

STATE OF CONNECTICUT



FY 20 PERFORMANCE AUDIT COMPLIANCE REPORT

Oversight of Pre-Need Funeral Service Contracts (Follow-up Report)

AUDITORS OF PUBLIC ACCOUNTS

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Introduction

Background

Our office published the Oversight of Pre-Need Funeral Service Contracts [performance audit](#) on May 2, 2019. Since we released the report about a year ago, we requested an update from the departments of Public Health (16 recommendations), Consumer Protection (11 recommendations), and Social Services (2 recommendations) on how they addressed our 25 recommendations.

The report’s recommendations focused on enhancing consumer protections, protecting pre-need funeral funds, and better oversight and education of funeral service businesses.

Highlighted agency accomplishments

Department of Consumer Protection

The Department of Consumer Protection (DCP) reported that it reviewed and updated its “Fact Sheet for Consumers on Funeral Service Contracts” (Recommendation 1.) (see Appendix A).

Department of Public Health

The Department of Public Health (DPH) reported that it now sends a formal written notice to closing funeral service businesses informing them of certain requirements. DPH also added a “Closing, Selling or Transferring a Funeral Home” section to its funeral home inspection form (Recommendation 11.) (see Appendix B). DPH informed us that its funeral service business inspector performs a random review of funeral service contracts, and the department is revising its inspection form to reflect this new practice (Recommendation 15.). The department also reported that it will schedule closing inspections in advance of closure to ensure statutory requirements have been met (Recommendation 16.). Additionally, the department may now be requesting, but not requiring, information on the location of active pre-need contracts of closing funeral service businesses (Recommendation 17.).

Department of Social Services

The Department of Social Services (DSS) sent a letter to funeral homes clarifying the handling of funds remaining from a pre-need funeral service contract after paying the funeral service costs. Recommendation 10.) (see Appendix C).

Recommendations requiring statutory changes

Over half the recommendations (16 of the 25 recommendations) require statutory changes. Due to the Covid-19 pandemic, the General Assembly shortened its legislative session and was unable to address any of these changes. The agencies support 14 of the 16 recommended statutory changes. Here is a summary of those recommendations (see Appendix D for the full recommendations):

- Improve/update the Fact Sheet for Consumers on Funeral Service Contracts and require its distribution prior to contract purchase (see Recommendation 1.)
- Incorporate mandatory training on pre-need funeral service contracts into existing continuing education requirements for sellers of such contracts (see Recommendation 2.)
- Deposit payments into escrow accounts within 15 days of receipt, and give purchasers annual statements of interest earned and total value of pre-need (see Recommendation 3.)
- Certify purchaser understanding of pre-need funeral service contracts by initialing certain information (see Recommendation 4.)
- Include pre-need funeral service contract provisions for escheatment of dormant funds to the Office of the State Treasurer (see Recommendation 5.)
- Require pre-need funeral service contracts to have option to list alternate contact information in the event the purchaser cannot be reached (see Recommendation 6.)
- Strengthen consumer protections on pre-need funeral service contract funds that are used to purchase life insurance policies (see Recommendation 7.)
- Prohibit funeral service businesses from depositing and commingling funds received for a pre-need funeral service contract (see Recommendation 9.)
- Require funeral service businesses to notify DPH of sale or closure at least 15 days prior to such action (see Recommendation 12.)
- Require funeral service businesses to notify escrow agents, financial institutions, or life insurance companies holding pre-need funds of their sale or closure at least 15 days prior to such action (see Recommendation 13.)
- Require funeral service businesses storing cremated remains to notify next-of-kin or other designee of sale or closure within 10 days of such action (see Recommendation 14.)
- Require DPH to inspect a closing funeral service business prior to such action (see Recommendation 16.)
- Identify future location of unclaimed remains following sale or closure of a funeral service business (see Recommendation 20.)
- Include additional information in the recent requirement for funeral service businesses to compile electronic information on pre-need contracts (see Recommendation 23.)



Performance Audit Highlights

Oversight of Pre-Need Funeral Service Contracts (Report Issued May 2, 2019)

Audit Objectives and Overview

We estimate that at least \$218.3 million is currently being held for more than 37,000 CT beneficiaries of pre-need funeral service contracts. The purpose of this audit was to: assess adherence to applicable pre-need funeral service contract laws and regulations; and examine the adequacy of state statutes, policies, and procedures intended to safeguard consumer payments made for pre-paid funeral service contracts.

We reviewed relevant statutes, interviewed industry representatives and staff at multiple state agencies, observed DPH inspections of pre-need funeral service contracts, analyzed complaint data, surveyed other states, and checked the U.S. Social Security Administration Death Master File for deceased beneficiaries when contracted pre-need funeral service contracts were never delivered.

Findings

1. No standardized printed information is given to consumers to assist in making informed decisions when purchasing a pre-need funeral service contract, and funeral directors selling these contracts are not required to complete continuing education in this area.
2. We found that 1 funeral home never delivered contracted pre-need funeral services to 5% of deceased beneficiaries (7 of 136).
3. Pre-need funeral service contracts involving life insurance policies have weaker consumer protections in place than funds received for deposit into escrow accounts.
4. Funeral service businesses are not prohibited from commingling pre-need funeral service contract funds with their operating funds or personal bank accounts, as long as the funds are deposited into an escrow account within 15 days.
5. While funeral service businesses are required to notify DPH of their sale or closure within 10 days, 35 of 43 (81%) did not formally notify DPH of their sale or closure.

Recommendations

1. The General Assembly should require funeral service businesses to distribute a fact sheet to consumers prior to the purchase of a pre-need funeral service contract, and require them to take a pre-need course in addition to the continuing education requirements for embalmers and funeral directors.
2. Pre-need funeral service contracts can be strengthened by including an option to list an alternate contact should the purchaser become unreachable. Funeral service businesses should be required to escheat unused funds.
3. Similar consumer protections should apply to pre-need funeral service contracts funded by escrow accounts and life insurance policies.
4. Funeral service businesses should be prohibited from depositing and commingling funds received under a pre-need funeral service contract for personal use, business operating expenses, or any other purpose.
5. The Department of Public Health should develop a protocol for itself and funeral service businesses to adhere to when sale or closure occurs, including a closing inspection, and the future location of pre-need funeral service contracts and related records.

Agency Updates

Recommendation 1: The Department of Consumer Protection should improve and update its Fact Sheet for Consumers on Funeral Service Contracts. The state should require funeral service businesses to give consumers a fact sheet prior to the purchase of pre-need funeral service contracts.

DCP Update: The Department has reviewed and updated the Fact Sheet for Consumers on Funeral Service Contracts and continue to produce said document. Currently, Connecticut General Statutes do not require that funeral service businesses disseminate information pertaining to pre-need funeral service contracts. If the statute is amended to add such a provision, the amended language should also include a requirement that consumers attest to receiving the information. (See Appendix A Draft Updated Fact Sheet for Consumers on Funeral Service Contracts)

Status: Partially Implemented - The statute has not been amended to require consumers to attest that they received the fact sheet.

Recommendation 2: The General Assembly should amend Section 20-219a of the General Statutes to require a mandatory continuing education requirement for sale of pre-need funeral service contracts specific to Connecticut law. The requirement should be incorporated into the existing minimum 6-hour annual continuing education initial licensing standard and every five years thereafter.

DPH Update: Existing statute (20-219a) mandates training on the topic of federal and state laws regarding the provision of funeral services, including applicable Federal Trade Commission regulations. Preneed services is among elective topics in the statute to fulfill continuing education requirements. The General Assembly has functioned at a very limited level during this session due to the COVID 19 pandemic. The Department is not aware of any action taken by the General Assembly to mandate pre-need funeral service contract training during this legislative session.

Status: Not Implemented – Pending statutory change.

Recommendation 3: The General Assembly should add 2 pre-need funeral service contract requirements to Section 42-200 of the General Statutes: 1) Any money or securities received for payment of pre-need funeral service contracts shall be deposited into an escrow account within 15 days of receipt; and 2) The funeral service business shall provide the purchaser an annual statement of the interest earned and current value of the pre-need funeral service contract funds held in the escrow account.

DCP Update: The Department agrees with this recommended statutory change.

Status: Not Implemented - Pending statutory change.

Recommendation 4: The General Assembly should require purchasers to certify their understanding of pre-need funeral service contracts by requiring them to initial the following: 1) name of escrow agent designated to hold the prepaid funeral services funds; 2) statement that purchaser will receive acknowledgement from the escrow agent of receipt of the initial pre-need deposit within 25 days after paying the funeral director; 3) statement that any money or securities received for payment of pre-need funeral service contracts shall be deposited into an escrow account within 15 days of receipt; and 4) statement that the funeral service business shall provide the purchaser with an annual statement of the interest earned and current value of the pre-need funeral service contract funds held in the escrow account.

DCP Update: The Department agrees with this recommended statutory change.

Status: Not Implemented - Pending statutory change.

Recommendation 5: The General Assembly should amend Chapter 743c, Funeral Service Contracts, of the General Statutes to require that the contracts used by funeral service businesses, escrow agents, financial institutions, or life insurance companies holding the pre-need funeral service contract funds, include the following provisions for escheatment of dormant funds to the Office of the State Treasurer:

- a. at least 3 consecutive years have elapsed since the existence and location of the purchaser or the beneficiary of the pre-need funeral service contract was known to the funeral service
- b. business, and the owner or person entitled to the funds has not communicated in writing with the funeral home, escrow agent, financial institution, or life insurance company concerning the funds; or
- c. if the funeral service to be provided under the pre-need funeral service contract has not been performed within 3 years following the death of the owner or beneficiary and the purchaser or beneficiary cannot be located.

Upon the instruction of the funeral service business, the entity holding the pre-need funeral service contract accounts or policies should escheat those funds to the Office of the State Treasurer.

Any such transfer of funds to the Office of the State Treasurer shall constitute a complete release of all obligations of the funeral service business pursuant to the pre-need funeral service contract.

DCP Update: The Department agrees with these recommended statutory changes, however, to be consistent, recommends replacing “owner” with “purchaser” in the proposed language above.

Status: Not Implemented - Pending statutory change.

Recommendation 6: Pre-need funeral service contracts should include an option to list the name, address, and telephone number of an alternate contact in the event the purchaser cannot be reached to receive required correspondence.

DCP Update: The Department agrees with this recommended statutory change.

Status: Not Implemented - Pending statutory change.

Recommendation 7: The following requirements should apply to pre-need funeral service contract funds that are used to purchase a life insurance policy:

- deposit, initial notification of receipt of deposit, and annual statement requirements should apply equally to life insurance companies as they do for pre-need funeral service contracts funded with escrow accounts;
- an assurance that, if the particular merchandise provided for in the contract is not available at the time of death, the funeral service must provide similar merchandise;
- a description of any commissions to be paid by the life insurance company to the seller of the policy; and
- a description of the surrender penalty if the policy is cancelled.

DCP Update: The Department agrees with most of these recommended statutory changes but recommends prohibiting funeral service providers from receiving commissions for policies sold, rather than requiring disclosure of commissions.

Status: Not Implemented - Pending statutory change.

Recommendation 8: The Departments of Public Health and/or Consumer Protection should investigate why the 4 handwritten pre-need funeral service contract entries found for a particular funeral service business were not included in the bank statement of the business' pre-need funds. DPH and DCP management should improve internal controls over reviews of pre-need records to reduce the risk of fraud.

DCP Update: While the Department of Consumer Protection agrees that internal controls could be improved, as noted last year, the Department would need more information from the State Auditors to address the specific issue referenced above.

DPH Update: The funeral service business handwrote a note on the bank statement to keep track of these new contracts until the new statement which would include these new contracts arrived the following month. The escrow agents used by the funeral homes to deposit funds have different reporting formats and systems. The month to month reports are shared with the DPH Funeral Home Inspector whose primary focus is the public health and safety issues related to the funeral service business.

The funeral home inspector reviews logs of escrow accounts provided by escrow agents. The funeral home inspector's observations are that escrow agents appear to be conforming to the reporting requirements identified in PA 17-77, An Act Making Changes to Department of Consumer Protection Statutes etc., which became effective July 1, 2018. The DPH does not have the resources nor authority to conduct a detailed financial review of personal consumer accounts held in escrow.

Status: Partially Implemented by DPH - The department's investigation did not explain the exclusion of pre-need funds possibly received up to 9 months prior to the date of the bank statement.

<i>Recommendation 9:</i>	Funeral service businesses should be prohibited from depositing and commingling funds received under a pre-need funeral service contract for personal use, business operating expenses, or any other purpose.
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DCP Update: The Department agrees with this recommended statutory change.

DPH Update: The Department agrees with this recommendation. The Department is not aware of any action taken by the General Assembly to establish this prohibition.

Status: Not Implemented – Pending statutory change.

<i>Recommendation 10:</i>	The Department of Social Services should educate each funeral service business about the process to return excess funds of deceased Medicaid recipients with pre-need funeral service contracts.
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DSS Update: On December 13, 2018, a communication on pre-need funeral contracts was sent out to funeral homes through the Connecticut Funeral Directors Association. This communication outlined the actions to be taken by funeral homes to return excess funds of deceased Medicaid recipients with pre-need funeral services contracts wherein the contract included language naming the State of CT as a residual beneficiary. The communication also included information on action to be taken if excess funds remain wherein the contract did not include language naming the state of CT as a residual beneficiary resulting in the funds becoming part of the decedent's probate estate. (See Appendix B DSS Communication to Connecticut Funeral Directors Association on pre-need funeral contracts)

Status: Implemented by DSS.

Recommendation 11: The Department of Public Health should develop a protocol for itself and funeral service businesses to adhere to when a funeral service business is closing or being sold. DPH should provide a copy of the protocol to all funeral service businesses at the time of inspection.

DPH Update: DPH has incorporated sending a formal written notice to a funeral service business that is closing or being sold informing them of their responsibility to comply with CGS Section 20-222c. A copy of the statutory language is provided. Each of the funeral services businesses responds with a written correspondence disclosing how they adhered to the requirements in 20-222c.

Status: Partially Implemented - DPH still needs to develop a protocol incorporating its current practice of sending of formal written notice to funeral service businesses that are closing or being sold.

Recommendation 12: Section 20-222c of the General Statutes should be amended to require funeral service businesses to notify the Department of Public Health in writing of their plan at least 15 days prior to the effective date of sale or closure.

DPH Update: The General Assembly has functioned at a very limited level during this session due to the COVID 19 pandemic. The Department is not aware of any action taken by the General Assembly on this issue during this legislative session.

Status: Not Implemented - Pending statutory change.

Recommendation 13: Funeral service businesses should be required to notify escrow agents, financial institutions, or life insurance companies holding pre-need funds of their sale or closure at least 15 days prior to the date of the sale or closure. The Department of Public Health should require proof that the business took this action. This should be part of Department of Public Health protocol related to the closure or sale of funeral service businesses.

DPH Update: CGS Section 20-222c does not include authority for the Department to enforce this auditor recommendation. Attachment A outlines the statutory requirements for funeral businesses when closing that are

under DPH's purview. This document is provided to funeral businesses when they are closing. The Department is not aware of any action taken by the General Assembly on this issue during this legislative session.

Status: Not Implemented - Pending statutory change.

Recommendation 14: Funeral service businesses closing or changing ownership should notify the next-of-kin or other designee for whom cremated remains are being stored within 10 days of their closure or sale.

DPH Update: Funeral service businesses closing or changing ownership are required to mail a letter to each person for whom the funeral service business is storing cremated remains to notify them of the transfer, discontinuance or termination of the funeral business per CGS Section 20-222c. Additionally, this statute requires funeral service businesses closing or changing ownership to provide DPH with a notice of closing and a list of all unclaimed cremated remains at the time of closure as described in the response to item 11.

Status: Not Implemented - Pending statutory change.

Recommendation 15: The Department of Public Health should strengthen its inspection of pre-need funeral service contracts by having the inspector randomly select active records from various time periods and review a sample of completed pre-need records.

DPH Update: The inspector began randomly selecting active records from various time periods to review pre-need records based on this recommendation. The Department is formalizing the procedure and will revise the inspection form to reflect this practice.

Status: Partially Implemented - DPH has not formalized the procedure to reflect its new practice.

Recommendation 16: The Department of Public Health should conduct an inspection of a funeral service business prior to its closure to ensure statutory requirements have been met.

DPH Update: Pursuant to the authority granted in CGS Section 20-222(d), the Department will schedule closing inspections in advance of closure to determine whether a licensed funeral establishment that has discontinued business, changed location or notified the Department of its intent to discontinue business or change location has complied with CGS Section 20-222c.

Status: Partially Implemented - A statutory change is needed to specifically require inspections of closing funeral service businesses.

Recommendation 17: The Department of Public Health should maintain information on the location of the active pre-need funeral service contracts of closed funeral service businesses.

DPH Update: CGS 20-222c requires a funeral service business to notify each person who has purchased a pre-paid funeral service contract about an ownership transfer, discontinuance, or termination of the funeral home service business. CGS Section 42-200(e) reiterates this requirement. Generally, the contracts are transferred to the new funeral service business at that location. However, the beneficiary has the ability to transfer the contract to another funeral home. The scheduled closing inspection (see recommendation #16) will verify that a licensed funeral establishment that has discontinued business or changed locations has complied with CGS Section 20-222c. Although there is no statutory requirement for a funeral home to do so, recently closed funeral homes have provided the inspector with a list of pre-need contracts upon request. The list of pre-need contracts is maintained in the closing funeral home's file at the Department.

Status: Partially Implemented - It appears that DPH is now requesting (but not requiring) closing funeral service businesses to provide information on their active pre-need contracts.

Recommendation 18: The Department of Public Health should maintain a log indicating where pre-need funeral service contracts of closed funeral service businesses are being retained for no less than 6 years after burial.

DPH Update: See DPH Update for Recommendation 17.

Status: Not Implemented - DPH disagreed with our recommendation to maintain a log.

Recommendation 19: The Department of Public Health should develop a protocol for collection and maintenance of lists of unclaimed remains provided by funeral service businesses closing or being sold.

DPH Update: Pursuant to CGS 20-222c., a closing funeral business, to whom an inspection certificate has been issued shall, “Provide the Department of Public Health with a notice of such transfer, discontinuance, and a list of all unclaimed cremated remains held by the funeral service business at the time of such transfer, discontinuance or termination”. The Department maintains this list by uploading it into the funeral home’s elicense record.

Status: Not Implemented - DPH originally agreed that it needed to develop a protocol, because the department had no documentation from 95% of the sold or closed funeral service business from 2012-2017.

Recommendation 20: Section 20-222c of the General Statutes should be amended to require identification of the future location of unclaimed remains following the sale or closure of a funeral service business.

DPH Update: The General Assembly has functioned at a very limited level during this session due to the COVID 19 pandemic. The Department is not aware of any action taken by the General Assembly on this issue during this legislative session.

Status: Not Implemented – Pending statutory change.

Recommendation 21: The Departments of Consumer Protection and Public Health should develop a formal mechanism to refer, notify, and update the other agency on complaints or investigations that might impact the other agency.

DCP Update: While this is current practice, as noted last year, the Department has no objection to formalizing the process. DCP will discuss this recommendation with DPH.

DPH Update: DPH continues to work closely with DCP on an informal basis. Referral actions are captured in E-license and referral memos will be revised on an as needed basis.

Status: Not Implemented

Recommendation 22: The Department of Public Health, in consultation with the Department of Consumer Protection, should specify the format to be used by funeral service businesses to provide the electronic information required by Public Act 17-77.

DCP Update: The Department of Consumer Protection agrees with this recommendation.

DPH Update: Public Act 17-77 relates to the Department of Consumer Protection's (DCP) statutes. DPH is available to work with DCP as needed if DCP would like DPH's consultation to specify the format to provide electronic information. The Funeral Home Inspector verifies that electronic records are available, accessible and in compliance during routine inspections.

Status: Not Implemented

Recommendation 23: Electronic records requirements in Section 42-200 of the General Statutes should be amended to include: date of death, date funds transferred to funeral service business, type of pre-need funeral service contract (revocable vs. irrevocable), credits, debits, current value of the contract, and number of undeliverable purchaser annual statements.

DCP Update: Overall, the Department agrees with this recommended statutory change. However, as we suggested last year, rather than “date funds transferred to funeral service business,” we would recommend requiring the following: the date the funeral service business received funds from consumer, the date the escrow account or insurance policy was open, the death claim amount, and the date the escrow account or insurance policy was closed.

Status: Not Implemented - Pending Statutory Change.

Recommendation 24: The Department of Public Health should develop a central registry containing all pre-need funeral service contracts sold in Connecticut using the electronic list required to be maintained by each funeral service business.

DPH Update: The auditor’s report references over 37,000 pre-need funeral services contracts totaling over \$218 million dollars. The Department is not aware of any authority to collect this information and maintain a registry of these contracts entered into by funeral businesses with private third parties. Nor does it have existing resources to manage such a database. This recommendation would require a legislative change and resources. The Department is not aware of any action taken by the General Assembly on this issue during this legislative session.

Status: Not Implemented - DPH disagreed with the recommendation.

Recommendation 25: The Department of Social Services should routinely check an electronic central registry as part of its “closed case review” to determine whether there are any excess funds leftover after burial or cremation from a Medicaid recipient who had a pre-need funeral service contract.

DSS Update: The Connecticut Department of Public Health did not agree with the recommendation to create an electronic central registry short of any statutory changes and additional resources. To date, no registry has been established. Consequently, the Department has been unable to incorporate a registry as part of its closed case reviews to determine whether there are any excess funds leftover after burial or cremation from Medicaid recipients who had pre-need funeral service contracts.

Status: Not Implemented – The electronic central registry has not been developed.

Appendices

Appendix A

The Department of Consumer Protection's Draft Updated Fact Sheet for Consumers on Funeral Service Contracts

DRAFT

Prepaid Funeral Service Contracts

A “Prepaid Funeral Service Contract” (or a “pre-need” funeral service contract), is a contract where you provide advanced funding (before there is a death) for funeral services that will be provided at some point in the future. Prepaid Funeral Service Contracts are regulated by the Department of Consumer Protection.

Only a licensed funeral director or embalmer can offer you a Prepaid Funeral Service Contract. Prior to entering into a contract, you can verify that the funeral home, funeral director, and/or embalmer are licensed by visiting www.elicense.ct.gov.

If you ask about purchasing a Prepaid Funeral Service Contract, the funeral director or embalmer must provide you with a copy of the price list for the goods and services you are considering and a separate list for specific merchandise.

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Funding by Escrow Accounts versus Funding by Insurance Policies

Before purchasing a Prepaid Funeral Service Contract, you need to decide if it will be funded by an insurance policy or an escrow account. There are several differences between the two, and advantages and disadvantages to each:

- Insurance policies:
 - State law allows for the funding of a funeral service contract by assigning the death benefit under a life insurance policy regulated by the Connecticut Insurance Department (Public Act 2012-36).
 - If you use an insurance policy to fund a Prepaid Funeral Service Contract, the fees may be higher.
 - The money is given after your death when the policy is paid out.

- Escrow Accounts:
 - If you choose to prepay for your funeral service through a Prepaid Funeral Service contract, and not fund it with the assignment of a life insurance policy, your payments must be held in an escrow account. This means that it is being held by an authorized escrow agent (not the person who sold you the contract) and will be protected so that it is available when you need it. The money is paid now, when you set up the account, instead of after your death.
 - The funds must be put in an escrow account within 15 days of receiving the funds. Within 10 days of receiving the funds, the escrow agent must notify you that it received your money.
 - If you request in writing that your Prepaid Funeral Service Contract be transferred to another funeral home, the funeral director may keep up to 5% of the value of an escrow account for administrative fees and expenses incurred at the time of transfer.
 - There are certain factors that must be in place for an escrow-funded Prepaid Funeral Service Contract to meet the requirements of the law (this does not apply to insurance-funded contracts). These factors include:
 - An authorized third party serving as the escrow agent;
 - A surrender penalty of 5% or less if you choose not to have the funeral home provide your funeral services; and,
 - No cancellation fee or a reasonable fee that does not exceed the costs incurred by the funeral home (*ie: the funeral home cannot make a profit from these fees, only break-even*).

What Must be Included in a Prepaid Funeral Service Contract

It is important to thoroughly examine all aspects of a Prepaid Funeral Service Contract before entering into one. Contracts *must* include:

- A list of the goods or services being sold;
- The amount being paid and the method of payment;
- The name of the agent for the escrow account holding your money or the name and address of the insurance company issuing the individual or group life insurance policy;
- Whether the price for the products and services you are buying is guaranteed to stay the same. If the price may increase in the future, the contract must say so; and,
- Whether the contract is revocable (it can be cancelled) or irrevocable (it cannot be cancelled).
 - Revocable contracts must explain how the contract can be cancelled and what the effects of cancellation are.
 - Irrevocable contracts may not be cancelled, but the contract must explain how it can be transferred to a different funeral home.

After Purchasing a Prepaid Funeral Service Contract

There are a few things to keep in mind after you purchase a Prepaid Funeral Service Contract:

- If you purchase a contract, you must be given, in writing:
 - A signed copy of the contract;
 - A receipt for any payments made to the funeral director or embalmer;
 - An itemized listing of the funeral goods and services that you purchased; and
 - Depending on how you are paying for the contract, the name and address of either:
 - the escrow agent holding your money; or
 - the name and address of the insurance company issuing the individual or group life insurance policy.
- Give a copy of the contract to a trusted relative, friend, lawyer, or doctor.
- Within 25 days of making a payment to the funeral home, you must be notified by the escrow agent holding your money that it has received those funds.
- Every year, the escrow agent must send you a statement telling you how much is in your escrow account, including any interest or other income earned by the account.

Other Things to Know About Your Prepaid Funeral Service Contract

- If the particular merchandise you purchase in your Prepaid Funeral Service Contract is unavailable at the time of the funeral, the funeral home must provide you with merchandise similar in style and of at least equal quality to the merchandise purchased in the contract.
- Under State law, no more than \$8,000 may be placed in an irrevocable Prepaid Funeral Service Contract. There is no limit to the amount that may be placed in a revocable account.
- Funeral homes are not required to offer “cash advance” items (flowers, newspaper announcements, clergy fees and similar items for which prices are purely speculative) as part of the Prepaid Funeral Service Contract. If the funeral director allows you to make a payment towards these items, you are making a “cash advance” on these items. A funeral home is not permitted to mark-up a cash advance item.

Contact Information

Connecticut Department of Consumer Protection

450 Columbus Blvd., Suite 901

Hartford, CT 06103

ct.gov/dcp | (860) 713-6100

Appendix B

Revised DPH Funeral Home Inspection Form

		Yes	No
42-2-2	a. Sample accounts for compliance with fifteen (15) day deposit requirement		
42-202	b. Compliance with annual notice to agent of escrow accounts, the names and addresses of purchasers and beneficiaries of contact, along with copy of services and merchandise to be furnished		
42-202	c. Compliance by agents of escrow accounts that all trust receive an annual statement indicating principal investments and current value.		
	General Facilities	Yes	No
20-222c	1. Cleanliness		
19-B-B-B106	2. Bathroom facilities		
19-13-B111	b. Hot and cold water		
19-13-113	c. Soap and towel dispensers		
19-13-B35	3. Drinking fountains or bottled water with paper cups		
	Embalming and Preparation Facilities	Yes	No
19-13-B38a	1. Water supply adequate and safe. Certificate from local water authority that "back-flow" valve is properly installed and working properly Date of test: By:		
20-222	2. Sink with hot and cold water in preparation room		
20-222	3. Approved method of sewage disposal		
20-222	4. Proof of approved method of medical waste (hazardous) disposal Name of Company: Contract or 3 months invoices/bill of lading		
20-222	5. Embalming machine and table		
20-222	6. Approved flooring		
20-222	7. Cabinets and drawers for instruments		
20-222	8. Exhaust fans or ventilation systems in preparation room		
20-222	9. Ceilings, floors and walls in good condition		
20-222	10. Sufficient embalming instruments, fluids and disinfectants		
20-222	11. Required signage		
	CLOSING, SELLING OR TRANSFERRING A FUNERAL HOME		
20-222C.	Transfer of ownership. Notice requirements Initial		

Funeral Director/Embalmer
Lic. No. _____

Inspector/Investigator

Appendix C

The Department of Social Services Communication to Connecticut Funeral Directors Association on Pre-need Funeral Contracts



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES
OFFICE OF QUALITY ASSURANCE

December 13, 2018

John P. McHugh, Esq.
Cranmore, FitzGerald & Meaney
49 Wethersfield Avenue
Hartford, CT 06114

Dear Attorney McHugh:

Recently, the Department of Social Services (DSS) and the Department of Administrative Services (DAS) discovered that some funeral homes are unsure how to handle funds remaining in a pre-need funeral service contract after the cost of funeral services has been paid. This memorandum is intended to clarify what should happen to these funds.

Some pre-need funeral service contracts name the State of Connecticut as a residual beneficiary of excess funds up to the amount of Medicaid and/or other public assistance benefits the State paid to or on behalf of the decedent during his or her lifetime. While there is no requirement under state or federal law that such a provision be included in a pre-need funeral contract, if such language is included, the funeral home may forward the excess funds to DSS for processing. The check should be made payable to the Connecticut Department of Social Services and should include the decedent's name so that the funds may be used to offset any amounts the decedent's estate would otherwise owe to the State. Please also forward a copy of the pre-need funeral service contract that lists the State of Connecticut (or DSS) as a residual beneficiary. Please note that DSS will only be able to accept payment in these instances if the decedent actually received public assistance from the State, and only up to the amount of public assistance paid.

If the pre-need funeral service contract does not include language naming the State of Connecticut as a residual beneficiary, then any excess funds will become part of the decedent's probate estate and will therefore need to be distributed in accordance with state law. Under these circumstances, neither DSS nor DAS have authority to accept the excess funds outside of the probate-court process. Often, an estate will be opened by a family member, friend, or, in some cases where the State has a claim to some or all of the net probate estate, DAS. If a funeral home does not know whether DAS has opened or intends to open an estate for a decedent, it can contact Christopher Roberts, Team Leader – Legal Representative, Collection Services at DAS, for more information. Mr. Roberts can be reached by calling 860-713-5427 or emailing Christopher.Roberts@ct.gov. Once an estate is opened, the excess funds should be paid to the fiduciary of the estate (executor, administrator or DAS as legal representative), or in accordance with a Probate Court decree, PC-264, directing the transfer of the decedent's assets without formal probate proceedings (used for some small estates valued at less than \$40,000).

Sincerely,

A handwritten signature in blue ink, appearing to read "John F. McCormick".

John F. McCormick, Director
Office of Quality Assurance

cc: Stephen J. Markowski, Investigations & Recoveries

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Appendix D

Agency Supported Recommendations Requiring Statutory Changes

Agency Supported Recommendations Requiring Statutory Changes

- The Department of Consumer Protection should improve and update its Fact Sheet for Consumers on Funeral Service Contracts. The state should require funeral service businesses to give consumers a fact sheet prior to the purchase of pre-need funeral service contracts. (Recommendation 1.)
- The General Assembly should amend Section 20-219a of the General Statutes to require a mandatory continuing education requirement for sale of pre-need funeral service contracts specific to Connecticut law. The requirement should be incorporated into the existing minimum 6-hour annual continuing education initial licensing standard and every five years thereafter. (Recommendation 2.)
- The General Assembly should add 2 pre-need funeral service contract requirements to Section 42-200 of the General Statutes: 1) Any money or securities received for payment of pre-need funeral service contracts shall be deposited into an escrow account within 15 days of receipt; and 2) The funeral service business shall provide the purchaser an annual statement of the interest earned and current value of the pre-need funeral service contract funds held in the escrow account. (Recommendation 3.)
- The General Assembly should require purchasers to certify their understanding of pre-need funeral service contracts by requiring them to initial the following: 1) name of escrow agent designated to hold the prepaid funeral services funds; 2) statement that purchaser will receive acknowledgement from the escrow agent of receipt of the initial pre-need deposit within 25 days after paying the funeral director; 3) statement that any money or securities received for payment of pre-need funeral service contracts shall be deposited into an escrow account within 15 days of receipt; and 4) statement that the funeral service business shall provide the purchaser with an annual statement of the interest earned and current value of the pre-need funeral service contract funds held in the escrow account. (Recommendation 4.)
- The General Assembly should amend Chapter 743c, Funeral Service Contracts, of the General Statutes to require that the contracts used by funeral service businesses, escrow agents, financial institutions, or life insurance companies holding the pre-need funeral service contract funds, include the following provisions for escheatment of dormant funds to the Office of the State Treasurer:
 - a. at least 3 consecutive years have elapsed since the existence and location of the purchaser or the beneficiary of the pre-need funeral service contract was known to the funeral service business, and the owner or person entitled to the funds has not communicated in writing with the funeral home, escrow agent, financial institution, or life insurance company concerning the funds; or
 - b. if the funeral service to be provided under the pre-need funeral service contract has not been performed within 3 years following the death of the owner or beneficiary and the purchaser or beneficiary cannot be located.

Upon the instruction of the funeral service business, the entity holding the pre-need funeral service contract accounts or policies should escheat those funds to the Office of the State Treasurer.

Any such transfer of funds to the Office of the State Treasurer shall constitute a complete release of all obligations of the funeral service business pursuant to the pre-need funeral service contract. (Recommendation 5.)

- Pre-need funeral service contracts should include an option to list the name, address, and telephone number of an alternate contact in the event the purchaser cannot be reached to receive required correspondence. (Recommendation 6.)
- The following requirements should apply to pre-need funeral service contract funds that are used to purchase a life insurance policy:
 - deposit, initial notification of receipt of deposit, and annual statement requirements should apply equally to life insurance companies as they do for pre-need funeral service contracts funded with escrow accounts;
 - an assurance that, if the particular merchandise provided for in the contract is not available at the time of death, the funeral service must provide similar merchandise;
 - a description of any commissions to be paid by the life insurance company to the seller of the policy; and
 - a description of the surrender penalty if the policy is cancelled. (Recommendation 7.)
- Funeral service businesses should be prohibited from depositing and commingling funds received under a pre-need funeral service contract for personal use, business operating expenses, or any other purpose. (Recommendation 9.)
- Section 20-222c of the General Statutes should be amended to require funeral service businesses to notify the Department of Public Health in writing of their plan at least 15 days prior to the effective date of sale or closure. (Recommendation 12.)
- Funeral service businesses should be required to notify escrow agents, financial institutions, or life insurance companies holding pre-need funds of their sale or closure at least 15 days prior to the date of the sale or closure. The Department of Public Health should require proof that the business took this action. This should be part of Department of Public Health protocol related to the closure or sale of funeral service businesses. (Recommendation 13.)
- Funeral service businesses closing or changing ownership should notify the next-of-kin or other designee for whom cremated remains are being stored within 10 days of their closure or sale. (Recommendation 14.)

- The Department of Public Health should conduct an inspection of a funeral service business prior to its closure to ensure statutory requirements have been met. (Recommendation 16.)
- Section 20-222c of the General Statutes should be amended to require identification of the future location of unclaimed remains following the sale or closure of a funeral service business. (Recommendation 20.)
- Electronic records requirements in Section 42-200 of the General Statutes should be amended to include: date of death, date funds transferred to funeral service business, type of pre-need funeral service contract (revocable vs. irrevocable), credits, debits, current value of the contract, and number of undeliverable purchaser annual statements. (Recommendation 23.)