§ 3442. Funeral directing; reports relating to moneys paid in connection with agreements for funeral merchandise or services in advance of need. 1. Every person licensed pursuant to this article, including funeral directors and funeral firms, receiving moneys in connection with agreements to furnish merchandise or services in connection with a funeral or burial, wherein the merchandise is not to be delivered or the personal services rendered until the occurrence of the death of the person for whose funeral or burial such merchandise or services are to be furnished, shall comply with the provisions of section four hundred fifty-three of the general business law, furnish a preneed statement to the person making such payment describing such services and merchandise offered on a form prescribed by the commissioner and shall maintain current records of the persons making such payments or receiving such merchandise or services or having been repaid moneys and shall maintain true copies of such agreements. Such records and true copies of agreements shall be made available for inspection and shall be made available during ordinary business hours for copying upon written request by the commissioner or his or her representative in connection with any investigation pursuant to this article. Copies shall only be requested where the department has received a complaint, either oral or written, or where the department inspector has grounds to believe that serious or repeat violations of this section have occurred.

2. Only a funeral firm having a valid registration issued pursuant to paragraph (c) of subdivision two of section thirty-four hundred twenty-eight of this article or their duly authorized agent, may receive and hold moneys in trust which have been paid in connection with an agreement as described in subdivision one of this section.

3. (a) Upon the sale or other transfer of any funeral firm, or the transfer of control over such moneys, both the new owner and former owner or the estate of the former owner, or both the persons currently and formerly having control over such moneys, shall within thirty days of such sale or transfer, notify, in writing, each such person who has paid moneys of the sale or transfer, including the name and address of the new and former owner. Compliance with the requirements of this

subdivision shall constitute compliance with the same notification requirements found in subdivision five of section four hundred fifty-three of the general business law. Copies of such notifications shall be available for inspection and shall be made available during ordinary business hours for copying upon written request by the commissioner or his or her representative in connection with any investigation pursuant to this article.

(b) Upon the sale or other transfer of any funeral firm having received moneys in connection with any agreement described in subdivision one of this section or upon any transfer of control over such moneys, the transferee shall be liable for compliance with all provisions of this section and section four hundred fifty-three of the general business law, including the repayment of any moneys and provision of funeral merchandise and services, if the transferor or a transferor's predecessor in interest was liable for compliance with the requirements of this section and section four hundred fifty-three of the general business law. Such liability shall attach whether or not the successor in interest has, upon conveyance of such funeral firm, received such moneys or has knowledge of the existence of any agreements described herein. Such liability shall attach where there is proof of a valid agreement for providing funeral merchandise and services, and the funeral firm, funeral director or undertaker has not refunded the moneys received from the customer.

(c) Upon the sale or other transfer of any funeral firm having received such moneys, or upon a transfer of control of such moneys, the transferor shall disclose a complete accounting of all moneys transferred pursuant to such agreement to the transferee, including the names and addresses of all persons who deposited moneys with such funeral firm, the amount and location of such moneys, the names and addresses of persons who have received refunds and the amount of such refund.

(d) Upon the termination, cessation of operation or discontinuation of any funeral firm, or a successor in interest which has received moneys in connection with any agreement described in subdivision one of this section or is otherwise liable for compliance with the requirements of this section or section four hundred fifty-three of the general business law, such funeral firm or successor shall, within thirty days of such

termination, cessation of operation or discontinuation, repay all such moneys and accrued interest as if a demand had been made therefor.

4. Records required by this section to be maintained and true copies of agreements shall be retained for four years following the provisions of funeral merchandise and services. In the event the funds are returned to the person who deposited the money or their representative, such records, including the record of return of funds shall be retained for a period of four years after the sale, transfer, termination, cessation of operation or discontinuance of the funeral firm.