

Test Alert!

New York

Life, Accident, and Health Insurance

License Exam Manual

2/1/07

L&H

The information included in this release, in addition to your other Kaplan Financial materials, is designed to assist you in preparing for concepts that your exam may include. We urge you to read it carefully and take time to review the sample questions and rationales.

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KAPLAN FINANCIAL

Part I

Changes Since the Previous Edition

On page ix, add the following paragraph before “Preparing for the Exam”:

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On page 246, add the following content after “7. Backdating of policies”:

8. Viatical settlements [Secs. 380.2, .3, .6, .8; 2406; 7801-7810]

No one may transact viatical settlement contracts as a viatical settlement company or broker without first receiving a license to do so from the Superintendent.

a. Licensure of companies [Sec. 380.3] A viatical settlement company seeking a New York license is required to submit a plan of operation to the Life Insurance and Companies Bureau that details the manner in which the company will operate in the state and the type of insurance contracts it plans to viaticate.

1.) The plan of operation will include the following information:

- A certified copy of the company’s charter and bylaws or partnership agreement
- A statement of the types of business that the company transacts and the geographic locations where it transacts a particular type of business (which will also state whether viatical settlements is the company’s primary or only business)
- A list of business licenses that the company holds from any government entity
- Detailed description of the company’s marketing techniques and training programs for employees who will deal directly with viators
- A list of the company’s directors and principal managers, their titles, and job duties, with biographical information

- A list of the company's owners who have an interest in at least 5% of the company
 - The company's viatical experience for the past three calendar years
- 2.) The company's application must include the following information:
- Financial settlements for each of the three years before the application, disclosing expenses for litigation and processing viators' applications
 - Copies of all documents filed with the Securities and Exchange Commission and any state securities regulator
 - Names of qualified financial institutions with which the company has escrow and trust arrangements, with account balances and copies of these arrangements
 - Description of the means by which a viator can access funds and the source from which such funds will come
- 3.) Company licenses are renewed each year with a renewal fee of \$1,000. Licenses are subject to revocation and suspension as in the case of licenses to transact other lines of insurance. Offenders are entitled to hearings before the Superintendent before sanctions are imposed.
- b. **Contract application [Sec. 380.6(g)]** The application for a viatical settlement contract must contain the following.
- 1.) A prominent notice with this language:

Receipt of payment pursuant to a viatical settlement may affect eligibility for public assistance programs such as medical assistance (Medicaid), the family assistance program, supplementary Social Security income, and AIDS drug assistance programs, and may be taxable. Prior to applying for a viatical settlement, policyowners should consult with the appropriate social services agency concerning how receipt will affect the eligibility of the recipient and the recipient's spouse or dependents, and with a qualified tax advisor.
 - 2.) The applicant's consent to the settlement and acknowledgment that he has a serious or life-threatening illness
 - 3.) Detailed information about how the payment amount was determined
 - 4.) The applicant's representation that he understands the policy's benefits, has released his medical records, and acknowledges that he has voluntarily entered into the settlement
 - 5.) A disinterested person's witness of the transaction and acknowledged receipt of the information booklet

- c. Contract provisions [Sec. 380.6(c)]** Viatical settlement contracts must include the following provisions.
- 1.) The viator may rescind the agreement within 15 days of receiving the proceeds, and if the viator dies within this period, the presumption will be that the viator rescinded the agreement.
 - 2.) If the viator rescinds the agreement, the viatical settlement company's rights or interest in the policy will end immediately upon receiving notice from the viator with the settlement proceeds and any escrow interest that he earned.
 - 3.) Once the viator transfers the insurance policy, the viatical settlement company will pay the settlement proceeds to an escrow or trust account in an insured New York state bank or other bank approved by the Superintendent.
 - 4.) The fee(s) that the viator will pay to the viatical settlement company must be disclosed.
 - 5.) The application and the contract together constitute the entire contract.
- d. Approval of contract [Sec. 7804]** A viatical settlement company cannot use a contract for a viatical settlement unless it is in writing and has the prior approval of the Superintendent. Such contracts must allow the viator the right of rescission within 15 days of receiving the proceeds, and require the company to pay the proceeds when the policy is transferred.
- e. Information booklet [Secs. 380.8(a); 7807]** A viatical settlement company must deliver an information booklet to every applicant, and the applicant must acknowledge this delivery.
- 1.) The booklet is to contain the following information:
 - How viatical settlements operate
 - Alternatives to viatical settlements, including accelerated death benefits and policy loans
 - Tax consequences of viatical settlements
 - Consequences of interrupting or losing help from medical or public assistance programs
 - The viator's right to rescind the contract within 15 days of receiving the proceeds
 - The identity of anyone who will receive compensation for arranging the settlement and the amount of this compensation
 - The viatical settlement company's name and main office address

- f. Prohibited practices [Sec. 7808]** Viatical settlement companies cannot do the following when entering into settlement agreements:
- Discriminate on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or between viators with and without dependents when entering into settlement agreements
 - Pay a finder's fee or other compensation to a viator's physician, attorney, accountant, or other person providing medical, legal, or financial planning services to the viator
 - Disclose medical, financial, or other personal information about the viator to anyone without the viator's written consent
- g. Penalties for violations [Sec. 2406]** Persons or companies that are charged with violating these rules are entitled to a hearing before the Superintendent. If they are found guilty, the Superintendent may issue a cease and desist order. If the company has unreasonably delayed processing the claim, the Superintendent may assess a fine of up to \$500 per day for every day of the delay, up to a maximum of \$5,000.
- h. Reporting requirements [Sec. 7805]** By March 1 of each year, every licensee must file with the Superintendent an annual statement with information about the preceding year, as required by the Superintendent.
- i. Examination of books and records [Sec. 7806]** The Superintendent may examine the licensee's books and records as often as necessary, and the licensee bears the expense of the examination.
- j. Prohibited insurance practices [Sec. 7809]** Life insurance policies issued in New York that allow assignment of the owner's rights cannot limit this right to making assignments by gift.
- k. Authority to issue standards [Sec. 7810]** The Superintendent may issue regulations that set standards for marketing, advertising, and disclosure, with respect to viatical settlement contracts.

On page 254, add the following content after "3. Availability and renewability of coverage":

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- 4. Community rating of policies for small employers [Sec. 4317; Reg. 360]** Community rating means that the premium for all persons in the covered group is the same based on the experience of the entire pool of risks covered by the policy regardless of age, sex, health, or occupation. Health insurance contracts issued to small employers in New York must be community rated. Furthermore, underwriting may not involve more than a preexisting condition limitation as allowed by law.

On page 148, insert the following content before “L. Age Discrimination in Employment Act (ADEA)” and re-letter succeeding paragraphs:

- L. High Deductible Health Plan** A high deductible health plan provides the catastrophic insurance coverage that may be combined with an HSA. The HSA works best for the insured when it pays other expenses that are not covered by the catastrophic insurance.
- 1. Family coverage** In the case of family coverage, a plan qualifies as a high-deductible health insurance plan only if no benefits are payable until the minimum family deductible has been exceeded, regardless of the amount of expenses incurred by individual family members.
 - 2. No first-dollar coverage** A qualifying health insurance plan may not provide for first dollar coverage of most health care expenses. Apart from an exception for preventive care, the insurer is not allowed to pay or reimburse amounts spent on health care until the deductible limit has been met.
- M. Health Reimbursement Account (HRA)** Health Reimbursement Accounts (HRAs) are patient-directed health plans, or defined contribution health plans. Through HRAs, employees can control reimbursements for qualified health care expenses.
- 1.** The employer determines the amount that it is willing to pay for medical benefits and shifts the allocated dollars to the employees. Then, each employee decides how much should be spent on health insurance and other qualified expenses.
 - 2.** An HRA can cover medical expenses that would normally be deductible on an individual’s tax return, including insurance premiums for eligible health insurance plans and long-term care plans. It can also be used to cover expenses for nonprescription medicine or drugs to treat personal injuries or sickness.
- N. Consumer Driven Health Plan (CDHP)** A Consumer Driven Health Plan is a health benefit plan in which individuals select their health care providers, manage their health expenses, and assume more control in protecting their health. CDHPs are characterized by:
- a tax-exempt health account that pays for health expenses up to a limit, a high-deductible health insurance policy that covers expenses beyond the deductible, and a corridor between them in which the insured pays for health care expenses;
 - an opportunity to apply funds that are not spent in a current year to medical expenses of a future year; and
 - support for insureds in selecting health care providers, comparing policies and prices, and managing health care expenses.
- O. Flexible Spending Account (FSA)** Similar to cafeteria plans in which employees select health benefits from a variety of coverage options, a flexible spending account is a cafeteria plan that is funded

with employee money by means of a salary reduction. A salary reduction plan is a before-tax plan in which the employee agrees to a reduction in compensation, and this amount is used to cover certain medical expenses. This results in a lower cost of the plan for the employee, with an employer's expenses usually limited to administrative costs. FSAs typically are for moderate- to large-sized employers.

- 1. Flexibility in selecting benefits** The employee is able to select desired benefits, an advantage for the employee whose spouse works and has a similar benefits package.
- 2. Coordination of benefits** Due to the coordination of benefits (COB) provision found in most group hospitalization policies, duplicate coverage will pay only once. If an employee is contributing toward the cost of the plan, it makes sense that payroll deduction dollars be used for selective benefits instead of duplicate benefits.
- 3. Tax implications** The salary reduction method results in the employees funding nontaxable benefits with nontaxed dollars. This also results in a reduced payroll and reduced payroll taxes for the employer.

On page 218, add the following paragraph to the top of the page:

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Part II

New Sample Questions

There are no changes to questions at this time.

Part III

Answers and Rationales

There are no the changes to answers or rationales at this time.

On page 186, replace the last sentence of paragraph b near the top of the page with the following:

A self-employed individual may deduct premiums paid for medical insurance, limited to the net earnings from self-employment in the business for which the plan coverage was established.

On page 223, replace the sentence in “f. Nonresident” with the following:

A nonresident agent or broker is an individual who is licensed in or authorized to transact insurance in New York but resides in another state. A person may obtain a nonresident license if he holds a valid license in his state of residence.

To submit comments or suggestions, please send an email to errata@kaplan.com.

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