

11 NCAC 12 .1715 GENERAL RULES

(a) With respect to a policy containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the viator before entering into the viatical settlement contract, or to such other beneficiary, other than the provider, as the viator may thereafter designate, or in the absence of a beneficiary, to the estate of the viator.

(b) Payment of the proceeds of a viatical settlement under G.S. 58-58-250(i) shall be by means of wire transfer to the account of the viator or by certified check or cashier's check.

(c) Payment of the proceeds to the viator under a viatical settlement shall be made in a lump sum except where the provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the provider or escrow agent is not permissible.

(d) A provider or broker shall not pay or offer to pay any finder's fee, commission, or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal, or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a broker, with respect to the viatical settlement.

(e) A provider shall not knowingly solicit purchasers who have treated or have been asked to treat the illness of the insured whose coverage would be the subject of the investment.

(f) If a provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions;

- (1) A provision that the provider shall effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. The insurance company shall pay benefits in excess of the amount viaticated directly to the viator's beneficiary;
- (2) A provision that the provider will, upon acknowledgment of the perfection of the transfer, either:
 - (A) Advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy; or
 - (B) Send a copy of the instrument sent from the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy; and
- (3) A provision that apportions the premiums to be paid by the provider and the viator. It is permissible for the viatical settlement contract to specify that all premiums shall be paid by the provider. The contract may also require that the viator reimburse the provider for the premiums attributable to the retained interest.

*History Note: Authority G.S. 58-2-40; 58-58-250; 58-58-300;
Temporary Adoption Eff. April 1, 2002;
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*