

dollars (\$6.8) (34 percent of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.

b. At the end of year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66 percent of [\$4 million - \$1 million - \$.5 million] up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3707. Written Agreements

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment, or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall contain provisions which provide that:

1. the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

2. any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3709. Existing Agreements

A. Insurers subject to this regulation shall reduce to zero by December 31, 1995 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this regulation which, under the provisions of this regulation, would not be entitled to recognition of the reserve credits or assets; provided,

however, that the reinsurance agreements shall have been in compliance with laws or regulations in existence immediately preceding the effective date of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

§3711. Effective Date

A. This regulation shall become effective November 20, 1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Section 2(H), 3 and 947.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995).

Chapter 39. Regulation 58—Viatical Settlements

§3901. Purpose

A. The purpose of Regulation 58 is to set forth certain requirements related to viatical settlements including but not limited to licensure of life and/or annuity insurance producers and the filing of the annual report required under Title 22, the Louisiana Insurance Code, specifically R.S. 22:1795.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2451 (November 2009).

§3903. Authority

A. Regulation 58 is issued pursuant to the authority vested in the Commissioner of Insurance of the state of Louisiana under R.S. 22:11, and R.S. 22:1804.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3905. Life and/or Annuity Producers Acting as Brokers

A. A life insurance producer licensed in Louisiana who wishes to operate as a viatical settlement broker shall notify the Commissioner of Insurance, in writing, of his intent to act as a viatical settlement broker prior to acting as a broker. The notice shall include:

1. the full name and life insurance producer number of the entity which will be acting as a viatical settlement broker;

2. if a corporation, partnership, limited liability company or other non-natural person the full name and individual license number of each person in the entity which will be acting as a viatical settlement broker on behalf of the entity;

3. the notice shall be signed by the licensed producer, if a natural person or, if a corporation, partnership, limited liability or other non-natural person, an authorized officer or other such representative of the entity.

B. Pursuant to R.S. 22:1792.A(1) any person licensed as a life and/or annuity producer acting as viatical settlement broker shall be subject to all provisions of this Part applicable to a licensed viatical settlement broker until such time as that producer has notified the department, in writing, of his intent to no longer act as a viatical settlement broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3907. Annual Reports

A. Regulation 58 shall be applicable to all annual reports filed with the department after the effective date of Regulation 58.

B. The following entities are required to file an annual report:

1. viatical settlement providers;
2. viatical settlement brokers and all licensed insurance producers acting as viatical settlement brokers pursuant to R.S. 22:1792 A.(1); and
3. viatical settlement investment agents.

C. An annual report shall be filed regardless of whether there were any transactions to report from the previous year.

D. Annual reports shall be filed on or before March 1 of each year for the period of January 1 to December 31 of the previous calendar year.

1. Only transactions involving Louisiana viators shall be reported.

2. All annual reports shall be on forms provided by the commissioner.

E. Each annual report shall be certified as true and correct and shall be sworn before a notary public either by the licensee if a natural person, or if the licensee is a corporation, partnership, limited liability or other non-natural person by two authorized officers or other such representatives of the entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3909. Viatical Settlement Provider Annual Report

A. The Viatical Settlement Provider Annual Report shall include the following information for each policy viaticated in the reporting year.

1. The date the viatical contract was entered into which shall be the date on which the viator and the viatical settlement provider agreed to the final terms of the contract.

2. The full legal name of each person who acted as a viatical settlement broker in the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3911. Viatical Settlement Broker Annual Report

A. The viatical settlement broker annual report shall include the following information for each transaction in which the licensee acted as a viatical settlement broker.

1. The date the viatical contract was entered into which shall be the date on which the viator and the viatical settlement provider agreed to the final terms of the contract.

2. The full, legal name of the viatical settlement provider(s) that purchased the policy.

3. The full legal name(s) of each person who acted as a viatical settlement broker in the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3913. Viatical Settlement Investment Agent Annual Report

A. The viatical settlement investment agent annual report shall include the following information:

1. the full name of all viatical settlement providers for which funding was sought;

2. the total amount of funding secured for each viatical settlement provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2452 (November 2009).

§3915. Notice of Regulatory Action

A. Any licensee under this part (including a licensed life insurance producer acting as a viatical settlement broker) shall notify the commissioner of any regulatory action against the entity in any state within 60 days of the final disposition of such regulatory action.

B. *Regulatory Action*—shall include any fines, revocations, and suspensions imposed by a state or federal agency. Regulatory actions shall also include any consent agreements, stipulations, or other such agreements with any state or federal agency initiated as a result of allegations of

wrong-doing or regulatory or legal infractions regardless of whether or not any wrongdoing was admitted by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2453 (November 2009).

§3917. Minimum Financial Requirements

A. Any viatical settlement provider licensed under this part shall be at the time of initial licensure and at all times thereafter be a solvent entity. Failure to maintain the required financial solvency shall be grounds for any appropriate action by the commissioner including, but not limited to, the immediate issuance of a cease and desist order and/or a summary suspension, or the revocation of the applicable license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2453 (November 2009).

§3919. Notification of Change of Information

A. Every viatical settlement provider, viatical settlement broker or viatical settlement investment agent shall notify the commissioner, in writing, of any changes to the information submitted in association with the application. This notification shall be made within 60 days following the effective date of the change. Every such notification must contain the appropriate documents as indicated below.

1. For an amendment to the articles of incorporation or other organizational documents, the notice must include a copy of the amended articles certified as true and correct by the proper domiciliary state official.

2. For a change in the officers, directors, or natural persons owning 10 percent or more (directly or indirectly), partners, members, designated employees or other individuals responsible for the conduct of affairs of the applicant, the notice shall contain a completed biographical affidavit for each and every new individual named to such a position. The biographical affidavit shall be on a form approved by the commissioner.

3. For a change in ownership of 10 percent or more (directly or indirectly) where the new owner is not a natural person, the notice shall contain a detailed description of the corporate organizational/ownership structure of the entity, its parent company and all affiliates. This description should include an organizational chart showing the ownership percentages for any persons owning 10 percent or more of all affiliated entities up to and including the ultimate controlling person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1804, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 35:2453 (November 2009).

Chapter 41. Regulation 60— Advertising of Life Insurance

§4101. Purpose

A. The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. Title 22, Section 3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1224 (December 1996).

§4103. Definitions

Advertisement—

1. material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

a. printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards, similar displays, the Internet or any other mass communication media;

b. descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed, or used by such insurer or insurance producer including, but not limited to, circulars, leaflets, booklets, web pages, depictions, illustrations, and form letters;

c. material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy;

d. prepared sales talks, presentations, and material for use by insurance producers.

2. *Advertisement*, for the purpose of these rules shall not include:

a. communications or materials used within an insurer's own organization and not intended for dissemination to the public;

b. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;

c. a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or