

**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed
PROPOSED RULE**

What Constitutes Adequate Records for a Seller

- 1. A seller shall maintain, at a minimum, the basic financial and contract records with regard to all preneed contracts that are reasonably necessary to safeguard and account for the receipt, the deposit, and disbursement of preneed funds.**

- 2. Adequate records for a seller to maintain shall include, at a minimum:**
 - (1) Records that show the date, the name of the payor, and description of any payments made to fund a preneed contract and records showing those funds were deposited into a preneed trust, a joint account or paid to an insurance company, as per the preneed contract. For trust and joint account funded preneed contracts, these records shall include, but not be limited to, the date and amount of the funds received by the seller and by the seller’s agent, the date and amount of the funds deposited into any account and identifying the institution receiving the deposits and the account, the date and amount of the funds deposited into a preneed trust or joint account, including identification of the account and the institution holding the account. If funds for a preneed contract are paid by the consumer directly to the financial institution, the seller shall maintain records from the financial institution showing the dates and amounts of each deposit and the name of the preneed contract beneficiary for whose benefit the deposit is made. For insurance funded preneed contracts, if the seller or the seller’s agent receives payment from the consumer for the insurance, the seller shall maintain records that show the date, the name of the payor, and description of any consumer payments and shall document any account into which those funds are deposited and the date, the name of the payor, and description of payments to any insurance company;**

 - (2) Records showing payment for fulfilled preneed contracts including, but not limited to, written certificate of performance for each preneed contract fulfilled, requests to the financial institution and/or insurance company for payment, evidence of the date the seller received the funds from the financial institution or insurance company, the account from which the funds were paid to the seller, and documentation of the payment by the seller to the provider including, but not limited to, the name to whom payments were made, the date and amount of each payment, and a description of payment to the provider. If the seller and the provider are the same entity, the seller shall maintain records including, but not limited to, those showing the written statement of goods and services provided to fulfill the preneed contract, the written certificate of performance, the date payment was requested from the financial information or insurance company, the date and amount of payment received from the financial institution or insurance company;**

- (3) Records showing any notice of cancellation, evidence of the date, the name of the payor, and description of any payments for cancelled contracts;**
 - (4) Records showing any disbursement from a preneed trust or joint account for any purpose other than cancellation or fulfillment of a preneed contract with a description of the purpose for the disbursement;**
 - (5) Copies of preneed contracts, trust agreements, trust administration agreements, provider agreements, preneed agent agreements, insurance agreements, insurance assignments, insurance beneficiary designations, and any other contracts or other agreements between purchasers, beneficiaries, providers, sellers, agents, financial institutions, insurance companies, investment advisors and trustees related to preneed contracts or the holding of preneed funds;**
 - (6) Copies of account statements for joint accounts, trust statements for trust accounts, and any statements received from insurance companies listing the insurance policies in effect and/or the status of any insurance policy that names the seller or the provider, on a preneed contract sold by the seller, as beneficiary or owner;**
 - (7) All information obtained or possessed by the seller related to any insurance policy used to fund any preneed contract that may include, but not be limited to, a copy of the insurance policy, any assignment or beneficiary designations, and the status of any insurance policy; and**
 - (8) Any written communications between the seller and any preneed agent, provider, purchaser and/or beneficiary of the preneed contract related to the preneed contract;**
- 3. All records required to be maintained by a seller may be maintained in paper or electronic or a combination of paper and electronic formats, but shall be maintained in a manner such that the required information may be retrieved and provided to the board in a timely manner, upon request in accordance with the statutes and regulations governing the board.**