed as a percentage of the offer for the viatical settlement.*

Sec. 44. NRS 688C.270 is hereby amended to read as follows:

688C.270 1. A viator may not enter into a viatical settlement within ~~[2]~~ 5 years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:



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(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy ~~[-~~

~~—(b) The owner of the policy is a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).~~

~~—(c) The owner of the policy is a business organization.~~

~~—(d) if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months. The time covered under the group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.~~

(b) The viator or owner submits to the provider of viatical settlements independent evidence that within the ~~[2-year]~~ 5-year period:

(1) *The owner or insured has been diagnosed as terminally ill;*

(2) The owner or insured has been diagnosed ~~[to have]~~ as *chronically ill or has* an illness or condition that is life-threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;

~~[(2)]~~ (3) The spouse of the owner or insured has died;

~~[(3)]~~ (4) The owner or insured has divorced his spouse;

~~[(4)]~~ (5) The owner or insured has retired from full-time employment;

~~[(5)]~~ (6) The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes him from maintaining full-time employment;

~~[(6) The owner of the policy was the employer of the insured and that relationship has terminated;]~~

(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver, trustee or liquidator for all or a substantial part of the assets of the owner or insured; *or*

(8) The owner of the policy experiences a significant decrease in income which is unexpected by him and impairs his reasonable ability to pay the premium on the policy. ~~[-or~~

~~—(9) The owner or insured disposes of his ownership in a closely held corporation.]~~

2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to him. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.



3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph ~~(a)~~ (b) of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.

Sec. 45. NRS 688C.280 is hereby amended to read as follows:

688C.280 1. A provider of viatical settlements who enters into a settlement shall first obtain:

(a) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement;

(b) A witnessed document in which the viator ~~represents~~:

(1) Consents to the viatical settlement;

(2) Represents that he has a full and complete understanding of the settlement and of the benefits of the policy ~~acknowledges~~;

(3) Acknowledges that he has entered into the settlement freely and voluntarily; and ~~if~~

(4) If applicable to determine a payment to a person terminally or chronically ill, acknowledges that he is terminally or chronically ill and that the illness was diagnosed after the policy was issued; and

(c) A document in which the insured consents to the release of his medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering him.

2. Within 20 days after a viator executes documents necessary to transfer rights under a policy, or enters into an agreement in any form, express or implied, to viaticate the policy, the provider of viatical settlements shall give written notice to the issuer of the policy that the policy has or will become viaticated. The notice must be accompanied by: ~~a~~

(a) A copy of the release of medical records ~~and the~~;

(b) The application for the viatical settlement ~~is~~; and

(c) A request for verification of coverage.

3. Any of the acts described in subsections 1 and 2, if performed by a broker of viatical settlements, will be deemed to have been performed by the provider of viatical settlements for the purposes of fulfilling the requirements of subsections 1 and 2.

4. Within 30 days after receiving a request for verification of coverage from a provider or broker of viatical settlements, an insurer shall respond by:

(a) Verifying coverage; and

(b) Indicating whether, on the basis of the medical evidence and documents provided, the insurer intends to pursue an



investigation regarding the validity of the insurance or possible fraud.

Sec. 46. NRS 688C.290 is hereby amended to read as follows:

688C.290 1. A provider of viatical settlements shall instruct the viator to send the executed documents required to effect the change in ownership or assignment or change of beneficiary of the affected policy to a designated independent escrow agent. Within 3 business days after the date the escrow agent receives the documents, or within 3 business days after the provider receives the documents if by mistake they are sent directly to him, the escrow agent shall deposit the proceeds of the settlement into an escrow or trust account maintained in a regulated financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

2. Upon deposit of the proceeds in that account, the escrow agent shall deliver to the provider the original documents executed by the viator. Upon the provider's receipt from the insurer of an acknowledgment of the change in ownership or assignment or change of beneficiary of the affected policy, he shall instruct the escrow agent to pay the proceeds of the settlement to the viator.

3. Payment to the viator must be made within 3 business days after the date the provider received the acknowledgment from the insurer. Failure to make the payment within that time makes the viatical settlement voidable by the viator for lack of consideration until payment is tendered to and accepted by the viator. *Payment to the viator shall be deemed to have been made as of the date that the escrow agent:*

(a) Releases money for a wire transfer to the viator; or

(b) Deposits a check for the amount of the proceeds with the United States Postal Service or with a commercially reasonable delivery service.

Sec. 47. NRS 688C.300 is hereby amended to read as follows:

688C.300 1. A viatical settlement entered into in this state must reserve to the viator an unconditional right to ~~terminate~~ *rescind* the settlement within ~~[15 days after he receives the proceeds of the settlement.]~~ *the rescission period. Rescission, if exercised by the viator, is effective only if the viator:*

(a) Gives notice of the rescission to the provider or broker of viatical settlements; and

(b) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements,

↪ within the rescission period.

2. If the insured dies during ~~[that]~~ *the rescission* period, the settlement is ~~[terminated, but the]~~ *deemed rescinded and all*



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proceeds *and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements* must be repaid to the provider of ~~the~~ viatical ~~settlement.~~ settlements within 60 days after the death of the insured.

3. In the event of a rescission, if the provider of viatical settlements has paid commissions or other compensation to a broker of viatical settlements in connection with the rescinded transaction, the broker of viatical settlements shall refund all such commissions and compensation to the provider of viatical settlements within 5 business days following receipt of written demand from the provider of viatical settlements. The demand must be accompanied by:

(a) The viator's notice of rescission, if the rescission was exercised by the viator; or

(b) Notice of the death of the insured, if the rescission was due to the death of the insured within the rescission period.

4. A purchaser of viatical settlements has the right to rescind an agreement to purchase a viatical settlement within 3 business days after the purchaser of viatical settlements receives the disclosures set forth in sections 21 and 22 of this act.

Sec. 48. NRS 688C.310 is hereby amended to read as follows:

688C.310 1. Contact with an insured to determine *his residential or business street address and telephone number or* the status of his health after a viatical settlement may be made only by a provider or broker of viatical settlements who is licensed in this state, or its authorized representative, and no oftener than once every 3 months if the insured has a life expectancy of 1 year or more, or once every month if the insured has a life expectancy of less than 1 year. The provider or broker shall explain the procedure for those contacts at the time the settlement is entered into.

2. The limitations of subsection 1 do not apply to contacts for purposes other than determining status of health.

3. A provider or broker is responsible for the acts of his authorized representative.

Sec. 49. NRS 688C.330 is hereby amended to read as follows:

688C.330 1. If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, he shall inform the insured of the transfer or change within 20 days after it occurs.

2. *If an insurer receives a request for change of ownership or beneficiary of a viaticated policy from a provider of viatical settlements, the insurer shall respond within 30 days after receipt thereof with written confirmation that the change has been*



1 *effected or specifying the reasons why the requested change could*
2 *not be effected.*

3 3. *An insurer shall not unreasonably delay in effecting a*
4 *requested change of ownership or beneficiary requested for a*
5 *viaticated policy by a provider of viatical settlements.*

6 4. *An insurer shall not seek to interfere with a viatical*
7 *settlement lawfully entered into in this State.*

8 **Sec. 50.** NRS 688C.350 is hereby amended to read as follows:

9 688C.350 NRS 688C.350 to 688C.430, inclusive, *and sections*
10 *21, 22 and 23 of this act* apply to advertising of viatical settlements
11 *, agreements to purchase viatical settlements* or related *products or*
12 services intended for dissemination in this state, including
13 advertising on the Internet which is viewed by persons in this state.
14 To the extent that federal regulation establishes requirements for
15 disclosure, those sections must be so interpreted as to eliminate or
16 minimize conflict with the federal requirements.

17 **Sec. 51.** NRS 688C.370 is hereby amended to read as follows:

18 688C.370 1. An advertisement must be truthful and not
19 misleading in fact or by implication. The form and content of an
20 advertisement for viatical settlements *, agreements to purchase*
21 *viatical settlements or related products or services* must be
22 sufficiently complete and clear to avoid deception. An
23 advertisement may not have a capacity or tendency to mislead or
24 deceive, as determined by the Commissioner from the overall
25 impression it may reasonably be expected to create upon a person of
26 average education or intelligence in the segment of the public to
27 which it is directed.

28 2. *A provider of viatical settlements shall not enter into a*
29 *viatical settlement unless the promotional, advertising and*
30 *marketing materials, in at least 12-point type, have been filed with*
31 *the Commissioner pursuant to regulations adopted by the*
32 *Commissioner. The Commissioner shall adopt such regulations as*
33 *he deems necessary to carry out the provisions of this subsection.*

34 **Sec. 52.** NRS 688C.380 is hereby amended to read as follows:

35 688C.380 1. The information required to be disclosed under
36 NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23*
37 *of this act* may not be minimized, obscured, presented ambiguously
38 or so intermingled with other text of an advertisement as to be
39 confusing or misleading.

40 2. An advertisement may not omit material information or use
41 language or illustrations if the omission or use has a capacity or
42 tendency to, or does, mislead viators *, purchasers of viatical*
43 *settlements or prospective purchasers of viatical settlements* as to
44 the nature or extent of any benefit, loss covered, premium payable
45 or effect on federal or state taxes. Making a viatical settlement *or an*



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1 *agreement to purchase a viatical settlement* available for inspection
2 before it is consummated, or offering to refund payment if the viator
3 is not satisfied within the period prescribed in *subsection 4 of NRS*
4 *688C.300*, does not remedy misleading statements.

5 3. An advertisement may not use the name or title of an insurer
6 or policy unless the advertisement has been approved by the insurer.

7 4. *An advertisement may not represent that premiums on a*
8 *viaticated policy need not be paid in order to maintain that policy,*
9 *unless that is the fact.*

10 5. An advertisement may not state or imply that interest
11 charged on an accelerated death benefit or loan on a policy is unfair
12 or in any way improper.

13 ~~5-1~~ 6. The words "free," "no additional cost" or words of
14 similar import may not be used ~~[with]~~ :

15 (a) *With respect to insurance, unless the terms of the policy*
16 *provide that the policy is provided without cost to the policyholder.*

17 (b) *With respect to any benefit or service other than insurance*
18 *unless true.*

19 7. *Certain advertisements relating to viatical settlements are*
20 *deemed to be false and misleading on their face and are*
21 *prohibited. Those advertisements include, without limitation, the*
22 *following words and phrases:*

23 (a) *"Guaranteed," "fully secured," "100 percent secured,"*
24 *"fully insured," "secure," "safe," "backed by rated insurance*
25 *companies," "backed by federal law," "backed by state law" or*
26 *"state guaranty funds";*

27 (b) *"No risk," "minimal risk," "low risk," "no speculation" or*
28 *"no fluctuation";*

29 (c) *"Qualified or approved for individual retirement accounts*
30 *(IRAs), Roth IRAs, 401(k) plans, simplified employee pensions*
31 *(SEPs), 403(b) plans, Keogh plans, TSA, other retirement account*
32 *rollovers" or "tax deferred";*

33 (d) *Utilization of the word "guaranteed" to describe a fixed*
34 *return, annual return, principal, earnings, profits or investment;*

35 (e) *"No sales charges or fees";*

36 (f) *"High yield," "superior return," "excellent return," "high*
37 *return" or "quick profit"; and*

38 (g) *Favorable representations or testimonials about the*
39 *benefits of viatical settlement contracts and agreements to*
40 *purchase viatical settlements as an investment, out of context and*
41 *purported to have been taken from newspapers, trade papers,*
42 *journals, radio and television programs and all other forms of*
43 *print and electronic media,*

44 *↪ or similar representations.*



Sec. 53. NRS 688C.390 is hereby amended to read as follows:

688C.390 1. A testimonial, *endorsement*, appraisal or analysis used in an advertisement must be genuine, represent the present opinion of the author, apply to the viatical settlement *or agreement to purchase a viatical settlement* advertised, if any, and be reproduced with sufficient completeness to avoid misleading viators ~~[]~~ *or purchasers of viatical settlements*. In using a testimonial, *endorsement*, appraisal or analysis, a licensee under this chapter makes the statements contained therein his own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive ~~[]~~, *and sections 21, 22 and 23 of this act*.

2. If the person making a testimonial, *endorsement*, appraisal, analysis or endorsement has a financial interest in the provider of viatical settlements or a related organization, or receives a benefit other than required wages, that fact must be prominently disclosed in the advertisement.

3. An advertisement may not state or imply that a *benefit or service related to a* viatical settlement ~~[, benefit or service]~~ *or an agreement to purchase a viatical settlement* has been approved or endorsed by a group, society or other organization unless that is the fact and any relationship between the organization and the provider of viatical settlements is disclosed. If the organization is owned, controlled or managed by the provider, or receives any payment or other consideration from the provider for making the endorsement or testimonial, that fact must be disclosed in the advertisement.

4. An advertisement may not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement must be identified.

5. If an endorsement refers to benefits received under a viatical settlement or an agreement to purchase a viatical settlement, all information pertinent to that endorsement must be retained for a period of 5 years after the use of the endorsement.

Sec. 54. NRS 688C.410 is hereby amended to read as follows:

688C.410 1. The name of the provider of viatical settlements must be clearly identified in an advertisement about him, ~~[or]~~ his viatical settlements *or his agreements to purchase viatical settlements*. If a viatical settlement *or an agreement to purchase a viatical settlement* is advertised, it must be identified by number or other appropriate description. If an application is part of an advertisement, the name of the provider must be shown on the application.

2. An advertisement may not use a trade name, designation of a group, name of a parent or particular division of a provider of viatical settlements, service mark, slogan or other device or reference without disclosing the identity of the provider of viatical



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1 settlements licensed under this chapter if the advertisement would
2 have the capacity or tendency to mislead as to his true identity or
3 create the impression that an organization other than the licensee
4 would have a responsibility for the financial obligation under a
5 viatical settlement. The name of the licensee must be stated in all
6 advertisements.

7 **Sec. 55.** NRS 688C.420 is hereby amended to read as follows:

8 688C.420 1. An advertisement may not use a combination of
9 words, symbols or physical materials that by their content,
10 phraseology, shape, color or other characteristic are so similar to a
11 combination of words, symbols or physical materials used by a
12 governmental program or agency, or otherwise appear to be of such
13 a nature, that they tend to mislead viators *or purchasers of viatical*
14 *settlements* into believing that the solicitation is connected with a
15 governmental program or agency. An advertisement may not create
16 the impression that a provider of viatical settlements, his financial
17 condition or business practices, the payment of his claims or the
18 merit, desirability or advisability of his viatical settlements *or*
19 *agreements to purchase viatical settlements* is recommended or
20 endorsed by a governmental authority.

21 2. An advertisement may state that a provider of viatical
22 settlements is licensed in the state in which the advertisement
23 appears, if it does not imply that competing providers are not so
24 licensed. The advertisement may suggest consulting the licensee's
25 website or communicating with the Commissioner to ascertain
26 whether the state requires licensing and, if so, whether a particular
27 provider or broker of viatical settlements is licensed.

28 **Sec. 56.** NRS 688C.450 is hereby amended to read as follows:

29 688C.450 It is a category D felony, and the offender shall be
30 punished as provided in NRS 193.130, for any person, knowingly or
31 with intent to defraud, to do any of the following acts in order to
32 deprive another of property or for his own pecuniary gain:

33 1. Present, cause to be presented or prepare with knowledge or
34 belief that it will be presented, false information to or by *an*
35 *investment agent or* a provider or broker of viatical settlements, a
36 financing agent, an insurer, a provider of insurance or any other
37 person, or to conceal information, as part of, in support of or
38 concerning a fact material to:

39 (a) An application for the issuance of a policy or viatical
40 settlement;

41 (b) The underwriting of a policy or viatical settlement;

42 (c) A claim for payment or other benefit under a policy , ~~for~~
43 viatical settlement ~~or~~ *or agreement to purchase a viatical*
44 *settlement;*



(d) A premium paid on a policy ~~[]~~ *or as a result of an agreement to purchase a viatical settlement;*

(e) A payment or change of beneficiary or ownership pursuant to a policy or viatical settlement;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer or effectuation of a policy , ~~[or]~~ viatical settlement ~~[]~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy , ~~[or]~~ viatical settlement ~~[]~~ *or agreement to purchase a viatical settlement.*

2. In furtherance of a fraud or to prevent detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the Commissioner assets or records of a licensee under this chapter or other person engaged in the business of viatical settlements;

(b) Misrepresent or conceal the financial condition of a licensee, a financing agent, an insurer or other person;

(c) Transact the business of viatical settlements in violation of this chapter; or

(d) File with the Commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner or other officer.

3. Present, cause to be presented or prepare with knowledge or belief that it will be presented to or by a provider or broker of viatical settlements, *an investment agent*, a financing agent, an insurer, a provider of insurance or any other person, in connection with a viatical settlement or transaction of insurance, a policy fraudulently by the insured or owner or an agent of either.

4. Embezzle, steal, misappropriate or convert money, premiums, credits or other property *in an amount or having a value of less than \$250* of a provider of viatical settlements, a viator, an insurer, an insured, an owner of a policy or other person engaged in the business of viatical settlements or insurance.

5. Attempt to commit, assist, aid, abet or conspire to commit an act or omission described in subsections 1 to 4, inclusive.

6. Under no circumstances is a violation of this section considered or intended to be a lesser included offense of a violation of the provisions of NRS 90.570.

Sec. 57. NRS 688C.470 is hereby amended to read as follows:

688C.470 1. Except as otherwise provided in subsection 2, a person furnishing information of the kind described in NRS 688C.460 is immune from liability and civil action if the information is furnished to or received from:

(a) The Commissioner or his employees, agents or representatives;



(b) Another federal, state or local law enforcement or regulatory officer or his employees, agents or representatives;

(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or his employees, agents or representatives;

(d) The National Association of Insurance Commissioners or other regulatory body overseeing life insurance or viatical settlements, or its employees, agents or representatives; or

(e) The insurer that issued the policy concerned in the information.

2. The immunity provided in subsection 1 does not extend to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a violation of NRS 688C.450, the plaintiff must plead specifically that the defendant acted with actual malice.

3. This section does not supplant or modify any other privilege or immunity at common law or under another statute enjoyed by a person described in subsection 1.

4. Except as otherwise provided in subsection 5, a person furnishing information as described in subsection 1 is entitled to an award of attorney's fees and costs if:

(a) The person is a defendant in a civil case arising out of activities performed in carrying out the provisions of this section;

(b) The cause of action in the case is for libel, slander or any other relevant tort;

(c) The person is the prevailing party in the case; and

(d) The person bringing the action is not substantially justified in doing so.

5. A person furnishing information relating to his own fraudulent acts as they relate to a viatical settlement is not entitled to an award pursuant to subsection 4.

Sec. 58. NRS 688C.510 is hereby amended to read as follows:

688C.510 1. In addition to the penalties and other means of enforcement provided under this chapter:

(a) If a person violates a provision of this chapter or of a regulation adopted under this chapter, the Commissioner may seek an injunction and apply for temporary and permanent orders he determines to be necessary to restrain the violator.

(b) A person who violates a provision of this chapter is subject to an administrative fine of not more than \$1,000 for each violation.

(c) In addition to a criminal penalty imposed, the court shall order restitution to the person aggrieved by the violation.

2. A person aggrieved by a violation of this chapter may bring a civil action against the violator to recover the damages suffered.



1 3. *A violation of this chapter attendant to the signing of an*
2 *agreement to purchase a viatical settlement renders the agreement*
3 *voidable and subject to rescission by the purchaser of viatical*
4 *settlements, upon tender of the viaticated policy by the purchaser*
5 *of viatical settlements to the provider of viatical settlements. Suit*
6 *for rescission may be brought:*

7 (a) *In a court of competent jurisdiction;*

8 (b) *In the jurisdiction where the alleged violator resides;*

9 (c) *In the jurisdiction where the alleged violator has a*
10 *principal place of business; or*

11 (d) *In the jurisdiction where the alleged violation occurred.*

12 **Sec. 59.** NRS 689B.026 is hereby amended to read as follows:

13 689B.026 1. Except as otherwise provided in this section, no
14 policy of group health insurance may be delivered or issued for
15 delivery in this state to a group which was formed for the purpose of
16 purchasing one or more policies of group health insurance.

17 2. A policy of group health insurance may be delivered to a
18 group described in subsection 1 if the Commissioner approves the
19 issuance. The Commissioner shall not grant his approval unless he
20 finds that:

21 (a) *All policy rates and forms are filed with and approved by*
22 *the Division prior to marketing to a resident or employer in this*
23 *State;*

24 (b) The benefits of the policy are reasonable in relation to the
25 premiums charged; and

26 ~~(b)~~ (c) The group to which the policy is issued is organized
27 and operated in a fiscally sound manner.

28 3. ~~[Upon approval by the Commissioner, an insurer may~~
29 ~~exclude or limit the coverage in a policy issued pursuant to this~~
30 ~~section of any person as to whom evidence of insurability is not~~
31 ~~satisfactory to the insurer.]~~ *The Commissioner shall use the*
32 *provisions of this chapter and chapter 689C of NRS to review*
33 *insurance products to employers in this State. The Commissioner*
34 *shall use the provisions of chapter 689A of NRS to review*
35 *insurance products marketed to natural persons in this State.*

36 4. The provisions of this section apply to the offering in this
37 state of a policy issued in another state.

38 **Sec. 60.** NRS 689B.080 is hereby amended to read as follows:

39 689B.080 Any insurer authorized to write health insurance in
40 this state, including a nonprofit corporation for hospital, medical or
41 dental services that has a certificate of authority issued pursuant to
42 chapter 695B of NRS, may issue blanket accident and health
43 insurance. No blanket policy, except as provided in subsection ~~[4]~~ 5
44 of NRS 687B.120, may be issued or delivered in this state unless a
45 copy of the form thereof has been filed in accordance with



1 NRS 687B.120. Every blanket policy must contain provisions which
2 in the opinion of the Commissioner are not less favorable to the
3 policyholder and the individual insured than the following:

4 1. A provision that the policy, including endorsements and a
5 copy of the application, if any, of the policyholder and the persons
6 insured constitutes the entire contract between the parties, and that
7 any statement made by the policyholder or by a person insured is in
8 the absence of fraud a representation and not a warranty, and that no
9 such statements may be used in defense to a claim under the policy,
10 unless contained in a written application. The insured, his
11 beneficiary or assignee has the right to make a written request to the
12 insurer for a copy of an application, and the insurer shall, within 15
13 days after the receipt of a request at its home office or any branch
14 office of the insurer, deliver or mail to the person making the
15 request a copy of the application. If a copy is not so delivered or
16 mailed, the insurer is precluded from introducing the application as
17 evidence in any action based upon or involving any statements
18 contained therein.

19 2. A provision that written notice of sickness or of injury must
20 be given to the insurer within 20 days after the date when the
21 sickness or injury occurred. Failure to give notice within that time
22 does not invalidate or reduce any claim if it is shown that it was not
23 reasonably possible to give notice and that notice was given as soon
24 as was reasonably possible.

25 3. A provision that the insurer will furnish to the claimant or to
26 the policyholder for delivery to the claimant such forms as are
27 usually furnished by it for filing proof of loss. If the forms are not
28 furnished before the expiration of 15 days after giving written notice
29 of sickness or injury, the claimant shall be deemed to have complied
30 with the requirements of the policy as to proof of loss upon
31 submitting, within the time fixed in the policy for filing proof of
32 loss, written proof covering the occurrence, the character and the
33 extent of the loss for which claim is made.

34 4. A provision that in the case of a claim for loss of time for
35 disability, written proof of the loss must be furnished to the insurer
36 within 90 days after the commencement of the period for which the
37 insurer is liable, and that subsequent written proofs of the
38 continuance of the disability must be furnished to the insurer at such
39 intervals as the insurer may reasonably require, and that in the case
40 of a claim for any other loss, written proof of the loss must be
41 furnished to the insurer within 90 days after the date of the loss.
42 Failure to furnish such proof within that time does not invalidate or
43 reduce any claim if it is shown that it was not reasonably possible to
44 furnish proof and that the proof was furnished as soon as was
45 reasonably possible.



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5. A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of written proof of loss, and that, subject to proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of that period will be paid immediately upon receipt of proof.

6. A provision that the insurer at its own expense has the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. A provision that no action at law or in equity may be brought to recover under the policy before the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action may be brought after the expiration of 3 years after the time written proof of loss is required to be furnished.

Sec. 61. Chapter 689C of NRS is hereby amended by adding thereto the provisions set forth as sections 62, 63 and 64 of this act.

Sec. 62. *Each group health insurance policy must contain in substance a provision for benefits payable for expenses incurred for the treatment of abuse of alcohol or drugs, as provided in section 64 of this act.*

Sec. 63. 1. *Notwithstanding any provisions of this title to the contrary, a policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.*

2. *The coverage required by this section:*

(a) *Must provide:*

(1) *Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and*

(2) *That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of*



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1 *hospitalization not used by the insured. In no event is the policy*
2 *required to provide coverage for more than 40 days of*
3 *hospitalization as an inpatient per policy year.*

4 *(b) Is not required to provide benefits for psychosocial*
5 *rehabilitation or care received as a custodial inpatient.*

6 *3. Any deductibles and copayments required to be paid for the*
7 *coverage required by this section must not be greater than 150*
8 *percent of the out-of-pocket expenses required to be paid for*
9 *medical and surgical benefits provided pursuant to the policy of*
10 *group health insurance.*

11 *4. The provisions of this section do not apply to a policy of*
12 *group health insurance if, at the end of the policy year, the*
13 *premiums charged for that policy, or a standard grouping of*
14 *policies, increase by more than 2 percent as a result of providing*
15 *the coverage required by this section and the insurer obtains an*
16 *exemption from the Commissioner pursuant to subsection 5.*

17 *5. To obtain the exemption required by subsection 4, an*
18 *insurer must submit to the Commissioner a written request*
19 *therefor that is signed by an actuary and sets forth the reasons and*
20 *actuarial assumptions upon which the request is based. To*
21 *determine whether an exemption may be granted, the*
22 *Commissioner shall subtract from the amount of premiums*
23 *charged during the policy year the amount of premiums charged*
24 *during the period immediately preceding the policy year and the*
25 *amount of any increase in the premiums charged that is*
26 *attributable to factors that are unrelated to providing the coverage*
27 *required by this section. The Commissioner shall verify the*
28 *information within 30 days after receiving the request. The request*
29 *shall be deemed approved if the Commissioner does not deny the*
30 *request within that time.*

31 *6. The provisions of this section do not:*

32 *(a) Limit the provision of specialized services covered by*
33 *Medicaid for persons with conditions relating to mental health or*
34 *substance abuse.*

35 *(b) Supersede any provision of federal law, any federal or state*
36 *policy relating to Medicaid, or the terms and conditions imposed*
37 *on any Medicaid waiver granted to this State with respect to the*
38 *provisions of services to persons with conditions relating to mental*
39 *health or substance abuse.*

40 *7. A policy of group health insurance subject to the*
41 *provisions of this chapter which is delivered, issued for delivery or*
42 *renewed on or after October 3, 2009, has the legal effect of*
43 *including the coverage required by this section, and any provision*
44 *of the policy or the renewal which is in conflict with this section is*



1 void, unless the policy is otherwise exempt from the provisions of
2 this section pursuant to subsection 4.

3 8. As used in this section, "severe mental illness" means any
4 of the following mental illnesses that are biologically based and
5 for which diagnostic criteria are prescribed in the Diagnostic and
6 Statistical Manual of Mental Disorders, Fourth Edition, published
7 by the American Psychiatric Association:

- 8 (a) Schizophrenia.
- 9 (b) Schizoaffective disorder.
- 10 (c) Bipolar disorder.
- 11 (d) Major depressive disorders.
- 12 (e) Panic disorder.
- 13 (f) Obsessive-compulsive disorder.

14 **Sec. 64.** 1. The benefits provided by a group policy for
15 health insurance, as required by section 62 of this act, for the
16 treatment of abuse of alcohol or drugs must consist of:

17 (a) Treatment for withdrawal from the physiological effects of
18 alcohol or drugs, with a minimum benefit of \$1,500 per calendar
19 year.

20 (b) Treatment for a patient admitted to a facility, with a
21 minimum benefit of \$9,000 per calendar year.

22 (c) Counseling for a person, group or family who is not
23 admitted to a facility, with a minimum benefit of \$2,500 per
24 calendar year.

25 2. These benefits must be paid in the same manner as benefits
26 for any other illness covered by a similar policy are paid.

27 3. The insured person is entitled to these benefits if treatment
28 is received in any:

29 (a) Facility for the treatment of abuse of alcohol or drugs
30 which is certified by the Health Division of the Department of
31 Health and Human Services.

32 (b) Hospital or other medical facility or facility for the
33 dependent which is licensed by the Health Division of the
34 Department of Health and Human Services, is accredited by
35 the Joint Commission on Accreditation of Healthcare
36 Organizations and provides a program for the treatment of abuse
37 of alcohol or drugs as part of its accredited activities.

38 **Sec. 65.** NRS 692A.100 is hereby amended to read as follows:

39 692A.100 1. The Commissioner shall provide by regulation
40 for the licensing of title agents, their branch offices, direct writing
41 title insurers and escrow officers.

42 2. Each title agent shall maintain his books of account and
43 record and his vouchers pertaining to title insurance business in a
44 manner which permits the Commissioner or his representative to



ascertain readily whether the agent has complied with the provisions of this chapter.

3. A title agent or escrow officer may engage in the business of handling escrows, settlements and closings if he maintains a separate record of all receipts and disbursements of money held in escrow and does not commingle that money with his own.

4. *Except as otherwise provided in subsection 5:*

(a) For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with law, the Commissioner or his representative or the Commissioner of Financial Institutions of the Department of Business and Industry or his representative when requested by the Commissioner of Insurance shall each year examine or cause to be examined *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive*, the affairs, transactions, agreements, assets, records and accounts, including the escrow accounts, of a title agent, title insurer or escrow officer.

~~[5.]~~ (b) A title agent or insurer may engage a certified public accountant to perform such an examination in lieu of the Commissioner. In such a case, the examination must be equivalent to the type of examination made by the Commissioner and the expense must be borne by the title agent or insurer being examined. *If a title agent or insurer engages a certified public accountant to conduct an examination, the title agent or insurer may do so only for a period of not more than 2 years.*

5. The Commissioner shall personally examine in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, the affairs, transactions, agreements, assets, records and accounts, including escrow accounts, of a title agent, title insurer or escrow officer as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

6. The Commissioner shall determine whether an examination performed by an accountant pursuant to *paragraph (b) of subsection [5.] 4* is equivalent to an examination conducted by him. The Commissioner may examine any area of the operation of a title agent or insurer if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by him.

7. A person shall not become licensed to circumvent the provisions of this chapter or any other law of this state.

Sec. 66. NRS 694C.060 is hereby amended to read as follows:

694C.060 "Captive insurer" means ~~any pure captive insurer, association captive insurer, agency captive insurer, rental captive insurer and sponsored captive insurer licensed pursuant to this~~



~~chapter. The term includes a pure captive insurer who, unless otherwise provided by the Commissioner, is a branch captive insurer with respect to operations in this State.] an insurance company which is owned by:~~

1. A parent organization and whose exclusive purpose is to insure risks of:

(a) The parent organization; and

(b) Any affiliated companies of the parent organization; or

2. More than one insured and whose exclusive purpose is to insure risks of:

(a) The insureds and members, if any, of the insureds; and

(b) Any affiliates of:

(1) The insureds; or

(2) Members, if any, of the insureds.

Sec. 67. NRS 694C.180 is hereby amended to read as follows:

694C.180 1. Unless otherwise approved by the Commissioner, a pure captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer must be incorporated as a stock insurer.

2. An association captive insurer must be formed as a:

(a) Stock insurer;

(b) Mutual insurer; or

(c) Reciprocal insurer, except that its attorney-in-fact must be a corporation incorporated in this State.

3. A captive insurer shall have not less than three incorporators or organizers, at least one of whom must be a resident of this State.

4. Before the articles of incorporation of a captive insurer may be filed with the Secretary of State, the Commissioner must approve the articles of incorporation. In determining whether to grant that approval, the Commissioner shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, experience relating to insurance and business qualifications of the officers and directors of the captive insurer;

(c) The competence of any person who, pursuant to a contract with the captive insurer, will manage the affairs of the captive insurer;

(d) The competence, reputation and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(e) The character, competence, reputation, expertise and experience of any other persons who manage, directly or indirectly, or provide professional services for the captive insurer;



(f) If the captive insurer is a rental captive insurer, the competence, reputation and experience of the underwriter of the captive insurer;

~~[(f)]~~ (g) The business plan of the captive insurer; and

~~[(g)]~~ (h) Such other aspects of the captive insurer as the Commissioner deems advisable.

5. The capital stock of a captive insurer incorporated as a stock insurer must be issued at not less than par value.

6. At least one member of the board of directors of a captive insurer formed as a corporation, or one member of the subscribers advisory committee or the attorney-in-fact of a captive insurer formed as a reciprocal insurer, must be a resident of this State.

7. A captive insurer formed pursuant to the provisions of this chapter has the privileges of, and is subject to, the provisions of general corporation law set forth in chapter 78 of NRS and, if formed as a nonprofit corporation, the provisions set forth in chapter 82 of NRS, as well as the applicable provisions contained in this chapter. If the provisions of this chapter conflict with the general provisions in chapter 78 or 82 of NRS governing corporations, the provisions of this chapter control. The provisions of chapter 693A of NRS ~~[relating to mergers, consolidations, conversions, mutualizations and transfers of domicile to this State]~~ apply to determine the procedures to be followed by captive insurers in carrying out any of those transactions in accordance with this chapter.

8. The articles of association, articles of incorporation, charter or bylaws of a captive insurer formed as a corporation must require that a quorum of the board of directors consists of not less than one-third of the number of directors prescribed by the articles of association, articles of incorporation, charter or bylaws.

9. The agreement of the subscribers or other organizing document of a captive insurer formed as a reciprocal insurer must require that a quorum of its subscribers advisory committee consists of not less than one-third of the number of its members.

Sec. 68. NRS 694C.310 is hereby amended to read as follows:

694C.310 1. The board of directors of a captive insurer shall meet at least once each year in this State. The captive insurer shall:

(a) Maintain its principal place of business in this State; and

(b) Appoint a resident of this State as a registered agent to accept service of process and otherwise act on behalf of the captive insurer in this State. If the registered agent cannot be located with reasonable diligence for the purpose of serving a notice or demand on the captive insurer, the notice or demand may be served on the Secretary of State who shall be deemed to be the agent for the captive insurer.



2. A captive insurer shall not transact insurance in this State unless:

(a) The captive insurer has made adequate arrangements with a bank located in this State that is authorized pursuant to state or federal law to transfer money;

(b) If the captive insurer employs or has entered into a contract with a natural person or business organization to manage the affairs of the captive insurer, the natural person or business organization meets the standards of competence and experience satisfactory to the Commissioner;

(c) The captive insurer employs or has entered into a contract with a qualified and experienced certified public accountant who is approved by the Commissioner or a firm of certified public accountants that is nationally recognized;

(d) The captive insurer employs or has entered into a contract with qualified, experienced actuaries who are approved by the Commissioner to perform reviews and evaluations of the operations of the captive insurer; and

(e) The captive insurer employs or has entered into a contract with an attorney who is licensed to practice law in this State and who meets the standards of competence and experience in matters concerning the regulation of insurance in this State established by the Commissioner by regulation.

3. A person who serves as a member of a board of directors of a captive insurer shall not, directly or indirectly, transact business with, or provide a service or product for a fee or other compensation to, the captive insurer.

Sec. 69. NRS 695E.130 is hereby amended to read as follows:

695E.130 1. Except as otherwise provided in chapter 685A of NRS, a purchasing group shall not purchase insurance from an unauthorized insurer or a risk retention group that is not chartered or registered in this state.

2. A purchasing group is exempt from any law of this state that relates to the formation or prohibition of groups for the purchase of insurance, and any law that would discriminate against a purchasing group or its members.

3. An insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experiences not afforded to other persons with respect to rates, policy forms, coverages or other matters.

~~4. [A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent residing in this state.]~~



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~~5.1~~ A purchasing group that obtains liability insurance from a surplus lines insurer or a risk retention group shall inform each of the members of the purchasing group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

~~6.1~~ 5. No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~7.1~~ 6. Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 70. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive*, the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 71. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of \$500.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements



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1 between any person who is responsible for conducting the business
2 activities of the applicant and the medical discount plan, including
3 disclosure of any possible conflicts of interest.

4 (d) A complete biographical statement, on a form prescribed by
5 the Commissioner, describing the facilities, employees and services
6 that will be offered by the applicant.

7 (e) A copy of all forms used for contracts between the applicant
8 and networks of providers of health care regarding the provision of
9 health care or medical services to members.

10 (f) A copy of the most recent financial statements of the
11 applicant, audited by an independent certified public accountant.

12 (g) A description of the method of marketing proposed by the
13 applicant.

14 (h) A description of the procedures for making a complaint to be
15 established and maintained by the applicant.

16 (i) Any other information required by the Commissioner.

17 2. Each person who registers a medical discount plan must
18 renew the registration annually before ~~{the registration expires.}~~
19 *March 1*. Except as otherwise provided in this section, an
20 application to renew the registration must include:

21 (a) An annual renewal fee of \$500; and

22 (b) Any information set forth in subsection 1 that the
23 Commissioner requires to be included in the application.

24 3. An administrator or insurer that registers a medical discount
25 plan is not required to pay the fees for registering or renewing the
26 registration of the medical discount plan pursuant to this section.

27 4. The Commissioner shall, by regulation, designate the
28 provisions of subsection 1 that shall be deemed satisfied by an
29 administrator, insurer or affiliate of an insurer that has complied
30 with substantially similar requirements pursuant to other provisions
31 of this title.

32 **Sec. 72.** Chapter 90 of NRS is hereby amended by adding
33 thereto the provisions set forth as sections 73, 74 and 75 of this act.

34 **Sec. 73.** *“Provider of viatical settlements” has the meaning*
35 *ascribed to it in NRS 688C.080.*

36 **Sec. 74.** *“Viatical settlement investment” means the*
37 *contractual right to receive a specified portion of the death benefit*
38 *or ownership of a life insurance policy or certificate in exchange*
39 *for consideration that is less than the dollar amount of the*
40 *expected death benefit of the life insurance policy or certificate.*
41 *The term does not include:*

42 *1. A transaction between a viator and a provider of viatical*
43 *settlements;*



2. *A transfer of ownership or beneficial interest in a life insurance policy from a provider of viatical settlements to another provider of viatical settlements, or to a legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;*

3. *The bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union or other licensed lending institution as collateral for a loan; or*

4. *The exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with title 57 of NRS.*

Sec. 75. *“Viator” has the meaning ascribed to it in NRS 688C.150, except that for the purposes of this chapter, a viator need not be a resident of this State.*

Sec. 76. NRS 90.211 is hereby amended to read as follows:

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.307, inclusive, *and sections 73, 74 and 75 of this act* have the meanings ascribed to them in those sections.

Sec. 77. NRS 90.295 is hereby amended to read as follows:

90.295 “Security” means a note, stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit-sharing agreement, a limited partnership interest, an interest in a limited-liability company, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, *viatical settlement investment*, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in an oil, gas or other mineral lease or in payments out of production of such a lease, right or royalty, a put, call, straddle or option on a security, certificate of deposit or group or index of securities including any interest therein or based on the value of any of the foregoing, or, in general, any interest or instrument commonly known as a security or any certificate of interest or participation in, temporary or interim certificate for, receipt for, whole or partial guarantee of or warrant or right to subscribe to or purchase any of the foregoing. The term does not include:

1. An insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period; or

2. An interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974.



1 **Sec. 78.** NRS 616B.691 is hereby amended to read as follows:

2 616B.691 1. For the purposes of chapters 612 and 616A to
3 617, inclusive, of NRS, an employee leasing company which
4 complies with the provisions of NRS 616B.670 to 616B.697,
5 inclusive, shall be deemed to be the employer of the employees it
6 leases to a client company.

7 2. ~~If an~~ **An** employee leasing company ~~[complies with the~~
8 ~~provisions of subsection 3, the employee leasing company]~~ shall be
9 ~~[deemed to be the employer of its leased employees]~~ **responsible** for
10 ~~[the purposes of]~~ sponsoring and maintaining ~~[any benefit plans;~~
11 ~~including, without limitation, for the purposes of the Employee~~
12 ~~Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~
13 **workers' compensation insurance.**

14 3. An employee leasing company shall not offer its employees
15 any self-funded industrial insurance program. An employee leasing
16 company shall not act as a self-insured employer or be a member of
17 an association of self-insured public or private employers pursuant
18 to chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~[]~~ **or**
19 **pursuant to title 57 of NRS.**

20 4. If an employee leasing company fails to:

21 (a) Pay any contributions, premiums, forfeits or interest due; or

22 (b) Submit any reports or other information required,

23 ↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617
24 of NRS, the client company is jointly and severally liable for the
25 contributions, premiums, forfeits or interest attributable to the wages
26 of the employees leased to it by the employee leasing company.

27 **Sec. 79.** NRS 688C.120 and 688C.340 are hereby repealed.

28 **Sec. 80.** 1. This section and sections 5 and 7 of this act
29 become effective upon passage and approval.

30 2. Sections 1 to 4, inclusive, 6, 10 to 60, inclusive, and 65 to
31 79, inclusive, of this act become effective on October 1, 2009.

32 3. Sections 8 and 61 to 64, inclusive, of this act become
33 effective on October 3, 2009.

34 4. Section 9 of this act becomes effective on October 9, 2009.

TEXT OF REPEALED SECTIONS

688C.120 "Trust for a related provider" defined. "Trust for a related provider" means a trust established by a licensed provider of viatical settlements solely to hold the ownership of or beneficial interests in purchased policies in connection with financing.



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688C.340 Trust for related provider: Required agreement between trustee and provider. 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.

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