



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

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CIRCULAR LETTER

TO : ALL PRE-NEED COMPANIES, INSURANCE COMPANIES
SALES COUNSELORS, AND ALL CONCERNED

SUBJECT : GUIDELINES DEFINING PRE-NEED LIFE PLANS AND OTHER
CONTRACTS AND AGREEMENTS WITHIN ITS SCOPE

WHEREAS, The Pre-need Code of the Philippines (R.A No. 9829) provides that the pre-need companies shall be under the primary and exclusive supervision and regulation of the Insurance Commission¹.

WHEREAS, It is the state policy to regulate the establishment of pre-need companies and to ensure their sound, efficient and stable operation, to derive the optimum advantage from them in the mobilization of savings and to prevent and mitigate, as far as practicable, practices prejudicial to public interest.²

WHEREAS, the Pre-need Code of the Philippines defines pre-need plans as contracts, agreements, deeds or plans for the benefit of the planholders which provide for the performance of future service/s, payment of monetary considerations or delivery of other benefits at the time of actual need or agreed maturity date, as specified therein, in exchange for cash or installment amounts with or without interest or insurance coverage and includes life, pension, education, interment and other plans, instruments, contracts or deeds as may in the future be determined by the Commission.³

WHEREAS, there are some concerns raised in the industry that certain entities are engaged in the sale and distribution of pre-need life plans without license, or selling pre-need plans that are masquerading as other kinds of contracts.

¹Section 5, R.A. 9829

² Section 1, R.A No. 9829

³ Section 4 (b) R.A. 9829

WHEREAS, there is a need to issue a circular providing details on what constitutes a pre-need plan contract, specifically for "life" or "memorial" pre-need plans, and that this will help to distinguish between contracts considered as pre-need and contracts that will be exempted from its scope;

WHEREAS, the guidelines shall provide clarity on the status of certain existing agreements and contracts and future plans or contracts whose execution or issuance is in violation of or shall violate the Pre-need Code of the Philippines.

NOW THEREFORE, by the power vested in me under Sec. 6 of the Pre-need Code of the Philippines, the following guidelines are hereby promulgated:

Section 1. Definition of Terms

- 1.1. A "Pre-need Life Plan" refers to a contract which has for its purpose the provision or performance of actual funeral services in connection with the final disposition of a dead human body or remains to be provided or delivered at a future date determinable by the death of the person whose body or remains is to be disposed of, in consideration of a fixed amount to be paid in full or by installment. A Pre-need Life Plan can entail either the actual performance of funeral services or payment of monetary equivalent in case of unrendered funeral service. Pre-Need Life Plans are also commonly referred to as "Prepaid Funeral Contracts" or "Memorial Plans."
- 1.2. "Funeral services" refer to the necessary services performed for the preparation of a dead human body or remains for its final disposition, and shall include all activities that involve:(a) engaging in providing temporary custody and storage, care, and preparation of the human remains, (b) preparing the human remains by embalming or other methods for burial or other disposition of human remains in accordance with law; and (c) engaging in the practice or performing any functions of funeral directing, undertaking or embalming per the industry practice by persons engaged in these functions in accordance with law. Funeral services may include any or all of the following services:
 - a) Embalming services
 - b) Basic services of the funeral director, undertaker and staff
 - c) Preparation of the body and placement in the chosen casket
 - d) Use of facilities and staff on viewing/visitation, funeral ceremony or memorial service
 - e) Actual viewing services
 - f) Cremation services
 - g) Interment services or direct burial services involving the entombment or the lowering or placement of the human remains into the grave or crypt
 - h) Other services related to the preparation and final disposition of the dead human body or remains.

- 1.3. "Embalming services" refer to the standard procedure of applying, injecting or introducing the necessary chemical substance, drug or herbs internally or externally to a dead human body or remains for the purpose of embalming, disinfecting and preserving it before its final disposition.
- 1.4. "Funeral directing services" refer to services related to the management and implementation of funeral services as defined herein and inclusive of all services related to the care, transport and disposal of the body of a deceased person or remains for its final disposition.
- 1.5. "Cremation services" refer to services which involve the final process of reducing human remains to bone fragments of fine sand or ashes through combustion and dehydration.
- 1.6. "Interment services" refer to services involving the act of entombment, burying or the actual final disposition of the human remains in a grave, tomb or sea.
- 1.7. "Lay-away arrangements" refer to contracts or arrangements involving the payment by installment of a casket or other funeral merchandise entered into before the death of the person to whom such contract or arrangement shall be applied or in case covered person is not identified, where the seller reserves the casket or funeral merchandise to the buyer until full payment of consideration.
- 1.8. "Cooperative schemes" refer to the provision of future funeral services for members of a cooperative in consideration of a fee and/or in consideration of membership in such cooperative, as may be included or described in or as may be similar to the contracts, arrangements and schemes provided in Section 2.1 hereof.
- 1.9. "Memberships in associations schemes" refer to the provision of future funeral services for members of an association in consideration of a fee and/or in consideration of membership in such association, as may be included or described in or as may be similar to the contracts, arrangements and schemes provided in Section 2.1 hereof.
- 1.10. "Funeral merchandise" refers to caskets, urns, bier, crucifix, chandeliers, carpets, rails, background curtains for viewing, thank you cards, memorial guest book, grave marker, headstone, tomb marker, monument, multi-media tributes or any other object related to the rendition of memorial services and all similar objects.
- 1.11. "Remains" refer to the body or parts of the body of a dead person including the cremated remains.
- 1.12. "Burial ground" refers to a cemetery lot, memorial park lot or any place duly provided or allowed by law for the permanent disposal of the dead, which includes a niche, crypt, grave, tomb, mausoleum, columbarium vault and such similar venues for the final disposition of the human remains.
- 1.13. "Insurance Burial Benefit" refers to the provision of a specific amount of cash or monetary equivalent or insurance proceeds but which allows the recipient or beneficiary the option of applying the same for burial or funeral services or for any other purpose as he/she may decide and does not fall under the scope and definition of a pre-need life plan under Section 1 hereof nor under the scope and definition of the contracts and arrangements provided under Section 2 hereof.

Section 2. Contracts, Arrangements and Schemes that are considered as Pre-need Life Plans

2.1. The following contracts or arrangements executed prior to the death of the person to whom funeral services and/or funeral merchandise are to be applied shall be considered as pre-need life plans:

- a) Agreements involving a **casket and/or urn** whether sold alone or together with other funeral services/merchandise where:
 - 1) The contract was executed before the death of the person to whom the **casket and/or urn** is to be applied and the payment period of the contract is more than one (1) year; or
 - 2) The person to whom the **casket and/or urn** is to be applied is not identified and the payment period of the contract is more than one (1) year; or
 - 3) The **casket and/or urn** remains with the seller or is not delivered to the buyer after Ninety (90) days from full payment, even if the payment period is one (1) year or less.

- b) A conditional sale contract where ownership is transferred to the buyer but the **casket and/or urn** is deposited with the seller, the payment period is more than one (1) year, and the contract was executed not at point of need or the person to whom the **casket and/or urn** is to be applied was not identified.

- c) A contract to deliver **casket and/or urn** or funeral services accompanying the sale or contract to sell of columbarium niche/s regardless of whether such **casket and/or urn** or funeral services are to be provided without consideration.

- d) A sale of **casket and/or urn** where the payment period exceeds one (1) year.

- e) Any other sale of funeral **casket and/or urn** or memorial services that is structured to conceal the provision of future funeral services or products for payment made in the present.

2.2. An arrangement or contract involving payment of membership fees, registration fees or similar fees in an association, cooperative, organization or any entity in consideration of the provision of funeral services or **casket and/or urn**, whether incidental or otherwise and subject to Section 2.1.

2.3 Layaway arrangement with the same conditions or status as enumerated under Section 2.1.

Section 3. Contracts, Agreements and Arrangements Not Considered as Pre-need Life Plans

- 3.1. Arrangement with the funeral home or establishment for the delivery of **casket and/or urn** and services upon the death of a person where the payment shall only be made upon the death of the person or delivery of the funeral goods and services.
- 3.2. Contracts for the delivery of **casket and/or urn** and funeral services which were made at the time of actual need or immediately after the death of the person to whom such services shall be applied.
- 3.3. Sale only of cemetery lot, crypt, niche, mausoleum, grave marker, or monument, without accompanying funeral services.
- 3.4. Sale or contract to sell of **casket and/or urn** even when packaged with other funeral services or funeral goods where at the time of sale the specific casket and/or urn subject of the sale exists or shall exist within one (1) year and, in case payment is by installment, the payment period does not exceed one (1) year, provided, that the **casket and/or urn** is delivered to the buyer within ninety (90) days from full payment thereof.

Section 4. Delineation of Insurance Products and Pre-need Life Plans

- 4.1. A product is considered pre-need life plan even if it contains an option for payment of cash or monetary equivalent of funeral services in case the pre-need company or its accredited servicing mortuary did not perform the funeral services or in case of unrendered funeral services which the contract may specify;
- 4.2. No insurance company shall guarantee the performance of funeral services even if such benefit is part of a package of benefits offered and regardless if such funeral service is to be offered by a third party provider or funeral homes or whether such option is given in lieu of cash or monetary consideration.
- 4.3. The assistance given for the repatriation of the remains, or of inclusion of repatriation benefit, of the insured person from abroad to the Philippines or inclusion of the repatriation or transportation benefit of dead person either under the compulsory overseas contract worker insurance under R.A. No. 8042 as amended by R.A. No. 10022 or any voluntary insurance coverage shall still be considered as insurance coverage.
- 4.4. Insurance products may include the term "burial benefit" as a form of cash benefit to the insurance beneficiary for accident, health or life insurance coverage; however, prospectively, it shall avoid in its policy form the use of "funeral/memorial service/s" as a description of its benefit.

Section 5. Approval of the Pre-need Life Plan Contract and Advertising Materials

- 5.1. All pre-need life plan contracts, regardless of the name or title by which they are referred or promoted, are subject to approval by the Insurance Commission, and no such contracts or certificates shall be issued or delivered unless they are in the form previously approved by the Insurance Commission pursuant to Section 17 of the Pre-need Code of the Philippines.
- 5.2. It shall be unlawful for any pre-need company to advertise itself or its pre-need plans unless the Commission has approved such advertising material⁴.
- 5.3. The restriction on the non-issuance of unapproved pre-need contract forms and advertising materials applies to both licensed and unlicensed pre-need company or persons/entities engaged in the pre-need business.
- 5.4. A corporation is required to secure a license to act as a pre-need company from the Insurance Commission prior to any issuance of pre-need life plan or arrangements considered as pre-need life plan. Only corporations shall be registered or licensed as to engage in the sale of pre-need plans.

Section 6. Penalties under the Pre-Need Code of the Philippines

- 6.1. Any entity that does not comply with the foregoing requisites, and continues to engage in activities that are considered violations of the Pre-Need Code and the issuances of the Insurance Commission in relation to pre-need plans, shall be subject to the penalties provided in the law.
- 6.2. In accordance with Section 54 of the Pre-need Code of the Philippines, the following are illegal activities and corresponding penalties:
 - a) Selling or offering to sell a pre-need plan by unregistered or unlicensed persons shall be penalized by imprisonment of one (1) year and a fine equivalent to triple the contract price;
 - b) Selling or offering to sell an unregistered pre-need plan or any product that has pre-need plan features shall be penalized by imprisonment of one (1) year and a fine equivalent to triple the indicated price;
 - c) Soliciting, selling or offering to sell a pre-need plan by means of false or misleading representation and other fraudulent means shall be penalized by imprisonment of six (6) years and one (1) day to twelve (12) years and a fine in the amount of Fifty Thousand Pesos (P50,000.00) to Five Hundred Thousand Pesos (P500,000.00);
 - d) Any negligent act or omission that is prejudicial or injurious to the planholder shall be penalized by imprisonment of one (1) year and one (1) day to six (6) years and a fine in the amount of Fifty Thousand Pesos (P50,000.00) to Five Hundred Thousand Pesos (P500,000.00);

⁴ Section 18 of R.A. 9829

- e) Any fraudulent act or omission that is prejudicial or injurious to the planholder shall be penalized by imprisonment of six (6) years and one (1) day to twelve (12) years and a fine in the amount of One Hundred Thousand Pesos (P100,000.00) to One Million Pesos (P1,000,000.00); and
- f) Willful violation of the provisions of this Code or orders of the Commission. Provided, that repeated violations shall constitute prima facie evidence against the offender and shall be penalized by imprisonment of six (6) years and one (1) day to twelve (12) years and a fine in the amount of One Hundred Thousand Pesos (P100,000.00) to One Million Pesos (P1,000,000.00).

6.3. Any person who violates any other provisions of Pre-need Code or rules and regulations promulgated by the Commission under authority thereof, shall, upon conviction, be punished by a fine of not less than Fifty Thousand Pesos (P50,000.00) nor more than Five Million Pesos (P5,000,000.00) or imprisonment of not less than one (1) year nor more than fourteen (14) years, or both, at the discretion of the court.

6.4. Should the offense be committed by a juridical person, the penalty may, in the discretion of the court, be imposed on such juridical entity and upon the officer or officers of the juridical entity responsible for the violation. If such officer is an alien, he shall, in addition to the penalties prescribed, be deported without further proceedings after service of sentence.

Section 7. Effectivity

This Circular Letter shall be effective immediately.



EMMANUEL F. DOOC
Insurance Commissioner