

State of Nevada: Life Settlements Statutes

Nevada Revised Statutes → Title 57 Insurance → Chapter 688C – Viatical Settlements

Section 688C.010 - Definitions

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

NRS 688C.010

Section 688C.020 - "Advertising" defined

"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.

NRS 688C.020

Section 688C.030 - "Broker of viatical settlements" defined

"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.

NRS 688C.030

Section 688C.040 - "Business of viatical settlements" defined

"Business of viatical settlements" means the offering, solicitation, negotiation, procurement, effectuation, purchasing, financing, monitoring, tracking, underwriting, selling, transferring, pledging or otherwise hypothecating of viatical settlements.

NRS 688C.040

Section 688C.050 - "Chronically ill" defined

"Chronically ill" means:

- 1.** Being unable to perform at least two activities of daily living, such as eating, moving from one place to another, bathing, dressing, continence, defecation or urination;
- 2.** Requiring substantial supervision for protection from threats to health and safety because of cognitive impairment;
- or**
- 3.** Having a level of disability similar to that described in subsection 1 as determined by the Secretary of Health and Human Services.

NRS 688C.050

Section 688C.060 - "Financing agent" defined **1.** "Financing agent" means an underwriter, agent for placement, enhancer of credit, lender, purchaser of securities, purchaser of a policy from a provider of viatical settlements or other person that may enter into a viatical settlement and has direct ownership in a policy that is the subject of the viatical settlement but: **(a)** Whose principal activity related to the transaction is providing money to effect the viatical settlement; and **(b)** Who has an agreement in writing with one or more licensed providers of viatical settlements to finance the acquisition of one or more viatical settlements. **2.** The term does not include a nonaccredited investor or a purchaser of viatical settlements.

NRS 688C.060

Section 688C.070 - "Policy" defined

"Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance affecting the rights of a person, whether or not delivered or issued for delivery in this state.

NRS 688C.070

Section 688C.080 - "Provider of viatical settlements" defined

"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, savings bank, 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 purchaser of viatical settlements.

NRS 688C.080

Section 688C.090 - "Purchaser of viatical settlements" defined **1.** "Purchaser of viatical settlements" means: **(a)** A person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy; **(b)** A person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract as described in subsection 2 of 687B.040; or **(c)** A person who 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. **2.** The term does not include: **(a)** A person licensed pursuant to this chapter; **(b)** 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; **(c)** A financing agent; or **(d)** A special organization.

NRS 688C.090

Section 688C.095 - "Rescission period" defined

"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.

NRS 688C.095

Section 688C.100 - "Special organization" defined

"Special organization" means an organization formed by a licensed provider of viatical settlements solely to enable the provider to gain access to institutional markets for capital.

NRS 688C.100

Section 688C.110 - "Terminally ill" defined

"Terminally ill" means having an illness that can reasonably be expected to result in death within 24 months.

NRS 688C.110

Section 688C.130 - "Viatical settlement" defined

"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 an agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

NRS 688C.130

Section 688C.133 - "Viatical settlement investment" defined

"Viatical settlement investment" has the meaning ascribed to it in NRS 90.308.

NRS 688C.133

Section 688C.135 - "Viatical settlement investment agent" and "investment agent of viatical settlements" defined

"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.

NRS 688C.135

Section 688C.137 - "Viatical settlement purchase agreement" defined

"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.

NRS 688C.137

Section 688C.140 - "Viaticated policy" defined

"Viaticated policy" means a policy that has been acquired by a provider of viatical settlements pursuant to a viatical settlement.

NRS 688C.140

Section 688C.150 - "Viator" defined**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**(d)** A special organization.

NRS 688C.150

Section 688C.160 - Governing law when residents of different states are viators or purchasers of viatical settlements with respect to single policy

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

NRS 688C.160

Section 688C.170 - Regulations

The Commissioner may adopt regulations to:

1. Establish standards for evaluating the reasonableness of payments under viatical settlements to persons chronically or terminally ill, including the regulation of the rates of discount used to determine the amount paid in exchange for an assignment, transfer, sale or devise of a benefit under a policy.**2.** Require a bond or otherwise ensure financial accountability of providers and brokers of viatical settlements.**3.** Govern the relationship of insurers with providers and brokers of viatical settlements during the viatication of a policy.**4.** Establish standards and requirements for licensing and registering producers of insurance acting as brokers of viatical settlements.

NRS 688C.170

Section 688C.175 - Applicability of other provisions**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)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.

NRS 688C.175

Section 688C.180 - Examinations and investigations by Commissioner

The Commissioner may examine or investigate a licensee under this chapter as often as the Commissioner considers appropriate. An examination will be conducted in the manner provided in NRS 679B.230 to 679B.300, inclusive. The Commissioner may also examine or investigate any other person or business insofar as the Commissioner considers necessary or material to the examination or investigation of the licensee. Instead of an examination or investigation under this chapter of a foreign or alien person licensed under this chapter, the Commissioner may accept a report on examination or investigation of the licensee by the equivalent authority of the licensee's state of domicile or port of entry.

NRS 688C.180

Section 688C.190 - License to operate as investment agent or provider or broker of viatical settlements: Required application; renewal; expiration; fees; information regarding certain persons; effect; exception**1.** Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as an investment agent or a provider or broker of viatical settlements.**2.** Application for a license must be made to the Commissioner on a form prescribed by the Commissioner, accompanied by all applicable fees. A license may be renewed from year to year on its anniversary by payment of all applicable fees. The license expires if all applicable fees are not paid by that date.**3.** An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if the Commissioner is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.**4.** A license issued to an organization authorizes all partners, members, officers and designated employees to act as investment agents or providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

NRS 688C.190

Section 688C.200 - Investigation of applicant; issuance of license; requirements regarding evidence of financial responsibility; requirements regarding service of process for nonresident; provision of certain new or revised information to Commissioner**1.** Upon the filing of an application and payment of all applicable fees, the Commissioner shall investigate the applicant, and issue a license if the Commissioner finds that the applicant:(a) If a provider of viatical settlements, has set forth a detailed plan of operation;(b) Is competent and trustworthy and intends to act in good faith 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 the applicant 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:(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 which complies with NRS 679B.175 and is in an amount determined by the Commissioner, which must be 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 provider or 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 the Commissioner deems necessary.

Section 688C.210 - Suspension, revocation or refusal of license: Grounds; limitation on suspension period for certain grounds; application for hearing**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 the Commissioner finds that:(a) There was material misrepresentation in the application for the license;(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;(c) A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;(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;(e) A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to 688C.220;(f) A provider of viatical settlements has failed to honor obligations of a viatical settlement or an agreement to purchase a viatical settlement;(g) The licensee no longer meets a requirement for initial licensure;(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;(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;(j) The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A or 363C of NRS;(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.**3.** If the Commissioner takes action as described in subsection 1, the applicant or licensee 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.
NRS 688C.210

Section 688C.212 - Financial planner who performs certain activities related to viatical settlements required to be licensed as insurance consultant**1.** A financial planner 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.**2.** As used in this section, "financial planner" means a person who for compensation advises others upon the investment of money or upon provision for income to be needed in the future, or who holds himself or herself out as qualified to perform either of these functions, but does not include:(a) An attorney and counselor at law admitted by the Supreme Court of this State;(b) A certified public accountant or a public accountant pursuant to 628.190 to 628.310, inclusive;(c) A broker-dealer or sales representative licensed pursuant to NRS 90.310 or exempt under NRS 90.320;(d) An investment adviser licensed pursuant to 90.330 or exempt under 90.340 or 90.345; or(e) A producer of insurance licensed pursuant to chapter 683A of NRS or an insurance consultant licensed pursuant to chapter 683C of NRS, whose advice upon investment or provision of future income is incidental to the practice of his or her profession or business.

NRS 688C.212

Section 688C.213 - Probation of broker or investment agent of viatical settlements for acting in bad faith

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

NRS 688C.213

Section 688C.214 - Action by Commissioner against producer of life insurance for violation or acting in bad faith regarding viator; application for hearing**1.** If the Commissioner finds that a producer of life insurance has violated a provision of this chapter or other applicable provisions or has acted in bad faith with regard to a viator, the Commissioner may:(a) Refuse to:(1) Issue a license to the producer of life insurance; or(2) Renew a license of the producer of life insurance;(b) Suspend the producer of life insurance for a period not to exceed 12 months; or(c) Place the producer of life insurance on probation.**2.** If the Commissioner takes action as described in paragraph (a), (b) or (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.
NRS 688C.214

Section 688C.215 - License to operate as investment agent or broker of viatical settlements not required for certain producers of insurance; registration with Division and compliance with certain provisions required; fee; penalty**1.** A natural person who has been licensed for at least 1 year and who is in good standing as a resident or nonresident producer of insurance with a life insurance qualification is not required to be licensed as an investment agent or a broker of viatical settlements.**2.** A licensed producer of insurance specified in subsection 1 must register with the Division not more than 30 days after first operating as an investment agent or a broker of viatical settlements, on a form prescribed by the Commissioner, and pay the fee for registration pursuant to 680B.010. Failure to register within the required period or late payment of or failure to pay the fee may result in the imposition of an administrative fine of not more than \$500.**3.** A producer of insurance who acts as an investment agent or a broker of viatical settlements pursuant to subsection 1 shall comply with the provisions of 688C.220 to 688C.250, inclusive, and 688C.310.

NRS 688C.215

Section 688C.220 - Filing and approval of forms; submission of advertising material
A person shall not use a form of viatical settlement or of disclosure in this state unless the form has been filed with and approved by the Commissioner. The Commissioner shall disapprove such a form if, in the opinion of the Commissioner, the settlement or any of its terms is unreasonable, contrary to the interests of the public or otherwise misleading or unfair to the viator. The Commissioner may require the submission of advertising material before its use.

NRS 688C.220

Section 688C.230 - Filing by licensee of annual statement; confidentiality of information; authorized disclosure of identity of insured; regulations**1.** Each licensee under this chapter shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner prescribes by regulation. Pursuant to subsection 7 of 679B.190, the Commissioner shall classify as confidential any information received pursuant to this subsection that is:**(a)** Data of individual transactions in the business of viatical settlements; or**(b)** Data that could compromise the privacy of personal, financial or health information of a viator or insured.**2.** Except as allowed or required by a statute other than this chapter, a provider or broker of viatical settlements, an investment agent, an insurer, a producer of insurance, an information bureau, a rating agency or any other person knowing the identity of an insured shall not disclose that identity as an insured to any other person unless the disclosure is:**(a)** Necessary to effect a viatical settlement between the viator and a provider of viatical settlements and the viator and the insured have given prior written consent to the disclosure;**(b)** Necessary to effect an agreement for the purchase of a viatical settlement between the purchaser and a provider of 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;**(d)** A term of or

condition to the transfer of a policy by one provider of viatical settlements to another provider; or **(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.

NRS 688C.230

Section 688C.240 - Retention of records and documents by licensee **1.** A person required to be licensed under this chapter shall retain for 5 years copies of all: **(a)** Contracts, underwriting documents, forms of policy and applications, from the date of the proposal, offer or execution, whichever is latest; **(b)** Checks, drafts and other evidence or documentation relating to the payment, transfer or release of money, from the date of the transaction; and **(c)** Records and documents related to the requirements of this chapter. **2.** This section does not relieve a person of the obligation to produce a document described in subsection 1 to the Commissioner after the expiration of the relevant period if the person has retained the document. **3.** Records required by this section to be retained must be legible and complete. They may be retained in any form or by any process that accurately reproduces or is a durable medium for the reproduction of the record.

NRS 688C.240

Section 688C.242 - Viatical settlement investment agent: Representation of appointing or contracting provider of viatical settlements

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

NRS 688C.242

Section 688C.244 - Viatical settlement investment agent: Knowledge of identity of or communication with viator or insured prohibited

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.

NRS 688C.244

Section 688C.250 - Disclosures required to be furnished by provider or broker of viatical settlements to viator upon or before execution of application for settlement **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. **(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.(d) Proceeds of the viatical settlement may be subject to the claims of creditors.(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.(f) The viator has a right to rescind a viatical settlement within the rescission period, as provided in NRS 688C.300, and if the insured dies during the rescission period, the settlement is deemed rescinded and all proceeds must be repaid to the provider 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.(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.(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 (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 the insured's identity and that of members of the insured's 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.

NRS 688C.250

Section 688C.260 - Disclosures required to be furnished by provider of viatical settlements to viator upon or before execution of settlement

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.2. The name, business address and telephone number of the provider of viatical settlements.3. The name, business address and telephone number of the broker of viatical

settlements.**4.** The existence of any affiliations or contractual agreements between the provider and purchaser of viatical settlements and:(a) The identity of that purchaser of viatical settlements; and(b) If any contractual agreements exist between the provider and purchaser of viatical settlements, the identity of every party to those agreements.**5.** The existence of any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement and:(a) The identity of the person making the offer and who has an affiliation or agreement with the broker of viatical settlements; and(b) If any contractual agreements exist between the broker of viatical settlements and a person making an offer, the identity of every party to those agreements.**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.**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 extent to which the viator's interest in those benefits 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.

NRS 688C.260

Section 688C.262 - Disclosures required to be provided by provider of viatical settlements or viatical settlement investment agent to purchaser of viatical settlement before execution of settlement; provision of certain brochure**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, including, without limitation, premiums and costs if the insured returns to health, 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 the payment of the

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

NRS 688C.262

Section 688C.264 - Additional disclosure required to be provided by provider of viatical settlements or viatical settlement investment agent to purchaser of viatical settlement upon or before date of assignment, transfer or sale of policy

Not later than the date of assignment, transfer or sale of all or a portion of a viaticated policy, a provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide a purchaser of a viatical settlement with the following disclosures:

1. All certifications relating to the life expectancy of the viator that were obtained by the provider of viatical settlements in the process of determining the price that was paid to the viator.
2. A statement as to whether premium payments or money for the payment of other costs related to the policy has been deposited in an escrow account.
3. If payments or money has been deposited in an escrow account, a statement of the date that the escrow account will be depleted and as to whether the purchaser of viatical settlements will be responsible for payment of premiums thereafter and, if so, a statement of the amount of the premiums.
4. A statement as to whether premiums or other costs related to the policy have been waived.
5. If premiums or other costs have been waived, a statement as to whether the purchaser will be responsible for payment of the premiums if the insurer that issued the policy terminates the waiver after the purchase, and a statement of the amount of the premiums.
6. The type of policy offered or sold, any additional

benefits included with the policy and the status of the policy.**7.** If the policy is term insurance, a statement of the additional risks associated with term insurance, including, without limitation, the purchaser's responsibility for additional premiums if the viator renews the policy at the end of the term which is effective at the time of the purchase.**8.** The period of contestability, if any, remaining under the policy.**9.** A statement of rights held by the insurer that could negatively affect or extinguish the rights of the purchaser of viatical settlements and the conditions under which the rights can be exercised.

NRS 688C.264

Section 688C.266 - Form of certain disclosures

Disclosures made pursuant to NRS 688C.262 and 688C.264 must be printed conspicuously in at least 12-point type in any contract or in a separate document signed by the purchaser of viatical settlements and:

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

NRS 688C.266

Section 688C.268 - Disclosure required to issuer of policy by broker or provider of viatical settlements who is party to plan or transaction related to policy before or during certain period after issuance of policy

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

NRS 688C.268

Section 688C.270 - Prerequisites to entry by viator into settlement within 5 years after issuance of policy; submission of independent evidence or certification to insurer**1.** A viator may not enter into a viatical settlement within 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:**(a)** The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy 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 5-year period:**(1)** The owner or insured has been diagnosed as terminally ill;**(2)** The owner or insured has been diagnosed 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;**(3)** The spouse of the owner or insured has died;**(4)** The owner or insured has divorced his or her spouse;**(5)** The owner or insured has retired from full-time employment;**(6)** The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes the owner or insured from maintaining full-time employment;**(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 the owner and impairs the reasonable ability of the owner to pay the premium on the policy. **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 the provider of viatical settlements. 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 (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.

NRS 688C.270

Section 688C.275 - Restrictions on business of broker and provider of viatical settlements
With respect to a viatical settlement or a policy of insurance:

1. A broker of viatical settlements shall not knowingly solicit an offer from, effectuate a viatical settlement with or make a sale to any provider, purchaser or investment agent of viatical settlements who: **(a)** Controls; **(b)** Is controlled by; or **(c)** Is under common control with, the broker of viatical settlements.

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

NRS 688C.275

Section 688C.280 - Acquisition of certain documents by provider or broker of viatical settlements before entry into settlement; notice to issuer of policy; requests for and responses related to verification of coverage **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: **(1)** Consents to the viatical settlement; **(2)** Represents that he or she has a full and complete understanding of the settlement and of the benefits of the policy; **(3)** Acknowledges that he or she has entered into the settlement freely and voluntarily; and **(4)** If applicable to determine a payment to a person terminally or chronically ill, acknowledges that he or she 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 or her medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering the insured. **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 copy of the release of medical records; **(b)** The application for the viatical

settlement; 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.

NRS 688C.280

Section 688C.285 - Insurer prohibited in certain circumstances from requiring viator, insured or provider or broker of viatical settlements from signing form or disclosure not approved by Commissioner for use in connection with viatical settlements

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

NRS 688C.285

Section 688C.290 - Submission by viator of certain documents to escrow agent; duties of escrow agent; payment of viator**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 the provider, 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, the provider 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.

NRS 688C.290

Section 688C.300 - Rescission of viatical settlement**1.** A viatical settlement entered into in this state must reserve to the viator an unconditional right to rescind the settlement within 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 the rescission period, the settlement is deemed rescinded and 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 must be repaid to the provider of viatical 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 NRS 688C.262 and 688C.264.

NRS 688C.300

Section 688C.310 - Limitations on contact with insured to determine address and telephone or status of health after settlement; applicability **1.** Contact with an insured to determine the residential or business street address and telephone number of the insured or the status of the health of the insured 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 the authorized representative of the provider or broker.

NRS 688C.310

Section 688C.320 - Confidentiality of medical information solicited or obtained by licensee
All medical information solicited or obtained by a licensee under this chapter is subject to other laws of this State relating to the confidentiality of the information.

NRS 688C.320

Section 688C.330 - Notice to insured of transfer of ownership or change of beneficiary of viaticated policy by provider of viatical settlements; response by insurer to request for such change; prohibited acts by insurer **1.** If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, the provider 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 effected or specifying the reasons why the requested change could not be effected.**3.** An insurer shall not unreasonably delay in effecting a requested change of ownership or beneficiary requested for a viaticated policy by a provider of viatical settlements.**4.** An insurer shall not seek to interfere with a viatical settlement lawfully entered into in this State.

NRS 688C.330

Section 688C.350 - Applicability and interpretation of provisions

NRS 688C.350 to 688C.430, inclusive, apply to advertising of viatical settlements, agreements to purchase viatical settlements or related products or services intended for dissemination in this state, including advertising on the Internet which is viewed by persons in this state. To the extent that federal regulation establishes requirements for disclosure, those sections must be so interpreted as to eliminate or minimize conflict with the federal requirements.

NRS 688C.350

Section 688C.360 - Establishment and maintenance by licensee of system of control; responsibility for advertisements

Each licensee under this chapter shall establish and continuously maintain a system of control over the content, form and method of dissemination of all advertisements of its contracts and services. Each advertisement is the responsibility of the licensee as well as the person who creates or presents it. A system of control must include notification to persons authorized by the licensee who disseminate advertisements, at least annually, of the requirements and procedures for approval before use of any advertisements not furnished by the licensee.

NRS 688C.360

Section 688C.370 - Advertisements: Avoidance of deception; filing of materials with

Commissioner; regulations**1.** An advertisement must be truthful and not misleading in fact or by implication. The form and content of an advertisement for viatical settlements, agreements to purchase viatical settlements or related products or services must be sufficiently complete and clear to avoid deception. An advertisement may not have a capacity or tendency to mislead or deceive, as determined by the Commissioner from the overall impression it may reasonably be expected to create upon a person of average education or intelligence in the segment of the public to which it is directed.**2.** A provider of viatical settlements shall not enter into a viatical settlement unless the promotional, advertising and marketing materials, in at least 12-point type, have been filed with the Commissioner pursuant to regulations adopted by the Commissioner. The Commissioner shall adopt such regulations as the Commissioner deems necessary to carry out the provisions of this subsection.

NRS 688C.370

Section 688C.380 - Text of information required to be disclosed; use of misleading omissions, language or illustrations; use of name or title of insurer or policy; prohibited statements, implications and words**1.** The information required to be disclosed under NRS

688C.350 to 688C.430, inclusive, may not be minimized, obscured, presented ambiguously or so

intermingled with other text of an advertisement as to be confusing or misleading.**2.** An advertisement may not omit material information or use language or illustrations if the omission or use has a capacity or tendency to, or does, mislead viators, purchasers of viatical settlements or prospective purchasers of viatical settlements as to the nature or extent of any benefit, loss covered, premium payable or effect on federal or state taxes. Making a viatical settlement or an agreement to purchase a viatical settlement available for inspection before it is consummated, or offering to refund payment if the viator is not satisfied within the period prescribed in subsection 4 of NRS 688C.300, does not remedy misleading statements.**3.** An advertisement may not use the name or title of an insurer or policy unless the advertisement has been approved by the insurer.**4.** An advertisement may not represent that premiums on a viaticated policy need not be paid in order to maintain that policy, unless that is the fact.**5.** An advertisement may not state or imply that interest charged on an accelerated death benefit or loan on a policy is unfair or in any way improper.**6.** The words "free," "no additional cost" or words of similar import may not be used:**(a)** With respect to insurance, unless the terms of the policy provide that the policy is provided without cost to the policyholder.**(b)** With respect to any benefit or service other than insurance unless true.**7.** Certain advertisements relating to viatical settlements are deemed to be false and misleading on their face and are prohibited. Those advertisements include, without limitation, the following words and phrases:**(a)** "Guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed by federal law," "backed by state law" or "state guaranty funds";**(b)** "No risk," "minimal risk," "low risk," "no speculation" or "no fluctuation";**(c)** "Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b) plans, Keogh plans, TSA, other retirement account rollovers" or "tax deferred";**(d)** Utilization of the word "guaranteed" to describe a fixed return, annual return, principal, earnings, profits or investment;**(e)** "No sales charges or fees";**(f)** "High yield," "superior return," "excellent return," "high return" or "quick profit"; and**(g)** Favorable representations or testimonials about the benefits of viatical settlement contracts and agreements to purchase viatical settlements as an investment, out of context and purported to have been taken from newspapers, trade papers, journals, radio and television programs and all other forms of print and electronic media, or similar representations.

NRS 688C.380

Section 688C.390 - Use of testimonial, endorsement, appraisal, analysis or statistical information**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 the licensee's own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive.**2.** If the person making a testimonial, endorsement, appraisal or analysis 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 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.

NRS 688C.390

Section 688C.400 - Prohibited disparagement

An advertisement may not disparage insurers, providers of insurance, other providers or brokers of viatical settlements, policies, services or methods of marketing.

NRS 688C.400

Section 688C.410 - Identification of provider, viatical settlement and agreement to purchase viatical settlement; statement of name of licensee**1.** The name of the provider of viatical settlements must be clearly identified in an advertisement about the provider, the provider's viatical settlements or the provider's 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 settlements licensed under this chapter if the advertisement would have the capacity or tendency to mislead as to the true identity of the provider or create the impression that an organization other than the licensee would have a responsibility for the financial obligation under a viatical settlement. The name of the licensee must be stated in all advertisements.

NRS 688C.410

Section 688C.420 - Use of words, symbols or physical materials similar to those of governmental program or agency; creation of impression of governmental recommendation or endorsement; statements regarding licensing**1.** An advertisement may not use a combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristic are so similar to a combination of words, symbols or physical materials used by a governmental program or agency, or otherwise appear to be of such a nature, that they tend to mislead viators or purchasers of viatical settlements into believing that the solicitation is connected with a governmental program or agency. An advertisement may not create the impression that a provider of viatical settlements, the provider's financial condition or business practices, the payment of the provider's claims or the merit, desirability or advisability of the provider's viatical settlements or agreements to purchase viatical settlements is recommended or endorsed by a governmental authority.**2.** An advertisement may state that a provider of viatical settlements is licensed in the state in which the advertisement appears, if it does not imply that competing providers are not so licensed. The advertisement may suggest consulting the licensee's website or

communicating with the Commissioner to ascertain whether the state requires licensing and, if so, whether a particular provider or broker of viatical settlements is licensed.

NRS 688C.420

Section 688C.430 - Disclosures required when emphasizing speed of viatication or monetary amounts available**1.** If an advertiser emphasizes the speed with which viatication will occur, the advertisement must disclose the average time from completed application to date of offer and from acceptance of offer to receipt of funds by the viator.**2.** If an advertiser emphasizes the monetary amounts available to viators, the advertisement must disclose the average purchase price as a fraction of face value obtained by viators who contracted with the advertiser during the preceding 6 months.

NRS 688C.430

Section 688C.440 - Interference with enforcement of chapter or investigation of possible violation unlawful; permitting person convicted of certain felonies to participate in business of viatical settlements unlawful

It is unlawful knowingly or intentionally:

1. For any person to interfere with the enforcement of the provisions of this chapter or an investigation of a possible violation of those provisions.**2.** For a person engaged in the business of viatical settlements to permit any person convicted of a felony involving dishonesty or breach of trust to participate in that business.

NRS 688C.440

Section 688C.450 - Felonious acts

It is a category D felony, and the offender shall be punished as provided in NRS 193.130, for any person, knowingly or with intent to defraud, to do any of the following acts in order to deprive another of property or for the person's own pecuniary gain:

1. Present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by an investment agent or a provider or broker of viatical settlements, a financing agent, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:**(a)** An application for the issuance of a policy or viatical settlement;**(b)** The underwriting of a policy or viatical settlement;**(c)** A claim for payment or other benefit under a policy, viatical settlement or agreement to purchase a viatical 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, viatical settlement or agreement to purchase a viatical settlement; or**(h)** The issuance of written evidence of a policy, 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 \$650 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 90.570.

NRS 688C.450

Section 688C.460 - Provision to Commissioner of information regarding felonious acts1. A person engaged in the business of viatical settlements who knows or reasonably believes that a violation of NRS 688C.450 is being, has been or will be committed shall promptly report the facts and circumstances pertaining to the violation to the Commissioner.2. Any other person who knows or reasonably believes that a violation of NRS 688C.450 is being, has been or will be committed may furnish to the Commissioner the information required by the Commissioner.

NRS 688C.460

Section 688C.470 - Immunity of persons providing information regarding felonious acts; award of attorney's fees and costs1. 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 the employees, agents or representatives of the Commissioner;(b) Another federal, state or local law enforcement or regulatory officer or his or her employees, agents or representatives;(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or the employees, agents or representatives of the person;(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 the person's own fraudulent acts as they relate to a viatical settlement is not entitled to an award pursuant to subsection 4.

NRS 688C.470

Section 688C.480 - Confidentiality and disclosure of certain documents and information regarding felonious acts **1.** Except as otherwise provided in NRS 239.0115, a document or information furnished pursuant to NRS 688C.470 or obtained by the Commissioner in an investigation of an actual or suspected violation of NRS 688C.450 is confidential and privileged, is not a public record and is not subject to discovery or subpoena in a civil action or criminal prosecution. **2.** Subsection 1 does not prohibit the Commissioner from disclosing documents or evidence so furnished or obtained: **(a)** In an administrative or judicial proceeding to enforce a statute administered by the Commissioner; **(b)** To another federal, state or local law enforcement or regulatory officer, another person involved in the prevention or detection of violations of NRS 688C.450, or similar offenses, or the National Association of Insurance Commissioners; or **(c)** To a person engaged in the business of viatical settlements who is aggrieved by the violation. **3.** Disclosure of a document or evidence under subsection 2 does not abrogate or modify the privilege covering it under subsection 1.

NRS 688C.480

Section 688C.490 - Establishment, maintenance and modification by licensees of certain protective measures against fraud; confidentiality of plan submitted to Commissioner **1.** Each licensee under this chapter shall establish and maintain protective measures against fraud which are reasonably calculated to prevent, detect and assist in the prosecution of violations of NRS 688C.450. The Commissioner may order, or a licensee may request and the Commissioner may approve, modifications of the measures otherwise required under this section, more or less restrictive than those measures, as necessary to protect against fraud. Required measures are employment of or contracting with investigators and submission of a plan to the Commissioner which includes: **(a)** A description of the procedures for detecting and investigating possible violations of NRS 688C.450 and for resolving inconsistencies between medical records and applications for insurance; **(b)** A description of the procedures for reporting possible violations to the Commissioner; **(c)** A description of the plan for educating and training underwriters and other personnel against fraud; and **(d)** A description or chart of the organizational arrangement of the personnel responsible for detecting and investigating possible violations of NRS 688C.450 and for resolving inconsistencies between medical records and applications for insurance. **2.** Except as otherwise provided in NRS 239.0115, a plan submitted to the Commissioner pursuant to subsection 1 is privileged and confidential, not a public record and not subject to discovery or subpoena in a civil action or criminal prosecution.

NRS 688C.490

Section 688C.500 - Statement related to false information required on application or contract for viatical settlement; effect

An application or contract for a viatical settlement, however transmitted, must contain a statement substantially as follows: "A person who knowingly presents false information in an application for a viatical settlement is guilty of insurance fraud and subject to fine and

imprisonment." The lack of such a statement is not a defense in a prosecution for violation of NRS 688C.450.

NRS 688C.500

Section 688C.510 - Injunctive and other relief; administrative fine; restitution; civil action; rescission**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 the Commissioner 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.**3.** A violation of this chapter attendant to the signing of an agreement to purchase a viatical settlement renders the agreement voidable and subject to rescission by the purchaser of viatical settlements, upon tender of the viaticated policy by the purchaser of viatical settlements to the provider of viatical settlements. Suit for rescission may be brought:(a) In a court of competent jurisdiction;(b) In the jurisdiction where the alleged violator resides;(c) In the jurisdiction where the alleged violator has a principal place of business; or(d) In the jurisdiction where the alleged violation occurred.

NRS 688C.510