

3901-9-03

**Viatical settlement broker continuing education.****(A) Purpose**

The purpose of this rule is to establish viatical settlement education (VSE) requirements, criteria, standards and procedures and fees for VSE providers, VSE courses and licensed viatical settlement brokers pursuant to Chapter 3916. of the Revised Code.

**(B) Authority**

This rule is issued pursuant to the authority vested in the superintendent under sections 3901.19 to 3901.26, 3916.03, and 3916.20 of the Revised Code.

**(C) Application and scope**

This rule applies to all persons applying to provide, providing, or enrolled in a viatical settlement education course or program to be offered pursuant to the requirements of division (G) of section 3916.03 of the Revised Code.

**(D) Definitions**

- (1) "Authorized provider official" is the person designated by a viatical settlement education provider as the individual responsible for the conduct of the provider's employees, monitors and instructors of the continuing viatical settlement broker education course.
- (2) "Compliance period" means the period of time in which a viatical settlement individual broker must complete the required continuing education (CE) credits pursuant to division (G) of section 3916.03 of the Revised Code.
- (3) "Provider" or "viatical settlement education provider (VSE provider)" is any person or entity who is permitted to offer viatical settlement broker education courses pursuant to division (G) of section 3916.03 of the Revised Code.
- (4) "Viatical Settlement Broker" or "licensee" means an individual or business entity that has applied for and been granted a viatical settlement broker license in this state.
- (5) "Viatical settlement education" or VSE means the viatical settlement education required by division (G) of section 3916.03 of the Revised Code for individuals licensed as a viatical settlement broker and this rule.

(E) Compliance period requirements

- (1) A viatical settlement broker must complete VSE comprising fifteen hours of credit within a twenty-four month compliance period as set forth in this rule.
- (2) A viatical settlement broker's compliance period shall be based upon the following criteria:
  - (a) The initial compliance period for all individuals licensed as a viatical settlement broker on or before December 31, 2010, begins on January 1, 2011, and ends on December 31, 2012, and shall continue every twenty-four months as long as the license is in force;
  - (b) The initial compliance period for all individuals licensed as a viatical settlement broker on or after January 1, 2011, shall begin on January first immediately following the year of VSE licensure and end twenty-four months later on December thirty-first and shall continue every twenty-four months as long as the license is in force;
  - (c) Every subsequent twenty-four month period shall constitute a compliance period. Each compliance period shall commence on January first immediately following the preceding compliance period and shall end on December thirty-first of the second year after the preceding compliance period; and
  - (d) The compliance period for an individual whose viatical settlement broker license has expired, and who applies for and is issued a new viatical settlement broker license within one year of the prior license expiration, shall be assigned the same VSE compliance period that the individual would have been assigned if the individual's previous viatical settlement broker license was timely renewed.
    - (i) In order to qualify for a new viatical settlement broker license, the individual viatical settlement broker applicant must complete all of the VSE credit requirements that were not completed prior to the expiration of the individual's previous viatical settlement broker license; and
    - (ii) The viatical settlement broker applicant must pay the VSE extension fee if any VSE credits were completed in order to reactivate the license and those credits were taken beyond the previous VSE compliance period end date of December

thirty-first.

- (iii) The viatical settlement broker applicant must provide proof of completion of the required number of approved VSE credits by submitting documentation acceptable to the superintendent such as course completion certificates and/or course rosters;
- (iv) The effective date of the new viatical settlement broker license shall be the date that the "Department" processes and approves the license application.

(F) VSE credit

- (1) Resident licensees shall complete only VSE courses that have been approved by the superintendent of this state for the credits to satisfy their VSE requirement pursuant to division (G) of section 3916.03 of the Revised Code.
- (2) Non-resident licensees may complete a VSE course approved by another state or may complete a VSE course approved by the superintendent of this state to satisfy their VSE requirement pursuant to division (G) of section 3916.03 of the Revised Code.
  - (a) A non-resident licensee must provide proof of completion to the superintendent of this state if the VSE course was not approved for VSE credit in this state; and
  - (b) The non-resident licensee must also include the appropriate CE participation fee for the number of credits being requested; and
  - (c) The credit must be reported to the superintendent of this state within thirty days of the date of course completion by the licensee.
- (3) At the discretion of the superintendent, credit may be given for a VSE course that is held prior to the issuance of written approval of such course by the superintendent.
- (4) If a VSE course is taken more than once in a compliance period by the same person, credit may be given only for the first time the person completed the course.
- (5) Partial credit, rounded down in one hour increments, may be given for

classroom courses only at the provider's option.

- (a) The provider may, but is not required to, give refunds for the portion of the course unattended. The provider's refund policy on partial attendance must be disclosed to the student before or at the time of registration; and
  - (b) If partial credit is given, the course participation fee must be paid to the department or its designee in the amount required as if the agent had attended the entire class.
- (6) To qualify for VSE credit, both the course and the provider must be approved by the superintendent.
- (7) Credit hours awarded in one compliance period cannot be carried over or applied in any other compliance period.
- (8) Approved VSE courses taken between the date of licensure and the beginning of the initial compliance period may be applied towards the initial VSE continuing education requirements.
- (9) Credit earned for a VSE course will count towards the general education credit requirement for licensees who hold an active viatical settlement broker license in addition to another license type that requires continuing education.
- (10) Credit for publication and instruction.
  - (a) An individual may receive up to seven hours VSE credit per reporting period for the publication of articles or books authored by the individual. Articles and books must deal with matters directly related to the business of viatical settlements as defined in Chapter 3916. of the Revised Code. An article must be published in a generally known and recognized state or national publication. The extent to which credit may be given shall be at the discretion of the superintendent. A request for credit must be made in writing and must be accompanied by proof of authorship and publication. Credit will be given only once for each approved article or book.
  - (b) VSE credit may be allowed for the authors of written materials used in approved VSE courses on a one-time per course basis. The author will be allowed the number of VSE credit hours for which the course was approved. If there are multiple authors of the written course materials,

no author will receive more than the author's pro rata share as determined by the sponsor. The total number of hours received by all authors for a course cannot exceed the total number of hours for which the course is approved. A request for such credit must be made in writing and must be accompanied by proof of authorship.

- (c) Instructors for approved VSE courses may receive VSE credit for instructing courses. Credit may be given in an amount equal to two times the number of hours actually spent instructing a course. Credit will be given only once per course per compliance period.
- (d) A person who authors materials for an approved course and teaches the same course in a compliance period may receive credit for authoring the written materials or instructing the course, but not for both activities in any one compliance period, subject to this rule.
- (e) An individual requesting credit for publication or instructing a course must include the non-refundable payment of a dollar per credit hour for each credit hour requested.

(G) Continuing education transcripts

- (1) Following the completion of a licensee's twenty-four month compliance period, the department shall make available a transcript to each licensee.
- (2) If the transcript indicates that a licensee has completed the required number of VSE credits for that compliance period and is reported as being in compliance with the VSE requirements of this state, no additional documentation or reporting is necessary for that compliance period unless instructed by the department.
- (3) If the transcript indicates that a licensee has not completed the required number of VSE credits for that compliance period and is reported as being in non-compliance with the VSE requirement of this state, it is the individual licensee's responsibility to provide proof satisfactory to the superintendent that the licensee actually completed the required VSE credits and to provide proof of compliance with this rule.
- (4) If the licensee requests an extension, the licensee must provide all documentation required by the department with the request.
- (5) A licensee's failure to receive the department's transcripts does not relieve the

licensee of the responsibility to timely complete the VSE requirements.

(H) VSE extensions

- (1) The superintendent may grant a licensee a reasonable extension of time in which to complete the minimum number of hours of viatical settlement continuing education if the superintendent finds that the licensee is or was unable to do so as a result of a disability or special circumstances.
- (2) The superintendent may grant a licensee a general extension from January first immediately after the end of the VSE compliance period throughout the expiration date of the viatical settlement broker license or if any credits are completed as a prerequisite for re-licensure as a viatical settlement broker license.
- (3) It is the licensee's responsibility to request a VSE extension. The following conditions and documentation are required if requesting a VSE extension:
  - (a) The request for a VSE extension must be submitted in writing and must be received by the superintendent prior to and not later than the time of submission of the renewal application or initial application for an individual whose viatical settlement broker license has expired and is applying for a new viatical settlement broker license within one year of the prior license expiration;
  - (b) The written request must include a statement setting forth the reason the VSE extension is being requested;
  - (c) The request must include documentation that reflects the completion of the required number of approved VSE credits during the extension period. The documentation may consist of course completion certificates and/or course rosters;
  - (d) The request must include the non-refundable VSE extension fee. The VSE extension fee is in addition to any renewal or application fees;
  - (e) The request must include any other documentation required by the superintendent;
  - (f) It is the licensee's responsibility to determine whether the credits completed during the extension period are sufficient to meet the VSE compliance requirements; and

(g) The VSE extension request, fees and other requirements should not be submitted to the department until all VSE credits are completed.

(4) When an extension is granted, it applies only to that compliance period. If the disability or special circumstances continue to exist up to the beginning of a subsequent compliance period, another extension must be requested. Permanent conditions are not eligible for an indefinite extension.

(I) "VSE Provider Application"

(1) An initial VSE provider application shall be made on a form prescribed by the superintendent and shall include the following:

(a) Information regarding the applicant's designated authorized provider official;

(i) An authorized provider official is the individual responsible for obtaining continuing education provider approval, course approvals, verifying the qualifications of instructors, providing course schedules, monitoring classroom attendance, administering examinations (where applicable), and submitting course completion rosters and fees to the department or its designee, and providing any other documents required by the department; and

(ii) An authorized provider official may cause a facsimile signature stamp to be created and used for the purpose of providing signatures on provider rosters and completion certificates. An original signature and an example of the facsimile stamp must be provided to the department where it will be maintained on file. A facsimile stamp will only be accepted by the department when it is in an ink color other than black.

(b) Application fee; and

(c) Any additional information requested by the superintendent.

(2) If the applicant submits an application that is incomplete or if the application lacks information deemed necessary by the department, the department will return the application with a letter indicating areas which must be addressed in order for the department to continue the approval process. If the department does not receive a reply by the requested response date, the filing

may be considered terminated. All fees are non-refundable and non-transferable.

- (3) The provider will be notified in writing of an approval as a VSE provider at the time the provider's first course is approved and will be assigned a provider number. A provider is approved from the date of approval until December thirty-first of the same year in which the provider was approved.
- (4) The provider must be renewed on an annual basis in order for the provider to continue offering VSE courses. The following information must be submitted to the superintendent by November thirty of each year in order for the superintendent to consider renewing a provider:
  - (a) A renewal application shall be made on a form prescribed by the superintendent;
  - (b) Applicable renewal fee paid; and
  - (c) Any other documents required by the superintendent.

(J) "VSE Course Application"

- (1) All requests for approval of a VSE course shall be submitted in the manner prescribed by the superintendent and shall include the following items:
  - (a) A description of:
    - (i) The number of requested credit hours and length of the course. For purposes of this rule a credit hour must provide for no less than fifty minutes of instruction. Breaks, introductions, lunches, announcements, or other non-instruction time is to be excluded in calculating the credit hours requested. Each course shall be a minimum of one credit hour and shall be in increments of whole or one-half credit hours;
    - (ii) The purpose or objective of the course and how the material offered will increase the knowledge of Chapter 3916. of the Revised Code and the rules promulgated thereunder and related subjects for the participants; and
    - (iii) The course tuition and the provider's refund policy.



- (b) A detailed content outline that contains a description of each topic to be covered by the VSE course. This outline must specify the time components spent on each topic and sufficient details to justify the request for each credit hour. The outline shall contain:
  - (i) The proposed time components;
  - (ii) The specific material to be covered in each time component;
  - (iii) The method of presentation employed for each component; and
  - (iv) The justification for the time allotted to each component to teach or instruct that component.
- (c) A description of materials to be employed by the instructor in teaching the VSE course, including a copy of the promotional brochures currently in use or proposed to be used for the VSE course once approved by the department. All promotional material must include:
  - (i) The level of the VSE course (e.g. introductory, intermediate, or advanced); and
  - (ii) Information about the experience and qualifications of each instructor. In lieu of including this information in the materials, a provider may make it available upon request to any person.
- (d) A description of how the course is to be administered including:
  - (i) The criteria used by the provider in selecting instructors;
  - (ii) The method of verification of attendance or completion of the VSE course; and
  - (iii) Other formats as approved by the superintendent.
- (e) VSE course application fee, if appropriate.
- (f) Any other information the superintendent may request.

(K) Review of VSE course application

(1) In order for a course to be approved by the Ohio department of insurance as an acceptable viatical settlement broker education course, at a minimum, the course must:

- (a) Be offered by an approved provider;
- (b) Use the most recent versions of laws and rules;
- (c) Have significant intellectual or practical content that enhances and improves the licensee's knowledge or professional competence. A course should be an organized program of learning dealing with matters directly related to Chapter 3916. of the Revised Code and the rules promulgated thereunder, including professional competence, and fiduciary duties and ethical obligations. The VSE courses may be comprised of the following topics:
  - (i) Ethics in the viatical or life settlement market, which shall include topics directly related to maintaining ethical business practices for viatical settlement brokers and their role in viatical or life settlements, the prohibition of accepting payments from anyone other than viator/policyowner, the viatical settlement broker's fiduciary duty to viator/policyowners, including study of sections 3916.031 and 3916.04 of the Revised Code and the rules promulgated thereunder;
  - (ii) Suitability of viatical or life settlements, including study of due diligence, best execution and training and supervision and applicable "FINRA" rules and "Notices to Members" federal, and state personal and estate tax consequences, loss of government benefits, and loss of insurability;
  - (iii) Violations and penalties set forth in Chapter 3916. of the Revised Code and the rules promulgated thereunder, including special attention to sections 3916.171, 3916.172, 3916.173, 3916.18, 3916.19, 3916.20, and 3916.21 of the Revised Code and the rules promulgated thereunder;
  - (iv) General overview of Chapter 3916. of the Revised Code and the rules promulgated thereunder to enable the student to be familiar with the text and requirements of the viatical or life settlement

act, including study of the definitions in section 3916.01 of the Revised Code;

- (v) History of viatical or life settlements, including developments in current law, and including study of Ohio cases;
- (vi) Privacy of information, including medical records and protection of the viator/seller and insured's identity; contact with insured; and required disclosures, including studying divisions (A) and (B) of section 3916.06, and sections 3916.07, 3916.08, 3916.10, and 3916.13 of the Revised Code and rules promulgated thereunder;
- (vii) The business of viatical or life settlements, including the structure of settlements, and premium financing, including study of sections 1321.76 and 1321.78 of the Revised Code and the rules promulgated thereunder;
- (viii) Best business practices, under sections 3916.05, 3916.031, 3916.04, 3916.05, 3916.09, 3916.11, 3916.12, 3916.14, 3916.16, 3916.17, and 3916.18 of the Revised Code and rules promulgated thereunder;
- (ix) The life insurance policy contract, including standard provisions, including, without limitation, period of contestability, assignment, accelerated benefits, conversion rights, and types of insurance, including without limitation, term, whole life, and universal life.

(d) Meet all other criteria set forth in this rule.

- (2) If the VSE provider submits a course application which is incomplete or if the application lacks information deemed necessary, the department may return the application with a letter indicating the areas which must be addressed in order for the department to continue the approval process. The course filing fee is non-refundable and non-transferable. If the department does not receive an acceptable response from the applicant including the required information by the requested date, the filing may be terminated.
- (3) Providers will be notified in writing of the approval of each course and of the course number assigned to it by the superintendent. A course is approved from the date of approval until December thirty-first of the same year in which the course is approved. The course must be renewed on an annual basis in order for the provider to continue offering the course. An application for

renewal and renewal fee shall be submitted to the department by November thirty each year. A course may only be renewed if there are no changes to the content of the course.

- (4) Based upon a review of the application the superintendent may approve a course for fewer credits than requested, and a provider shall only offer and award the number of credit hours as approved.
- (5) The instructional method of a VSE course may be presented either by a classroom-instructed course or a self-study course.
- (6) A self-study course is defined for purposes of this section as any VSE course which is completed by self study and which does not require a licensee to attend organized classes. A self-study course may be:
  - (a) An interactive on-line course which has at the end of each chapter or section a series of questions designed to test the student's subject matter knowledge of that chapter or section. The student shall not advance to the next chapter or section until the student has successfully answered all the questions for the previous chapter or section. The student may review the material in order to answer a question. An interactive on-line self-study course is not required to have a final examination.

Interactive on-line courses must be designed so that the actual amount of time a student spends completing the VSE course equals, at minimum, the amount of credit hours approved for the course.
  - (b) A non-interactive on-line course which has a scored on-line final examination, or
  - (c) A non-interactive, on-line or paper-based course which has a mail-in final examination.
  - (d) Any type of self study program with a proctored final examination.
  - (e) Other types of self study courses as the superintendent may approve.
- (7) In addition to providing all other information required pursuant to this rule, a provider shall include:
  - (a) For an on-line interactive course, the number of questions that appear at the end of each chapter or section, a sample of the questions, references

from the questions back to the text, if requested by the department, and a copy of the answer key for the sample questions; or

- (b) For a course that requires a final examination, the number of examination questions that will appear on the student's examination, references from the examination back to the text, if requested by the department, and a copy of the examination answer key with the application. The answer key shall indicate the total amount of credit possible for answering each question correctly. If essay questions are employed in the examination there must be an explanation as to how essay questions will be graded.
- (8) The following are minimum requirements for on-line interactive chapter/section questions or final examinations:
- (a) Multiple choice items must have a minimum of four options;
  - (b) Multiple choice items must have only one correct response;
  - (c) Multiple choice answers must be grammatically consistent and parallel in form to eliminate obviously wrong answers;
  - (d) No correct answer to one question shall provide a clue to the correct answer to any other questions in the chapter/section or examination;
  - (e) Questions shall be clearly written;
  - (f) Answers to the questions may not be in a pattern; and
  - (g) Questions shall adequately cover the course material set out in the course outline.
- (9) In order to obtain credit for a self-study course the licensee must either:
- (a) Complete an interactive on-line course having answered one hundred per cent of each chapter's/section's questions correctly; or
  - (b) Receive a grade of seventy per cent or greater on the final examination.
- (10) A final examination shall be administered only upon completion of the self-study course.

- (11) Each student shall certify that he or she completed the course and, if applicable, the examination without assistance. If the examination is monitored, the provider or proctor must confirm the identity of students by a government-issued identification with photograph.
- (12) Details on how the examination materials are to be secured and returned to the provider shall be included in the instructions.
- (13) The department shall review each application within thirty days of the date of receipt of a complete application and appropriate fees.
- (14) The effective date of a course approval shall be within the superintendent's discretion.

(L) VSE course instructor qualification

- (1) The authorized provider official is responsible for verifying that instructors meet the required minimum qualifications. Instructors must meet one of the following qualification categories:
  - (a) Qualification one: the instructor or speaker holds a post graduate degree in insurance or law from an accredited university and a minimum of seven years experience working with viatical settlements as a federal or state regulator or federal or state law enforcement officer.
  - (b) Qualification two: the instructor or speaker has a minimum of seven years of continuous experience working with viatical settlements, and holds one or more of the following designations in good standing:
    - (i) "Certified Financial Planner" (CFP);
    - (ii) "Certified Public Accountant" (CPA);
    - (iii) "Chartered Life Underwriter" (CLU);
    - (iv) "Chartered Financial Consultant" (ChFC);
    - (v) "Fellow Life Management Institute" (FLMI);
    - (vi) "Life Underwriting Training Council Fellow" (LUTCF).

- (c) Qualification three: the instructor or speaker has been a licensed viatical settlement broker in good standing for a continuous period of not less than five years, and has been registered in good standing with "FINRA" as an investment advisor or broker-dealer for a minimum of five years.
  - (d) Qualification four: the instructor or speaker has a minimum of seven years of experience in the business of insurance or the business of viatical settlements, or a combination thereof, and a degree from an accredited institution of higher education in business, finance, or law.
  - (e) Qualification five: the instructor or speaker is either a full-time or adjunct faculty of an accredited university and teaches a viatical settlement related curriculum course at a university.
- (2) A provider shall verify each instructor's relevant qualifications and shall be prepared to provide evidence of such qualifications to the department upon request.
  - (3) Instructors must be knowledgeable in the subject that they teach in a VSE course.
  - (4) Instructors must be of good character and reputation.

(M) VSE provider required practices

- (1) A course must be offered and presented as approved. The failure to do so may result in a denial of VSE credit for the course.
- (2) A provider must inform the department, in writing, of any change in a course's location, date or time no later than fifteen calendar days prior to the course. Written notice of any other changes to a provider or course application must be given to the department no later than fifteen calendar days subsequent to the effective date of the change.
- (3) Providers may not change a course's content or outline without prior written approval of the department. Failure to obtain such written approval in advance of the course may result in a denial of VSE credit for the course.
- (4) An approved course must be in session on the date(s) scheduled, during the specified hours and at the designated location unless cancelled and proper notification of any change is given to the department in accordance with this

rule.

- (5) If an approved course is cancelled, or if a licensee cancels in advance of the date of the course, the provider must refund all fees in full within forty-five days of the cancellation unless a different refund policy is conspicuously printed on the provider's materials.
- (6) If a course is postponed to a later date or moved to a different location, the provider must offer each licensee who is scheduled to attend the option of a full refund in lieu of attending the class.
- (7) A provider will comply with all federal and state laws, including without limitation, equal employment opportunity and disability protection laws.
- (8) Facilities must be large enough to comfortably accommodate all attendees and instructors and must be conducive to the education process.
- (9) Each provider shall maintain accurate attendance records for each course.
  - (a) Providers must obtain signatures of licensees at time of arrival and departure from a course;
  - (b) Attendance verification forms shall be printed with the name of provider, the name of the instructors, the course title, the number of credit hours, and the dates of instruction;
  - (c) Providers must have each licensee who completes a self-study course certify that the course was completed by the licensee and that the examination, if applicable, was taken without assistance. If the examination is monitored, the provider or proctor must confirm the identity of students by a government-issued identification with photograph.
- (10) Within fifteen calendar days after completion of a course, the provider shall file an attendance roster or other documentation acceptable to the superintendent, which identifies each licensee who completed the course. The roster must include the name, address, and national producer number (NPN) of each licensee. If partial credit is being given, the provider must note on the attendance roster the actual number of credits to be given to that licensee. The participation fee amount must be equal to the number of credits approved for the course.



- (11) Any instructor for whom VSE credit is sought shall also be identified on the attendance roster with a notation of the total number of credits that are to be given for the instruction. Providers must include a participation fee equal to the number of credits given to the instructor.
- (12) The provider's failure to timely file an attendance roster, or other acceptable documentation, may result in a denial of VSE credit for those licensees who attended the course.
- (13) The provider shall maintain the attendance verification forms and course rosters for a minimum of four years and be able to produce them at the superintendent's request.
- (14) A provider shall provide a certificate of completion to each licensee within seven calendar days of the conclusion of a course. The certificate of completion shall contain the name and national producer number of the licensee, the name and identification number of the course, the date(s) the course was held, the number of credit hours completed by the licensee and the name and identification number of the provider. The instructor and a representative of the provider shall sign each certificate.

(N) VSE course advertising

- (1) All VSE advertising or promotion of any kind must contain all of the following:
  - (a) The complete name of the provider as it appears on the application for provider approval;
  - (b) The complete title of the course as it appears on the application for course approval;
  - (c) The number of Ohio VSE credit hours for which the course is approved; and
  - (d) Level of course instruction (e.g., introductory, intermediate, or advanced).
- (2) A provider may not represent that a course has been approved for VSE credit in Ohio until the superintendent issues written approval of the course. A provider may represent that an application for VSE approval is pending, but if a provider does so and approval is not granted, the provider must make a full refund of all fees. If a provider represents that approval is pending, the

provider must also state, in substance, that the superintendent could approve the course for fewer hours than requested.

- (3) A provider shall not offer any guarantee or represent that there is any guarantee that a licensee will pass a required examination.
- (4) If several approved courses are offered together, all advertising and promotional materials must separately identify each approved course and the respective number of VSE credit hours for which each course is approved.
- (5) In advertising or promoting itself or any of its courses, a provider shall not make any representation or statement, or cause or permit another to make any representation or statement which is false, deceptive or misleading.
- (6) A provider's refund policy must be clearly and conspicuously disclosed in all advertising and on all printed promotional materials.

(O) Audit and records retention

- (1) All forms required by this rule may be obtained from the Ohio department of insurance and are located on the department's website. The forms may be duplicated for use by VSE providers, but may not be used for resale purposes.
- (2) Each provider shall retain all records that pertain to its Ohio VSE activities for a minimum of four years.
- (3) A provider must be able to verify who attended and completed each course for a minimum of four years following the completion of such course.
- (4) The superintendent may audit a provider's records and courses at any time without prior notice. The instructors at an approved course may be required to provide proof of identity to the superintendent's representative during an audit of a course.

(P) Violations of viatical settlement broker education requirements

- (1) Making any false, misleading or deceptive statement or representation about the status of a course approval, the number of hours for which a course is approved or any other statement about a course or provider. The penalty for a single violation is five hundred dollars.

- (2) Failing to maintain all necessary records for the required time periods. The penalty for a single violation is one hundred dollars.
- (3) The use, submission or filing of any document for the purpose of complying with the viatical settlement broker education statutes and rules, or in responding to any inquiry from the department concerning VSE education, when the provider knows or should have known that the document, or any part of it, is false or deceptive. The penalty for a single violation is one thousand dollars.
- (4) Failure to use the approved course outline. The penalty for single violation is two hundred dollars.
- (5) Failure to notify the department of allowable changes to any course, previously approved, within the fifteen day period of such changes. The penalty for a single violation is one hundred dollars.
- (6) Failure to conduct the approved course for the full time, as specified in the course application. The penalty for a single violation is five hundred dollars.
- (7) Failure to monitor course attendance. The penalty for a single violation is five hundred dollars.
- (8) Failure to comply with applicable federal or state laws, including without limitation, equal employment opportunity or disability protection laws. The penalty for a single violation is five hundred dollars.
- (9) Failure to provide timely refunds to participants when required. The penalty for a single violation is one hundred dollars.
- (10) Failure to timely file any form or other required information. The penalty for a single violation is one hundred dollars.
- (11) Failure to file any form or other required information. The penalty for a single violation is five hundred dollars.
- (12) Failure to appropriately monitor an examination. The penalty for a single violation is one hundred dollars.
- (13) Obtaining the attendance or enrollment of licensees or students by actual or

implied coercion. The penalty for a single violation is five hundred dollars.

- (14) Failure of a provider to timely provide a certificate of completion to an attendee or the failure of a provider to provide an attendee with an accurate certificate of completion. The penalty for a single violation is five hundred dollars.
- (15) Failure to accurately report the actual number of course hours attended for each individual. The penalty for a single violation is five hundred dollars.
- (16) Knew or should have known by reasonable inquiry, that a person attending a classroom course or taking a self-study course is not the person who signed up to take the course. The penalty for a single violation is five hundred dollars.
- (17) Failure by any course attendee to comply with verbal or written instructions from a VSE course provider addressing the attendee's unacceptable or disruptive behavior while attending the course shall be sufficient grounds for the VSE course provider to dismiss the attendee from the course and refuse to submit credit for all or any part of the course from which the attendee was dismissed.
- (18) Obtaining, accepting or using any certificate of completion or certificate of attendance from a provider when the licensee has not attended the course or the number of hours identified on the certificate shall be sufficient grounds for the superintendent to suspend, revoke, or refuse to issue any licenses as a viatical settlement broker.
- (19) Cheating or using unauthorized materials or receiving unauthorized assistance during an examination, including the use of cellular phones or other handheld communication device at any time while an examination is in progress, shall be sufficient grounds for the superintendent to suspend, revoke, or refuse to issue any licenses as a viatical settlement broker.
- (20) Permitting a course instructor or licensed agent to take an examination for a line of authority that is equivalent to any line of authority already held by the course instructor or agent. The penalty for a single violation is five hundred dollars. A finding that a course instructor or agent has taken an examination under these circumstances shall be sufficient grounds for the superintendent to suspend, revoke, or refuse to issue any licenses as a viatical settlement broker or insurance agent to the course provider or agent.

- (21) The violation of any provision of Chapter 3916. of the Revised Code, and the rules promulgated thereunder.

(Q) Application of penalties

- (1) The superintendent may suspend, revoke, non-renew or deny authority to any viatical settlement broker education provider who has committed multiple violations of this rule. This penalty may be in addition to the penalties levied pursuant to paragraph (P) of this rule.
- (2) Once a violation of this rule requiring a penalty has been found, the superintendent may, in the superintendent's discretion, suspend all or part of such penalty, upon a satisfactory showing of mitigating circumstances by the violator.
- (3) A violation of this rule involving falsifying records shall be grounds for immediate termination of any authority to provide or instruct a viatical settlement program or course, or if the viatical settlement broker falsified or knew or should have known, or aided or abetted the falsification, no course work will be credited to the viatical settlement broker and the superintendent shall take immediate action to terminate the viatical settlement broker's license pursuant to Chapter 119. of the Revised Code.
- (4) The making of any misrepresentation, or any untrue, misleading or deceptive statement or assertion in support of or in connection with a request for an extension is an unfair and deceptive act or practice under sections 3901.19 to 3901.26 of the Revised Code and a fraudulent viatical settlement act in the business of viatical settlements and the superintendent shall take immediate action to terminate the viatical settlement broker's license pursuant to Chapter 119. of the Revised Code.

(R) VSE provider and course - schedule of fees

- (1) Every VSE applicant or provider shall pay the non-refundable fees established in this rule.
- (2) Fees are due at the time of submission of the initial and renewal applications.
- (3) Per-course fees, where applicable, shall be submitted with the request for course approval. Every potential continuing education provider shall submit at least one program for approval with the application to be an authorized continuing

education provider.

(4) The VSE applicant shall select one of the fees listed below. The fees are the same for initial and renewal applications. If the status of the provider changes during the year and a different fee is due, the new fee will be in addition to the previous payments with no credit for the prior or future payments.

(a) Flat fee VSE provider. The fee is one thousand dollars per year, which covers the application fee and the course approval fees for all courses approved during the year.

(b) Individual fee VSE provider. The fee is one hundred dollars for approval of the provider application, plus forty dollars for each course approval.

(c) Limited fee VSE provider. The fee is twenty-five dollars for approval of the provider application, plus twenty-five dollars for each course approved. A provider electing this status is limited to offering no more than three courses of no more than three hours each, during the year.

(5) VSE licensee participation fee

Filing of VSE course roster or proof of VSE education credit is one dollar per person/per course approved credit hour.

(S) Miscellaneous fees

(1) Request for extension of VSE credit requirements within allowable VSE extension period is one hundred dollars.

(2) A processing charge of thirty dollars will be charged for any fee payment submitted to the superintendent by check, money order or other instrument, and which is subsequently returned to the superintendent for insufficient funds, closed account or for any other reason.

(3) The superintendent may require a certified check from any licensee or provider whose check has been dishonored.

(T) Deposit of fees

Any fee collected pursuant to this rule shall be paid into the state treasury to the credit of the department of insurance's operating fund pursuant to section 3901.021 of the Revised Code.

(U) Severability

If any paragraph, subparagraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair, or invalidate any other paragraph, subparagraph, term or provision of this rule, but the remaining paragraphs, subparagraphs, terms and provisions shall be and continue in full force and effect.

Five Year Review (FYR) Dates: 08/14/2015 and 08/14/2020

CERTIFIED ELECTRONICALLY

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Certification

08/14/2015

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Date

Promulgated Under: 119.03  
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