

KANSAS DEPARTMENT OF INSURANCE

VIATICAL SETTLEMENT PROVIDER LICENSE

Application For License Instructions

The Viatical Settlements Act of 2002, K.S.A. 40-5001 through 5016 can be accessed at ksrevisor.gov.

The above statutes regulate the application process to engage in the business of Viatical Settlement contracts in the State of Kansas. Review the instructions and submit the following required documentation.

- I. Submit a non-refundable filing fee of \$1,000, payable to the Kansas Department of Insurance.
- II. Submit an explanatory cover letter describing and attaching the requested documentation about the following subjects:

A. REQUIRED FILINGS

1. Completed Application for Viatical Settlement Provider License
 - a. Identification – Identify applicant's status as an individual, partnership or corporation. Name the state of incorporation and give the legal and mailing street address of applicant's principal place of business. Also provide the Federal Tax I.D. number.
 - b. Certificate of Good Standing – If incorporated, applicant must be registered with Kansas Secretary of State and obtain a Certificate of Good Standing, which must be furnished with the application to the Kansas Department of Insurance for a License.
 - c. Appointment of Agent for Service of Process – If applicant is not a resident of Kansas the enclosed "Letter of Attorney" form must be completed in accordance with K.S.A. 40-5003(i). Also, there must be attached to that form a certified copy of the minutes of the board of directors meeting at which the above-mentioned resolution was adopted. (See attached forms)
2. Name Approval – File for name reservation approval by completing an online "Temporary Reservation of Business Entity Name" form with the Kansas Secretary of State's Office – Form NR. Please attach a copy of Form NR.
3. Viatical Settlement Contract Forms – Submit a copy of all applicant's Viatical Settlement contract forms and Kansas discount rates.
4. Financial Information – The following information and documents must be enclosed:

Financial Statements – Independent CPA Audited Financial Statements for the past three years, including balance sheets and income statements. The financial statements must show litigation expenses as well as out-of-pocket “underwriting” expenses, and/or the costs incurred in processing viators’ applications.

III. ORGANIZATIONAL AND LICENSING INFORMATION

A. Plan of Operation – Provide a narrative overview of applicant’s business. The Plan of Operation must be verified by an officer of the applicant who has knowledge of the facts set forth in the Plan.

1. Type of Business – Explain the types of business, e.g., Viatical Settlement contracts, real estate sales, financial investment, etc., that applicant transacts and the geographical locations where it engages in a particular type of business. Describe the percentage of overall income and expense devoted to each type of business. Explain whether the Viatical Settlement contract business is or will be applicant’s primary business.
2. Business Licenses – List all business licenses held by applicant from any government entity (i.e., state, county, municipality, etc.), the term of each license, the type of license, and the issuing government entity.
3. Marketing Techniques – Describe how applicant advertises and markets its business in general. Detail how individual clients/viators are contacted and communicated with. Explain how marketing representatives and other individuals who have direct contact with clients/viators are recruited, trained and compensated.
4. Financial Resources – Describe the source(s) and terms of applicant’s financial resources.
5. Litigation and Beneficiaries – Describe applicant’s procedures with regard to the client/viator’s beneficiaries and any litigation that has involved these beneficiaries.
6. Minimum Requirements for Viaticating a Policy. Demonstrate compliance with K.A.R. 40-2-31.

B. MEDICAL INFORMATION– Describe applicant’s procedures with regard to the procurement of a written statement from the attending physician concerning the viator’s state of mind (if the viator is the policyholder with a catastrophic or life-threatening illness). Explain applicant’s procedures for keeping this and all medical information confidential. Describe and attach applicant’s form letters, medical release forms, or other formatted written material used for this purpose.

C. VIATOR’S STATEMENTS

1. Describe applicant's procedures for obtaining the viator's statement setting forth his/her understanding and consent.
 2. Explain in detail what information is provided to the viator and by whom concerning the following subjects: (Describe and attach any related written materials including forms that are used for these purposes)
 - a. The catastrophic or life-threatening nature of the viator's illness.
 - b. The viatical settlement contract.
 - c. The benefits of the viator's life insurance policy.
 - d. The release of medical records.
 3. Describe in general what steps applicant takes to ensure that the viator freely and voluntarily enters into the contract, and that he/she acknowledges a full and complete understanding of the terms of the contract.
 4. Please attach any additional form letters or written materials used by the applicant that has not been included with the answer to paragraph 2 above.
- D. DISCLOSURE AND ADVICE – Describe applicant's procedures to disclose and advise the viator on the following subjects. Explain what information is given, who gives the information, and the qualifications of the informing party. Please refer to and attach any form or other written material used in disseminating the information. The subjects include:
1. Possible alternatives to Viatical Settlement contracts.
 2. Tax consequences.
 3. Effect on public assistance benefits.
- E. VIATOR'S RESCISSION – Describe applicant's procedures to provide the viator the absolute right to rescind the contract within 15 calendar days of execution and to advise the viator that any waiver of the right to rescind is void. Refer to and attach any forms or any other written materials used for this purpose.

LETTER OF ATTORNEY
TO ACKNOWLEDGE SERVICE OF PROCESS

KNOW ALL MEN BY THESE PRESENTS:

That _____ desiring to transact the business of Viatical Settlement contracts within the State of Kansas, pursuant to the laws thereof, does by these present irrevocably consent that actions may be commenced against said Company in the proper court of any county in the State of Kansas in which the cause of action shall arise, or in which the plaintiff may reside, by service of process upon the Commissioner of Insurance of the State of Kansas; and the said _____ Company does hereby, in consideration of the privilege of doing business in the State of Kansas as aforesaid, stipulate and agree that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon said Company according to the laws of said State of Kansas, or of any other state.

In Witness Whereof, The said Company, in accordance with a resolution of its Board of Directors, duly adopted by said Board, on the _____ day of _____, 20____,
(a certified copy whereof is hereto attached), hath to these presents affixed its corporation seal, and caused the same to be subscribed and attested to by its President and Secretary, at the city of _____ in the state of _____ on the _____ day of _____, 20____.

President

Attest:

Secretary

NOTE: THERE MUST BE ATTACHED TO THIS FORM A CERTIFIED COPY OF THE MINUTES OF THE BOARD OF DIRECTORS MEETING AT WHICH THE ABOVE-MENTIONED RESOLUTION WAS ADOPTED.

SUBSCRIBED AND SWORN TO before this _____ day of _____, 20____.

My Commission expires

Notary Public _____

COPY OF RESOLUTION

BE IT RESOLVED by the Board of Directors of _____, meeting in regular session, this _____ day of _____, 20____, that the President and Secretary of said Company be and they are hereby authorized and directed to forthwith sign and execute letter of attorney to acknowledge service of process giving irrevocable consent that actions may be commenced against said Company in the proper court of any country in the State of Kansas in which the cause of action shall arise, or in which the plaintiff may reside, by service of process upon the Commissioner of Insurance of the State of Kansas, and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon said Company according to the laws of said State of Kansas or any other state.

CERTIFICATION

I, _____, Secretary of _____ state that this is a true and accurate copy of the resolution adopted by the Board of Directors at a meeting held on the _____ day of _____, 20____.

Secretary

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

My Commission expires _____.

Notary Public _____

AFFIDAVIT INSTRUCTIONS

As part of the application process, it will be necessary for the Applicant to ensure completion of the enclosed Organizational Affidavit.

The Organizational Affidavit must be completed by an executive officer of the applicant organization.

The responses to the affidavit must be typed and all questions must be answered. If the answer is "none" or "no exceptions", please so state. Do not leave a space blank. If additional space is required, attach an addendum numbering the response to the corresponding question. Submit originals only.

ORGANIZATIONAL AFFIDAVIT

See Affidavit Instructions for Completing Affidavit

1. Name of Applicant (and intended Fictitious Business name, if any):
 - A. Reason for Application
 - B. Statutory Home Address of Applicant
 - C. Primary Location of Books and Records for Applicant
 - D. Applicant's State of Domicile
 - E. Federal Employer Identification Number of Applicant
 - F. File Articles of Incorporation showing action authorizing conducting the business of Viatical Settlement contracts
2. If Applicant is part of a holding system, or has subsidiaries, or affiliates, provide a detailed Organizational Chart. Place an asterisk * by all Insurers holding a Certificate of Authority in Kansas.
3. Name of Applicant's Ultimate Controlling Parent
 - A. Statutory Home Address of Applicant's Ultimate Controlling Parent
 - B. Primary Location of Books and Records for Applicant's Ultimate Controlling Parent
 - C. Ultimate Controlling Parent's State of Domicile
4. List names and titles of each of the Applicant's Officers and Directors as shown in the format below.

<u>Name</u>	<u>Title</u>
-------------	--------------

 - A. Under "Name", show name as follows: Last Name, First Name, Middle Name. If there is no Middle Name, indicate NMN. If there is an Initial Only, indicate IO.
 - B. Under "Title(s)", indicate the title of each officer/director. Do not abbreviate.
5. List the names of all entities and/or individuals who hold ten (10) percent or more of Applicant's capital stock utilizing the format below.

<u>Name</u>	<u>Percent of Stock</u>
-------------	-------------------------

A. Under "Name", if the holder is an entity, show the name of the Corporation and DBA. Under "Name", if the holder is an individual, show the name as follows: Last Name, First Name, Middle Name. If there is no Middle Name, indicate NMN. If there is an Initial Only, indicate IO.

B. Under "Percent of Stock", show the percent of stock held by each entity or person.

6. Please provide the names of all entities and/or individuals who hold ten (10) percent or more of the capital stock of Applicant's Ultimate Controlling Parent, utilizing the following format. (If any of these individuals have not previously submitted an Individual Affidavit they are required to do so.)

Name

Percent of Stock

A. Under "Name", if the holder is a corporation, show the name of the corporation and DBA. Under "Name", if the holder is an individual, show the name as follows: Last Name, First Name, Middle Name. If there is no Middle Name, indicate NMN. If there is an Initial Only, indicate IO.

B. Under "Percent of Stock", show the percent of stock held by each entity or person.

7. Provide a list, and certified copies of all criminal, civil, regulatory and administrative action(s) taken against Applicant and/or Applicant's Ultimate Controlling Parent by any governmental body including actions outside the United States, within the last ten (10) years utilizing the following format:

Date: Show exact date of action.
Example: 2-10-82.

Reason for Action: Be specific. Provide code sections if applicable. Give a brief summary of the alleged violation.

Government Body

Taking Action: Be specific. Do not abbreviate. Include name, and full address of agency, including zip code.

Case Number

(Or Other Reference): Include both the agency and court case/reference number.

Results of Action: Give a brief summary of the results of the action.

8. Provide the names, FDBA, and complete addresses of all Managing General Agents utilized by applicant. If the Managing General Agent is a corporation, provide the full name of all officers, directors, producers, and stockholders who hold ten (10) percent or more of the capital stock. If the Managing General Agent is an individual utilizing a fictitious name, provide the full name of the individual and fictitious name. Indicate in which states the

Managing General Agent is acting on behalf of the applicant. Indicate the type(s) of license(s) the Managing General Agent holds in each state.

9. Provide the names of all states in which applicant holds a Certificate of Authority or License.
10. Have you ever been denied a License to offer this type of business by any State, Federal or Local authority?
11. Provide the names of all countries in which applicant does business.

COUNTRY

ADDRESS OF OFFICES

I HEREBY CERTIFY, under penalty of perjury under the laws of the State of Kansas, that the foregoing answers, statement, and information are true and correct.

I, the undersigned affiant, under penalty of perjury, do declare that I have carefully examined each of the questions asked in this ORGANIZATIONAL AFFIDAVIT and each of my responses thereto, and do solemnly swear or affirm that all of my responses, information, exhibits and documentary evidence submitted in support thereof are true and correct.

Dated and signed on this _____ day of _____, 20____ at (City) _____
(State) _____

Name of Officer (Typed)

Title

Signature of Officer

Subscribed and sworn to before me this _____ day of _____, 20_____.

My Commission expires _____

Notary Public _____