§ 7813. General rules. (a) A life settlement provider entering into a life settlement contract shall first obtain a written consent from the insured to the release of the insured's medical records subject to the limitations contained in section seven thousand eight hundred ten of this article.

(b) The insurer shall respond to a request for verification of coverage submitted by a life settlement provider, life settlement broker or life settlement intermediary within fifteen days after the date the request is received. The insurer shall complete and issue the verification of coverage or indicate the specific reasons why it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer is pursuing or intends to pursue an investigation regarding the validity of the policy.

(c) The life settlement provider shall give written notice to the insurer that issued the policy within ten days after the life settlement contract is executed by all parties.

(d) Unless the insurer is pursuing or intends to pursue an investigation, the insurer shall, within fifteen days of receipt of a request for a change of ownership or assignment used to effectuate the transfer or assignment of the owner's rights or benefits under a policy to a life settlement provider, process the change of ownership or assignment and notify the life settlement provider and the owner that the transfer or assignment has been effectuated.

(e) If a life settlement broker performs any activity required of the life settlement provider in this section or provides any disclosures required by section seven thousand eight hundred eleven of this article, then the life settlement provider is deemed to have performed that activity or provided that disclosure.

(f) All medical information solicited or obtained by any licensee or any other person shall be subject to the provisions applicable to health care providers under the public health law and all applicable laws relating to confidentiality of medical information, provided that, to the extent that this chapter provides for greater confidentiality of medical information, this chapter shall govern.

(g)(1) Every life settlement contract shall provide that the owner has an unconditional right to rescind the life settlement contract from the

time of execution of the contract until fifteen days after the receipt of the life settlement proceeds by the owner by giving notice of rescission to the life settlement provider by midnight of the fifteenth day.

(2) Within five days after receipt of the notice of rescission, the life settlement provider shall provide a written statement to the owner itemizing the amount of all life settlement proceeds and any premiums, loans and loan interest paid or to be paid as of a date certain as may be requested by the owner.

(3) Within fifteen days after the receipt of the written, itemized statement by the owner, the owner must repay all such life settlement proceeds and any premiums, loans and loan interest paid by the life settlement provider.

(4) If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded, subject to repayment of all life settlement proceeds and any premiums, loans and loan interest paid by the life settlement provider.

(5) Within five days after receipt of notice of the insured's death during the rescission period, the life settlement provider shall provide a written statement to the owner or, if the owner is deceased, to the legal representative of the owner's estate, itemizing the amount of all life settlement proceeds and any premiums, loans and loan interest paid or to be paid as of a date certain as may be requested by the owner or the legal representative of the owner's estate. As soon as practicable, the owner or the owner's estate shall repay all such proceeds and any premiums, loans and loan interest paid by the life settlement provider.

(h) Within three business days after receipt from the owner of documents to effect the transfer of the policy that is the subject of a life settlement contract, the life settlement provider shall deposit the proceeds of the life settlement contract into an escrow or trust account in a state or federally chartered financial institution. The escrow agent or trustee shall be required to transfer the proceeds due to the owner within three business days of acknowledgement of the transfer from the insurer.

(i) Failure to tender the life settlement contract proceeds to the owner by the date disclosed to the owner shall render the life settlement contract voidable by the owner for lack of consideration

until the time the proceeds are tendered to and accepted by the owner. A failure to give written notice of the right of rescission hereunder shall toll the right of rescission until thirty days after the written notice of the right of rescission has been given.

(j)(1) No person, at any time prior to, or at the time of, the application for, or issuance of, a policy, or during the two-year period commencing with the date of issuance of the policy, shall enter into a life settlement contract, regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise or bequest of the policy is to occur. This prohibition shall not apply if the owner certifies to the life settlement provider that:

(A) the policy was issued upon the owner's exercise of conversion rights arising out of a policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four months. The time covered under a group policy shall be calculated without regard to a change in insurers, provided the coverage has been continuous and under the same group sponsorship; or

(B) one or more of the following conditions, for which the owner submits independent evidence to the life settlement provider, have been met within the two-year period:

(i) the owner or insured is terminally or chronically ill;

(ii) the owner or insured disposes of ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;

(iii) the owner's spouse dies;

(iv) the owner divorces his or her spouse;

(v) the owner retires from full-time employment or involuntarily ceases employment;

(vi) the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment;

(vii) a final order, judgment or decree is entered by a court of competent jurisdiction, on the application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all or a substantial part of the owner's assets; or

(viii) any other condition that the superintendent may determine by regulation to be an extraordinary circumstance for the owner or the insured.

(2) Copies of the independent evidence required by subparagraph (B) of paragraph one of this subsection shall be submitted to the insurer when the life settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider. Nothing in this section shall prohibit an insurer from exercising its right to contest the validity of any policy.

(3) For the purposes of this section a person is:

(A) terminally ill if the individual has an illness, sickness or physical condition that can reasonably be expected to result in death in twenty-four months or less; or

(B) chronically ill if that individual has been certified by a licensed health care practitioner as:

(i) being unable to perform without substantial assistance from another individual at least two activities of daily living (i.e., eating, toileting, transferring, bathing, dressing or continence) for a period of at least ninety days, due to a loss of functional capacity;

(ii) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment for a period of at least ninety days, due to a loss of functional capacity; or

(iii) having a level of disability similar to that described in clause (i) of this subparagraph, as determined by the United States Secretary of Health and Human Services.

(k) Contacts with the insured for the purpose of determining the health status of the insured by a licensed life settlement provider after the life settlement contract has been executed shall be made only by the licensed life settlement provider or licensed life settlement broker, or any authorized representative thereof, and shall be limited to once every three months for an insured with a life expectancy of more than one year, and to no more than once per month for an insured with a life expectancy of one year or less.

(l) The life settlement broker shall represent only the owner and owes a fiduciary duty to the owner, including a duty to act according to the

owner's instructions and in the best interest of the owner.

(m) A life settlement provider, life settlement broker, or life settlement intermediary shall be responsible for the actions of its authorized representative.

(n)(1) A life settlement intermediary's services shall not be limited to life settlement providers or life settlement brokers that are affiliates, parents, or subsidiaries of the life settlement intermediary.

(2) A life settlement intermediary shall establish and maintain systems, practices and procedures to ensure that:

(A) every transaction with an affiliate, parent or subsidiary of the life settlement intermediary is fair and equitable and conducted on an arms-length basis; and

(B) an affiliate, parent or subsidiary of the life settlement intermediary is not granted or provided with preferential treatment or access to information or services that are not granted or provided to an unaffiliated life settlement provider or life settlement broker that conducts business with the life settlement intermediary.

(o) A life settlement provider may sell, assign, pledge or otherwise transfer the ownership of a settled policy only to a licensed life settlement provider, an accredited investor or qualified institutional buyer, financing entity, special purpose entity, or related provider trust; provided, however, a life settlement provider may sell, assign, pledge or otherwise transfer a beneficial interest in a settled policy to someone other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer, financing entity, special purpose entity, or related provider trust if a licensed life settlement provider continues to administer and service the settled policy and protects the privacy of the insured and owner pursuant to section seven thousand eight hundred ten of this article.

(p) The failure to follow the provisions of this section shall be a defined violation under article twenty-four of this chapter.