

- ~~(c) Failure to disclose conflict of interest;~~
- ~~(d) Failure to comply with the Code of Conduct of the Actuarial Society of the Philippines; or~~
- ~~(e) Such other grounds that may be determined by the Commission.~~

CHAPTER X

REPORTS AND EXAMINATION

SEC. 41. *Annual Pre-need Reserve Valuation Report.* -- Every pre-need company shall annually determine its reserve requirement and contractual liabilities, and submit to the Commission an annual pre-need reserve valuation report within one hundred twenty (120) days from the end of the fiscal year of the pre-need company. The valuation report shall contain the assumptions, methodology, formulas used, a summary of the pre-need plans that were the subject of the valuation and the results of such valuation. The report should be duly certified by an actuary accredited by the Commission in the case of contingent plans such as memorial/life plans and by the pre-need company's external auditors or by a qualified actuary in the case of scheduled-benefit plans such as pre-need pension and education plans, the liabilities of which are not actuarial in nature. The reserving formula, bases and limits of the assumptions to be used in the valuation of reserves shall be prescribed by the Commission.

The Commission may require any pre-need company to submit an interim pre-need reserve valuation report if any of the following events occurred:

- (a) When there is sufficient evidence that a subsequent event or transaction occurred after the end of the fiscal year and such event would materially affect the computation of the pre-need reserve valuation report submitted; and
- (b) When the company ceased operation six (6) months after the end of the fiscal year.

SEC. 42. *Annual Audited Financial Statements.* — Every pre-need company shall terminate its fiscal period on the thirty-first (31st) day of December every year. Within one hundred twenty (120) days after the calendar or fiscal year, the pre-need company shall render to the Commission annual financial statements signed and sworn to by its chief executive officer, chief finance officer and external auditors in accordance with a uniform accounting system that shall be prescribed by the Commission, showing in such form and details the exact condition of its affairs.

The audited financial statements should be accompanied by the Statement of Management's Responsibility signed under oath by the company's chairman of the board, chief executive officer and chief financial officer, containing the following declaration:

"The management of (name of the pre-need company) is responsible for all information and representations contained in the financial statements for the year(s) ended (date). The financial statements have been prepared in conformity with rules and regulations of the Commission on accounting and reflect amounts that are based on the best estimates and informed judgment of management with an appropriate consideration to materiality."

"In this regard, management maintains a system of accounting and reporting which provides for the necessary internal controls to ensure that transactions are properly authorized and recorded, assets are safeguarded against unauthorized use or disposition and liabilities are recognized. The management likewise discloses to the company's audit committee and to its external auditor: (i) all significant deficiencies in the design or operation of internal controls that could adversely affect its ability to record, process, and report financial data; (ii) material weaknesses in the internal controls; and (iii) any fraud that involves management or other employees who exercise significant roles in internal controls."

"The board of directors reviews the financial statements before such statements are approved and submitted to the stockholders of the company."

"The (name of the auditing firm), the independent auditors appointed by the stockholders, has examined the financial statements of the company in accordance with generally accepted auditing standards in the Philippines and has expressed its opinion on the fairness of the presentation upon completion of such examination, in its report to the board of directors and stockholders."

Any material omission of disclosures, misstatement or misleading information found in the financial statements, whether interim or annual, shall constitute a violation of this Code and the officer signing such statement shall be subject to the penalty provided for under this Code and such other sanctions as may be imposed by the Commission.

SEC. 43. *Annual Statement of Trust Fund.* - Every pre-need company shall file with the Commission an annual statement of its trust fund for each type of plan. Such statement shall be in a form prescribed by the Commission and shall include details as to all of the income, disbursements, assets and liability items of and associated with the said trust fund accounts. Said statement shall be made under oath by two (2) officers of the company and shall be filed simultaneously with the annual statement required by the preceding section.

Where the trust fund is managed and administered by a trustee as provided under Section 30 of this Code, an annual statement of trust fund for each type of plan shall instead be filed with the Commission. It shall include details such as the income, disbursements, assets and liability items, and shall be certified under oath by at least two (2) of the highest ranking officers of the trustee.

SEC. 44. *Publication of Annual Statement.* - Within thirty (30) days after receipt of the annual statement approved by the Commission, every pre-need company shall publish in two (2) newspapers of general circulation a full synopsis of its annual financial statements, including the trust fund annual

statement showing fully the conditions of its business, and setting forth its resources and liabilities in a standardized format to be designed by the Commission.

The Commission may require pre-need companies to create and maintain a website wherein its planholders may readily access updated information pertaining to the status of financial condition and results of information of the company. The sufficiency and truthfulness of the contents of such website shall be the responsibility of the company.

SEC. 45. *Keeping of Records.* -- The Commission shall require every pre-need company to keep its books, records, accounts and vouchers in such manner that the Commission's authorized representatives may readily verify the company's annual statements and ascertain whether the company is solvent and has complied with the provisions of this Code or the circulars, instructions, rulings or decisions of the Commission.

SEC. 46. *Examination.* -- The Commission shall, at least once a year and whenever it considers that the public interest so demands, cause an examination to be made into the affairs, financial condition and method of business of every pre-need company, and of any other person, firm or corporation managing the fund or affairs and/or property of such pre-need company. Such examination shall be carried in a manner prescribed by the Commission by rule.

CHAPTER XI

FINANCIAL ACCOUNTING STANDARDS

SEC. 47. *Accounting Rules and Regulations for Pre-need Plans.* -- The Commission shall have the authority to make, amend and rescind such accounting rules and regulations applicable for pre-need companies. The Commission may prescribe, among other things, the form or forms in which required information shall be set forth, the items or details to be shown in the components of the financial statements, and the recognition and measurement basis to be adopted for each account, after considering the nature of the operation of the pre-need industry. Pre-need companies shall strictly

comply with such accounting rules and regulations as prescribed by the Commission.

CHAPTER XII

~~SUSPENSION OR REVOCATION OF AUTHORITY~~

~~SEC. 48. *Suspension; Grounds.* - If the Commission is of the opinion, upon examination or other evidence, that any pre-need company is in an unsound condition, or that it has failed to comply with the provisions of law or regulations, or that its condition or method of business is such as to render its proceedings hazardous to the public or to its planholders, or that its paid-up capital stock is impaired or deficient, the Commission is authorized to suspend or revoke all certificates of authority granted to such pre-need company, its officers and agents, after due notice or hearing. No new business shall thereafter be done by such company or for such company by its agent in the Philippines.~~

~~The Commission may not lift the order of suspension or revocation of the said authority until the concerned pre-need company shall have submitted a viable business plan showing the company's estimated receipts and disbursements, as well as the basis therefor for the next succeeding three (3) years.~~

CHAPTER XIII

~~CONSERVATORSHIP AND PROCEEDINGS UPON INSOLVENCY~~

~~SEC. 49. *Appointment of Conservator.* - If at any time before or after the suspension or revocation of the license of a pre-need company as provided in Section 27 hereof, the Commission finds that such company is in a state of continuing inability or unwillingness to comply with the requirements of the Code and/or orders of the Commission, a conservator may be appointed to take charge of the assets, liabilities, and the management of such company, collect all moneys and debts due the company and exercise all powers necessary to preserve the assets of the company, reorganize its management, and restore its viability. The conservator shall have the power to overrule or revoke the actions of the~~