



Ohio Revised Code Section 3916.15 Prohibitions.

Effective: September 11, 2008

Legislation: House Bill 404

(A) The superintendent of insurance may refuse to issue or may suspend, revoke, or refuse to renew the license of a viatical settlement provider or viatical settlement broker, if the superintendent finds that any of the following apply:

- (1) There was a material misrepresentation in the application for the license.
- (2) The applicant or licensee or any officer, partner, member, key management personnel, or designee of the applicant or licensee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action in another state, has been the subject of an administrative or civil action brought by the department of commerce, division of securities, or is otherwise shown to be untrustworthy or incompetent.
- (3) The licensee is a viatical settlement provider that demonstrates a pattern of unreasonable payments to viators.
- (4) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has been convicted of or has pleaded guilty or no contest to a felony or to a misdemeanor involving fraud, moral turpitude, dishonesty, or breach of trust, regardless of whether a judgment of conviction has been entered by the court.
- (5) The licensee is a viatical settlement provider that has used a viatical settlement contract form that has not been approved under this chapter.
- (6) The licensee is a viatical settlement provider that has failed to honor contractual obligations set out in a viatical settlement contract.
- (7) The licensee no longer meets the requirements for initial licensure.



(8) The licensee is a viatical settlement provider that has assigned, transferred, or pledged a viaticated policy to a person that the licensee knew or should have known was not one of the following:

(a) A viatical settlement provider licensed in this state;

(b) A viatical settlement purchaser;

(c) A qualified institutional buyer;

(d) A financing entity;

(e) A special purpose entity;

(f) A related provider trust.

(9) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has violated any provision of this chapter or any rule adopted under this chapter.

(10) The licensee or any officer, partner, member, key management personnel, or designee of the licensee has committed any coercive, fraudulent, or dishonest act, or made any untrue, deceptive, or misleading statement, in connection with a viatical settlement transaction or a proposed viatical settlement transaction.

(B) Before the superintendent refuses to issue a license under this chapter, or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, the superintendent shall provide the licensee or applicant with notice and an opportunity for hearing as provided in Chapter 119. of the Revised Code, except as follows:

(1)(a) Any notice of opportunity for hearing, the hearing officer's findings and recommendations, or the superintendent's order shall be served by certified mail at the last known address of the licensee or applicant. Service shall be evidenced by return receipt signed by any person.



For purposes of this section, the "last known address" is the address that appears in the licensing records of the department of insurance.

(b) If the certified mail envelope is returned with an endorsement showing that service was refused, or that the envelope was unclaimed, the notice and all subsequent notices required by Chapter 119. of the Revised Code may be served by ordinary mail to the last known address of the licensee or applicant. The mailing shall be evidenced by a certificate of mailing. Service is deemed complete as of the date of such certificate provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery. The time period in which to request a hearing, as provided in Chapter 119. of the Revised Code, begins to run on the date of mailing.

(c) If service by ordinary mail fails, the superintendent shall cause a summary of the substantive provisions of the notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county where the last known place of residence or business of the licensee or applicant is located. The notice is considered served on the date of the third publication.

(d) Any notice required to be served under Chapter 119. of the Revised Code shall also be served upon the attorney of the licensee or applicant by ordinary mail if the attorney has entered an appearance in the matter.

(e) The superintendent may, at any time, perfect service on a licensee or applicant by personal delivery of the notice by an employee of the department.

(f) Notices regarding the scheduling of hearings and all other matters not described in division (B)(1)(a) of this section shall be sent by ordinary mail to the licensee or applicant and to the attorney of the licensee or applicant.

(2) Any subpoena for the appearance of a witness or the production of documents or other evidence at a hearing, or for the purpose of taking testimony for use at a hearing, shall be served by certified mail, return receipt requested, by an attorney or by an employee of the department designated by the superintendent. Such subpoenas shall be enforced in the manner provided in section 119.09 of the Revised Code. Nothing in this section shall be construed as limiting the superintendent's other statutory powers to issue subpoenas.