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**Addendum: for use with Ohio Life and Health online ExamFX courses and study guide version 24490en/24700en, per exam content outline updates effective 7/1/2022.**

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*The following are **content additions** to supplement your existing text unless otherwise indicated:*

## **LIFE**

### **Life Insurance Basics**

#### **C. Viatical Settlements**

##### **3. General Rules**

The funds must be sent to the viator within **3 business days** after the viatical settlement provider has received written acknowledgment from the insurer that ownership of the policy or interest in the certificate has been transferred and that the beneficiary has been designated pursuant to the viatical settlement contract.

A licensee must retain copies of all records related to a viatical settlement transaction for **5 years**.

##### **Contract Standards**

All viatical settlement providers and brokers who enter into viatical settlement contracts in this state are prohibited from the following practices:

- Entering into a settlement contract prior to the application of issuance of a life insurance policy;
- Promoting the purchase of a life insurance policy with the purpose of selling the policy;
- Entering into a settlement contract within **5 years** of a life insurance policy being issued, unless:
  - The policy was converted from a group policy, in which the total amount of time between issuance and conversion was at least 5 years;
  - The viator is a charitable organization and maintains proof of federal tax exemption by the IRS;
  - The viator provides proof of terminal or chronic illness, death of the viator's spouse, divorce, retirement from full-time employment, or physical or mental disability that prevents the viator from maintaining full-time employment;
  - A court deems the viator to be bankrupt and approves a petition to appoint a receiver, trustee, or liquidator to all of the viator's assets; or
  - A beneficiary to the policy is a family member of the viator and the beneficiary dies.

The viator may enter into a settlement contract within **2 years** of the issuance of a life insurance policy if:

- The life insurance policy is funded by the viator's personal assets, or a financial agreement is made to fund policy premiums prior to the policy being issued or within **30 days** of the agreement being executed;
- The viator had no agreement or understanding with any other person to viaticate the policy or transfer the benefits of the policy;
- If requested, the viator disclosed to the insurer that a person other than the insurer obtained a life expectancy revaluation for settlement purposes; and
- The viator disclosed any financial arrangement, transaction, trust, or device that conceals ownership of the policy prior to policy issuance.

Upon receipt of a properly completed request for change of policy ownership, an insurer must respond in writing within **30 calendar days**, confirming the change or specifying reasons for declination. All forms, disclosures, content, or waiver forms affecting the transfer of a policy must be approved by the Director. Viatical settlements made prior to a policy being in effect for **5 years** must be disclosed to the Director.

## Advertisements

All advertisements related to viatical settlements contracts must be truthful and avoid deceptive statements. Anyone licensed to transact viatical settlements must maintain a system of control over the content, form, and method of dissemination of advertisements. A system of control must include routine notification to anyone who disseminates advertisements, at least on an annual basis.

Any advertisement that emphasizes the speed at which viatication will occur must disclose the average time frame. Advertisements that indicate dollar amounts available to viators must disclose the average purchase price as a percent of face value obtained by other viators in the past 6 months.

Viatical settlement advertisements circulated in this state are **prohibited** from:

- Using language that is false or can be misleading, such as "guaranteed," "fully secured," "no risk," "low risk," "high yield," "quick profit," "free," or "no cost," and similar;
- Using favorable representations regarding the benefits of viatical settlements which are taken out of context;
- Minimalizing or presenting required disclosures in an ambiguous fashion or intermingled with text as to be confusing or misleading;
- Omitting material information which has the capacity to mislead or deceive viators regarding the extent of benefits, losses covered, premiums payable, or state or federal tax consequences;
- Using the name or title of an insurer without receiving approval by the insurer;
- Suggesting that premium payments are not required unless actually true;
- Implying that interest charged on an accelerated death benefit or a policy loan is unfair or inequitable;

- Implying that a viatical settlement contract has been approved or endorsed by a group, society, association, or organization, unless true and the relationship between the organization and viatical settlement provider is disclosed;
- Including statistically information, unless it accurately reflects recent and relevant facts;
- Disparaging any insurer, insurance producer, viatical settlement provider or broker, policy, service, or method of marketing;
- Using trade names, group designations, parent company names, names of particular divisions, slogans, or symbols that have the capacity to mislead or deceive the true identity of the licensee or imply the licensee is not responsible for meeting financial obligations;
- Using any combination of words or symbols that are similar to a government program or agency that may mislead prospective viators into believing that the solicitation is in some manner connected with a government program; or
- Implying that a viatical settlement provider or the services provided are endorsed by any government entity.

All testimonials, appraisals, analyses, or endorsements used in the advertisement for viatical settlements must be genuine, represent the current opinion of the author, and avoid misleading statements or statements made out of context. Testimonials by an individual or group that have a financial interest in the provider must prominently disclose the relationship in the advertisement. If an endorsement refers to benefits received under a viatical settlement contract, pertinent information related to benefits mentioned must be retained for at least **5 years** after its use.

## Disciplinary Actions

If the Director finds that a viatical settlement provider or viatical settlement broker has violated the Insurance Code, the Director may refuse to issue, suspend, revoke, or refuse to renew the provider's or broker's license. Grounds for suspension, revocation, or refusal to issue or renew a license include, but are not limited to, the following actions:

- Material misrepresentation on an application;
- Prior convictions of fraudulent or dishonest practices;
- Current or previous administrative actions in another state;
- Administrative actions brought by the Department of Commerce or Division of Securities;
- Evidence of untrustworthiness or incompetence;
- Unreasonable payments to viators;
- Conviction, guilty pleas or no contest to felonies or misdemeanors involving fraud, moral turpitude, dishonesty, or breach of contract;
- The use of viatical settlement contracts that have not been approved by an insurer;
- Failure to honor contractual obligations under a viatical settlement contract;
- Assignment, transference, or pledges to persons prohibited from entering into a viatical agreement;
- Coercive, fraudulent, or dishonest acts;

- Untrue, deceptive, or misleading statements in connection with a viatical settlement transaction; and
- Violation of any other provision found in the Insurance Code.

Prior to suspension, revocation, or refusal to issue or renew a license, the Director must provide notice to the viatical settlement provider or broker by certified mail, providing the licensee or applicant with an opportunity for a hearing.

## G. Agent Responsibilities

### 1. Solicitation and Sales Presentations

#### Replacement

Replacement rules **do NOT apply** to transactions involving the following:

- Credit life insurance;
- Group life insurance or group annuities when there is no direct solicitation by a producer;
- An application to the existing insurer that issued the existing policy when a contractual change or a conversion privilege is being exercised, or when the existing policy is being replaced by the same insurer pursuant to a program filed with and approved by the Director;
- Policies that replace life insurance under a binding or conditional receipt by the same company;
- Policies and contracts used to fund employee pension or welfare plans covered by ERISA;
- Policies that provide new coverage for which the employer or employer's association pay the premiums;
- Existing life insurance policies that are nonconvertible term with 5 years or less remaining on the policy term;
- Immediate annuities purchased with proceeds from an existing contract; or
- Structured settlements.

## HEALTH

### Health Insuring Corporations (HICs)

#### C. HIC Certification and Regulation

##### Certificate of Authority

In order to establish, operate, or perform the services of a HIC in Ohio, a corporation formed by or on behalf of a publicly owned, operated, or funded hospital or health care facility must first obtain a **Certificate of Authority** from the Director. Corporations domiciled in another state that does not have HIC regulations similar to those in Ohio must first form a domestic corporation prior to applying for a Certificate of Authority.

Insurers that offer an open panel plan are not required to obtain a HIC Certificate of Authority, as long as the providers and health care facilities participating in the open panel are compensated directly from the insurer. Additionally, intermediary

organizations are not required to obtain a Certificate of Authority, as long as the organization maintains ultimate responsibility to assure delivery of health care services.

Though health delivery networks doing business in Ohio are not required to obtain a Certificate of Authority, including those functioning as an intermediary organization, the network must provide the Director with a signed statement containing the network's full name, address, and an acknowledgement that the network does not maintain a Certificate of Authority. The statement must be provided to the Director annually, no later than July 1.

## **Insurance for Senior Citizens and Special Needs Individuals**

### **B. Medicare Supplements**

#### **4. Ohio Regulations and Required Provisions**

##### **Policy Provision Standards**

Medicare supplement policies issued in Ohio are prohibited from containing any benefits that duplicate those provided by Medicare.

The Director is responsible for adopting specific standards for Medicare supplement policy provisions. The standards may cover, but are not limited to, the following:

- Terms of renewability;
- Conditions of eligibility;
- Nonduplication of coverage;
- Probationary periods;
- Benefit and claims standards, limitations, exceptions, and reductions;
- Elimination periods;
- Replacement requirements;
- Recurrent conditions;
- Definitions of terms;
- Advertising and marketing practices;
- Compensation arrangements;
- Reporting practices; and
- Prohibited policy provisions.

Additionally, the Director may adopt rules necessary to conform Medicare supplement policies issued in this state to federal regulatory standards, including, but not limited to:

- Refunds or credits for policies that do not meet loss ratio requirements;
- Uniform methodology for calculating and reporting loss ratios;
- Public access to policies, premiums, and loss ratio information;
- Processes for approving or disapproving policy forms and premium increases;
- Public hearings prior to premium increase approval; and
- Standards for Medicare SELECT policies.

## LIFE & HEALTH

### Insurance Regulations

#### A. Licensing

##### 1. Types of Licenses and Requirements

##### Qualifications

Agents who apply for a resident license within **90 days** of establishing a principal place of business or residence in Ohio may be exempt from prelicensing and examination requirements if they are currently licensed or have been licensed in another state within **90 days** of submitting an application. The agent must be in good standing in their resident state for the line of authority requested. Additionally, temporary insurance agents are exempt from education requirements.

Limited lines agents may be exempt from education requirements upon approval by the Director.

#### B. State Regulation

##### 4. Unfair Trade and Claims Settlement Practices

##### **Illegal Inducements** – *the second bullet list is expanded as follows:*

The Ohio Insurance Code does not interpret the following actions to be illegal inducements:

- Paying bonuses to policyholders or otherwise abating their premiums out of surplus accumulated from nonparticipating insurance;
- Making allowance to policyholders who have continuously made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;
- Readjusting the rate of premium for a group insurance policy based on the loss or expense experience;
- Offering policyholders a rate reduction, loss control, and/or loss mitigation value-added product or service at no reduced cost only if the product or service is:
  - Directly related to the type of insurance provided or offered;
  - Intended to reduce risks, rates, or claims to benefit the policyholder; and
  - Offered in a fair and nondiscriminatory manner to like policyholders.;
- Giving promotional or advertising items or meals with a fair market value of **\$50 or less** per calendar year, as long as it is not tied to the purchase of an insurance policy;
- Offering contests, raffles, or drawings that are open to the general public, as long as participants are given a free chance to win a prize, participation is not tied to the sale or solicitation of an insurance product, and no purchase or renewal of insurance is required to enter, win, or claim a prize.

## 5. Insurance Fraud Regulations

Fraudulent acts knowingly committed by agents and insurers are penalized according to the type and severity of the offense:

<b>First degree misdemeanor</b>	<ul style="list-style-type: none"> <li>• Transacting life or health insurance on an individual without the individual's knowledge or consent</li> <li>• Insuring a fictitious person, individual under the age of 15 or over the age of 65, or an individual who is unable to effectively make decisions on their own</li> <li>• Selling or assigning a premium note prior to the delivery and acceptance of an insurance policy</li> <li>• Violating regulations pertaining to the reinsurance of risks</li> <li>• Violation of regulations made by an insurer or agent residing in another state</li> </ul>
<b>Second degree misdemeanor</b>	<ul style="list-style-type: none"> <li>• False statements by medical examiners concerning the health or physical condition of a life insurance applicant</li> </ul>
<b>Fourth degree misdemeanor</b>	<ul style="list-style-type: none"> <li>• Making changes to a life insurance contract that are not plainly expressed in a policy</li> <li>• Providing or offering a rebate of premium, dividend advantage, paid employment, or any valuable consideration not specified in a policy in order to induce the sale of a life insurance policy</li> <li>• Issuing or circulating any estimate, illustration, or statement misrepresenting the terms of a policy, name or title of a policy, or policy representations or incomplete comparisons</li> <li>• Issuing or circulating defamatory statements regarding other insurance companies intended to injure the insurer's reputation or business</li> </ul>
<b>Fourth degree felony</b>	<ul style="list-style-type: none"> <li>• Failing to notify the certificateholder or certificateholder's designee of a group health insurance policy of nonpaid premiums and subsequent termination of coverage</li> <li>• Delivering or renewing health insurance policy without maintaining a valid Certificate of Authority</li> <li>• Failure by an insurer's chief executive officer to notify the Director within 30 days of suspecting an insurer's insolvency</li> <li>• Concealing, withholding, destroying, or falsifying documents concerning the solvency of an insurer</li> <li>• Paying dividends when an insurer is deemed insolvent</li> </ul>

<b>First degree misdemeanor of first offense and fifth degree felony of subsequent offenses</b>	<ul style="list-style-type: none"><li>• Advertising, selling, soliciting, or collecting premiums on any health insurance policy without maintaining a valid Certificate of Authority</li></ul>
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In addition, the following monetary penalties apply:

- **\$500** penalty for first offense and **\$1,000** for subsequent offenses for:
  - Making false advertisements regarding the financial conditions of the insurer in relation to the payment of losses and claims; or
  - Advertising the financial standing of an insurer by including verified statements by the Department.
- At least **\$10** but no more than **\$1,000** penalty for failing to provide a signed voucher on behalf of a life insurer for any disbursement over \$100.