

RULE ADOPTIONS
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LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MORTUARY SCIENCE OF NEW JERSEY

Readoption with Amendments: N.J.A.C. 13:36
Adopted New Rule: N.J.A.C. 13:36-3.9

State Board of Mortuary Science Rules

Proposed: November 15, 2010 at 42 N.J.R. 2732(a).

[page=3368] Adopted: November 1, 2011 by the State Board of Mortuary Science, Richard J. Galante, Jr., President.

Filed: November 14, 2011 as R.2011 d.298, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:1-15.1 and 45:7-32 et seq.

Effective Dates: November 14, 2011, Readoption;
December 19, 2011, Amendments and New Rule.

Expiration Date: November 14, 2018.

Summary of Public Comments and Agency Responses:

The Board received comments on the notice of proposal from the following:

1. Franklin P. Jackson, Secretary/Treasurer, West Jersey Funeral Directors Association, Inc.;
2. Samuel C. Arnold, President, Garden State Funeral Directors Association;
3. Thomas J. (Toby) Bizub, Jr.;
4. Lester J. Venella, Jr., Kimberly M. Saul-Browne, Mary E. Weber, Franklin H. Rainear, Dawn A. Selover, Mary Ellen Fulginiti, Kathryn Morales, Reese R. Lieb, Amber L. Frese, and Lisa M. Polascak, on behalf of Saul Funeral Homes, Inc.;
5. Annette M. York;
6. Wilson H. Beebe, Jr., Executive Director, New Jersey State Funeral Directors Association, Inc. (NJFSDA);
7. Robert C. Moore, IV;
8. George Jeffery Lovas;
9. Robert C. Smith, III;
10. James Schmitt;
11. Ginny Sanzo, President, Bergen County Funeral Directors Association;
12. Dirk Van Emburgh, CFSP;
13. Henry Scala;

14. Timothy J. Newman, CFSP;

15. Addison G. Bradley;

16. Joseph R. Cinotti; and,

17. Thomas W. Renkin.

1. COMMENT: Several commenters urged the Board not to adopt the proposed amendments to N.J.A.C. 13:36-10.3(b), which require licensees to obtain a total of five continuing education credit hours in preneed arrangements, funeral directing ethics and New Jersey law and regulations, in courses that require in-person attendance and that include post-course examinations. Mr. Beebe expressed support for the Board's intent to place a meaningful emphasis on certain curriculum areas, but noted that the in-person requirement will significantly limit a licensee's flexibility with respect to earning continuing education credits. Mr. Arnold, Mr. Bizub, Mr. Venella, Mr. York, Mr. Moore, Mr. Lovas, Ms. Sanzo, Mr. Van Emburgh, Mr. Scala, Mr. Newman, Mr. Bradley, Mr. Cinotti, and Mr. Renkin expressed concern that the in-person attendance requirement will unduly burden funeral directors by limiting licensees' ability to take courses offered in more readily available and less expensive on-line formats. Some commenters noted that this burden will be particularly high for funeral directors who operate funeral establishments without the assistance of other staff, and those who are not employed as funeral directors on a full-time basis. One commenter believes that the rule's requirement of in-person attendance is inconsistent with the fact that mortuary students are permitted to obtain a significant amount of the required education for licensure in an on-line format.

Mr. Beebe also expressed concern that the proposed amendments will discourage continuing education providers from using current and emerging technology to develop innovative and alternative methods of instruction, such as online learning, webinars, and pre-recorded on-demand courses. Mr. Beebe believes that the Board should adopt a more flexible approach to continuing education that will provide incentives to continuing education providers to develop alternative methods of delivering continuing education material, which will increase licensees' accessibility to valuable content.

Mr. Beebe also believes that the proposed amendments will require continuing education providers to create 8,500 new classroom seat hours (based on 1,700 licensees multiplied by five classroom hours each) in each biennial licensing period. The commenter believes that the cost of delivering in-person continuing education programs will continue to rise for providers, who will pass those costs onto licensees, resulting in additional costs for licensees to maintain their licenses. The commenter noted that, in contrast, internet delivery encourages providers to take advantage of "economies of scale," by allowing them to develop a program's content once and deliver it to a countless number of licensees at a minimal cost. The commenter also believes the proposed amendments conflict with Governor Christie's Executive Order No. 2 (2011), which directs all agencies and boards to "draft all proposed rules so they impose the least burden and costs to business."

Mr. Beebe recommended that the Board refrain from adopting the in-person attendance requirement until the Board has had an opportunity to consider alternatives, and noted that the Board can achieve its goal of ensuring that licensees obtain quality continuing education by examining the Board's own course accreditation procedures, and accrediting only those offerings that the Board believes meet its standards of quality continuing education. If the Board is unable to conduct this review, the commenter recommends that the Board contract with a third-party entity to provide these services on the Board's behalf. Mr. Beebe believes that the approach previously suggested to the Board by the NJSFDA, which would involve the adoption of a "facilitated" and "self-directed" definitional approach to continuing education, deserves further consideration by the Board.

Mr. Beebe recommended that if the Board adopts the in-person attendance requirement at proposed N.J.A.C. 13:36-10.3(b), a provision be added to the rule that would allow continuing education providers to make a "special application" to the Board for an exemption from this requirement upon a demonstration of the quality and completeness of the provider's online curriculum.

RESPONSE: The Board believes that the proposed amendments to N.J.A.C. 13:36-10.3, which will require licensees

to take five continuing education credits in courses that require in-person attendance and include a post-course examination, are necessary to ensure that the continuing education licensees receive is substantial and rigorous. The Board believes that such courses offer licensees the greatest opportunity for interaction with instructors, which will lead to a more well-rounded understanding of the subject areas of preneed funeral arrangements, funeral directing ethics, and New Jersey law and rules relating to mortuary practice. The Board believes that continuing education in these subject areas is necessary to ensure a licensee's continuing competency to practice. The Board does not disagree with the commenters' assertions that many courses offered in alternative formats may provide licensees with valuable opportunities for study, that some of these courses may be less expensive than those offered in a live-instructor format, and that mortuary students are generally permitted to satisfy a portion of their education requirements for initial licensure through on-line formats. The Board notes, however, that the proposed amendments to N.J.A.C. 13:36-10.3 will permit licensees to satisfy their continuing education obligation by taking up to one-half of the required number of credits in alternative format courses. As a result, the Board does not believe that the proposed amendments will discourage continuing education providers from developing alternative methods of instruction because such courses may continue to qualify for Board approval under the existing requirements of Subchapter 10 and under the proposed amendments to N.J.A.C. 13:36-10.9. In addition, because the proposed amendments will permit licensees to obtain a full one-half of their required continuing education credit hours through alternate formats, the Board disagrees with the commenters' assertion that the proposed amendments unduly restrict a licensee's ability to obtain continuing education credits. The Board believes that the proposed amendments to N.J.A.C. 13:36-10.3 will provide licensees with sufficient flexibility with which to manage their continuing education obligations.

The Board notes that the requirement that its licensees obtain a total of 10 continuing education credits over a two-year period is significantly less onerous than the continuing education requirements imposed on licensees of other New Jersey professional and occupational licensing boards and committees within the Division of Consumer Affairs. For example: accountants must complete 120 credits every three years; [page=3369] physicians must complete 100 credits every two years; optometrists must complete 50 credits every two years; dentists, marriage and family therapists, professional counselors, social workers, and home inspectors must complete 40 credits every two years; alarm installers and locksmiths must complete 36 credits every three years; electrical contractors must complete 34 credits every three years; pharmacists, nurses, and respiratory care practitioners must complete 30 credits every two years; veterinarians must complete 20 credits every two years; and court reporters must complete 15 credits every two years. The Board notes that, of all the boards and committees within the Division that impose a continuing education obligation on its licensees, only the Board of Master Plumbers requires its licensees to complete fewer credits than licensees of the Board of Mortuary Science. Plumbers are required to complete five continuing education credits every two years. Those five credits, however, must be earned in courses that require in-person attendance.

The Board has previously noted, in response to a petition for rulemaking submitted by Mr. Beebe in 2009, the notice of action on which appeared in the New Jersey Register on August 3, 2009 at 41 N.J.R. 2987(b), that it believes that the NJSFDA's suggested "facilitated" and "self-directed" approach to continuing education is unclear and will likely lead to confusion among members of the regulated community. By contrast, the Board believes that the proposed amendments to N.J.A.C. 13:36-10.3 provide clear direction to licensees concerning what they must do to satisfy their continuing education obligations. Licensees must take five credits--in preneed arrangements, funeral director ethics, and New Jersey law and rules relating to mortuary practice--in courses requiring in-person attendance and a post-course examination, but may take the remaining five credits required for license renewal in other courses approved by the Board, irrespective of course format. The Board believes that this approach is reasonable and does not place an undue burden on licensees or continuing education providers, and, therefore, is not inconsistent with the mandates of Governor Christie's Executive Order No. 2 (2010).

The Board believes that the requirements in Subchapter 10, including the proposed amendments to N.J.A.C. 13:36-10.8, will help to ensure that continuing education courses approved by the Board, irrespective of course format, are of sufficient quality so as to contribute directly to the maintenance of a licensee's professional competency. The Board, therefore, declines to accept Mr. Beebe's suggestion that the Board contract with a third-party entity to conduct course reviews. As noted above, the Board believes that alternative format courses may offer licensees meaningful opportunities for learning, and the Board also notes that it has previously approved courses offered in on-line or alternate formats. Although the Board continues to believe that licensees will derive the greatest benefit from courses in preneed arrangements, funeral directing ethics, and New Jersey law and rules relating to the practice of mortuary

science that are presented in-person, the Board also believes that continuing education course providers should be permitted, as Mr. Beebe suggests, to petition the Board for an exemption to this in-person attendance requirement for individual courses. The Board believes further study of the commenter's suggestion is warranted, however, in order to provide providers with adequate notice of, and an opportunity to comment on, the standards the Board intends to use to grant such requests. The Board, therefore, declines to change N.J.A.C. 13:36-10.3 at this time to authorize the special application process suggested by the commenter. The Board notes, however, that, pending rulemaking action by the Board to permit such special application, it is possible that continuing education providers may be able to request a waiver of the in-person requirement upon adoption of a new rule recently proposed by the Division of Consumer Affairs, and applicable to all boards and committees within the Division, including the Board of Mortuary Science. The proposed new rule, which appeared in the New Jersey Register on August 1, 2011 at N.J.R. 1816(b), and which is not yet adopted, will allow applicants to request from the Board waiver of certain regulatory requirements, provided the standards articulated in the new rule are satisfied.

2. COMMENT: Mr. Beebe, Mr. Arnold, Mr. Bizub, Mr. Venella, Ms. York, Mr. Moore, Mr. Lovas, Ms. Sanzo, Mr. Van Emburgh, Mr. Scala, Mr. Newman, and Mr. Bradley urged the Board not to adopt the proposed amendments to N.J.A.C. 13:36-11.2(d)2, which require a funeral service provider to complete a new Statement of Funeral Goods and Services Selected (SFGSS) form when an existing revocable prepaid funeral agreement is converted to an irrevocable agreement. The commenters noted that changes from revocable to irrevocable agreements generally occur when there is a change in financial status, and are usually done to qualify a person enrolled in the trust for Medicaid. The commenters believe that in such cases, the underlying funeral arrangements are not changed and, therefore, the requirement to execute a new SFGSS is unreasonable. The commenters believe that the proposed amendment will create an unnecessary financial burden on funeral homes, will unduly burden families, and may create unintended, negative consequences for purchasers of prearrangements applying for Medicaid and/or other general assistance programs. Mr. Lovas noted that, if conversion of arrangements to an irrevocable account is necessary, the funeral home should be required to execute a Conversion of Acceptance form only. Mr. Beebe noted that while some providers may already complete a new SFGSS when an arrangement's funding vehicle is converted, it is not currently required of them, because the law requires licensees to execute a new SFGSS only when the items within an arrangement are altered and/or upon the performance of services and provision of merchandise. The commenter notes that existing statutes and regulations allow licensed funeral directors to examine and analyze prearrangements before conversion and apply their professional discretion to determine if an adjustment is necessary. The commenter believes that the proposed amendment eliminates a licensee's professional discretion.

RESPONSE: The Board agrees with the commenters' assertion that conversions from revocable to irrevocable agreements generally occur in order to qualify an intended funeral recipient for Medicaid benefits. The Board believes that in such situations, it is imperative that the value of the goods and services to be provided under the agreement are accurately reflected, in particular, because some items included in a revocable agreement may not be included in an irrevocable agreement under Medicaid requirements, such as transportation for the decedent's relatives or a repast. The Board believes that the execution of a new SFGSS upon a change in the agreement from revocable to irrevocable is a reasonable method to ensure that the agreement accurately reflects the value of goods and services covered so as to ensure compliance with Medicaid eligibility requirements. The Board believes that the execution of a new SFGSS when a change from revocable to irrevocable occurs is currently required under the existing provisions of N.J.A.C. 13:36-1.9(a) and 11.2(d)2, and notes that the proposed amendment to N.J.A.C. 13:36-11.2 is a clarification of this requirement. N.J.A.C. 13:36-1.9(a) and 11.2(d)2 provide that a new SFGSS must be executed whenever preneed and/or at need funeral arrangements are made. The Board disagrees with the commenters' assertion that the execution of a new SFGSS upon a change in the agreement from revocable to irrevocable will unduly burden registered mortuaries or families, and notes that the existing rules and the proposed amendments permit a licensee to mail the new SFGSS to the consumer. The Board believes that any costs associated with the requirement are outweighed by the benefit to the general public in ensuring that Medicaid eligibility requirements are enforced. The Board, therefore, declines to not change the proposed amendments as suggested by the commenters.

3. COMMENT: Mr. Beebe, Mr. Arnold, Ms. Sanzo, Mr. Van Emburgh, Mr. Scala, Mr. Newman, Mr. Bradley, Mr. Moore, Mr. Bizub, Mr. Lovas, Ms. York, and Mr. Schmitt urged the Board not to adopt the proposed amendments to N.J.A.C. 13:36-1.8(c), that require funeral records to include a copy of a completed death certificate that includes a final cause of death, and a copy of any corrections made to the New Jersey Death Certificate by the funeral director.

Many of the commenters believe that the proposed amendments are unreasonable and will place a significant burden on funeral directors, requiring them to continuously check to see if corrections and amendments have been made to the death certificate.

Several commenters noted that registered mortuaries will have difficulty complying with the final of cause of death requirement, particularly when the cause of death is indeterminable at the time that the death certificate is filed, or when the death is certified by the medical examiner and the cause of death is listed as "pending" with a final determination made months later without further notification to the [page=3370] funeral home. Mr. Beebe noted that it is unreasonable to hold a registered mortuary responsible for actions under the direct control of a third party, and of which the mortuary may have little knowledge or control. The commenter also believes that the proposed amendments will cost licensees a significant amount of money and time by requiring them to continuously review previously filed death certificates. Mr. Bizub believes that intent of the proposed amendments would be more appropriately served by requiring the State Department of Health and Senior Services to issue an updated certified copy of a death certificate whenever there is a change to Cause of Death Information. The commenter believes that since the Board does not have the authority to require this, the proposed amendments should not be adopted at this time. Several commenters noted that requiring the funeral home to maintain a copy of the death certificate that includes the final cause of death is not necessary, given the availability of this information through the Electronic Death Registration System.

RESPONSE: The Board appreciates the commenters' concerns regarding the proposed amendment to N.J.A.C. 13:36-1.8(a)7, which would require a registered mortuary's record for each funeral to include a copy of the New Jersey Death Certificate that reflects the decedent's final cause of death. The Board agrees that registered mortuaries may have difficulty complying with this requirement in various situations. The Board believes this to be particularly true where a final cause of death determination is made well after the final disposition has taken place without further notification to the registered mortuary. The Board, therefore, is not adopting the amendment to N.J.A.C. 13:36-1.8(c)7. On adoption, N.J.A.C. 13:36-1.8(c)7 will continue to require funeral records to include a copy of the completed death certificate for a death occurring in New Jersey, and a copy of the burial or transit papers, or other final disposition documents, for a death that occurred outside of the State.

The Board, however, continues to believe that the proposed amendment to N.J.A.C. 13:36-1.8(c)8, which will require a registered mortuary's funeral record for each funeral to include a copy of any corrections made to the New Jersey Death Certificate by the funeral director, is reasonable. The Board does not believe that this requirement will impose any undue burden on registered mortuaries. The Board also believes that the proposed amendment is consistent with a registered mortuary's existing obligation, under N.J.A.C. 13:36-1.8(a), to maintain full, accurate records of all funerals that it conducts or in which it participates in any manner. The Board, therefore, has determined to adopt the proposed amendment to N.J.A.C. 13:36-1.8(c)8.

4. COMMENT: Mr. Beebe, Mr. Venella, and Mr. Lovas urged the Board not to adopt the proposed amendment to the heading of N.J.A.C. 13:36-11.3, which adds the term "revocable" to the heading of the rule. The commenters believe that the proposed heading change will create ambiguity with respect to the rule's application, leading members of the regulated community to believe that the requirements of N.J.A.C. 13:36-11.3 do not apply to irrevocable prepaid funeral agreements, which is not consistent with the statutory requirements of N.J.S.A. 45:7-85. Mr. Lovas believes that the proposed amendments to the rule text at N.J.A.C. 13:36-11.3(a)8 and 9 are sufficient to clarify the rule's application, without requiring the heading change. In addition, Mr. Beebe noted no objection to the proposed amendments to the rule text at N.J.A.C. 13:36-11.3(a)8, 9, and 13.

RESPONSE: The Board agrees with the commenters' concern that the proposed heading change in N.J.A.C. 13:36-11.3 may create unintended ambiguity and could lead licensees to believe that the rule's requirements do not apply to irrevocable prepaid funeral agreements, and, therefore, the Board is not adopting the proposed heading change. The Board believes that the proposed amendments to the rule text in N.J.A.C. 13:36-11.3(a)8, 9, and 13 clarify the existing requirements with respect to their application to both revocable and irrevocable prepaid agreements and, therefore, the Board has adopted those amendments without change.

5. COMMENT: Mr. Beebe objected to the proposed amendments to N.J.A.C. 13:36-8.9(b), concerning the quotation of funeral prices. The commenter believes that the proposed amendments conflict with United States Federal Trade

Commission (FTC) requirements by implying that only a licensed practitioner of mortuary science or an intern may provide pricing information, even if arrangements are not being made. The commenter noted that pursuant to the FTC requirements in 16 CFR 453.2, funeral service providers, their employees, and agents, including non-licensed personnel, must furnish accurate pricing information upon request, provided the request for pricing information is readily available and concerns the "terms, conditions or prices" of funeral goods or services. The commenter recommended that the Board amend N.J.A.C. 13:36-8.9(b) to provide that any other agent or employee of the registered mortuary may also furnish price information that is readily available from the General, Outer Burial Container and Casket price lists in response to consumer request for price information when funeral arrangements are not being made. Mr. Smith requested clarification concerning the last sentence of N.J.A.C. 13:36-8.9(b), noting that the sentence is written in language that is not readily understood by practitioners and consumers. The commenter recommended that the Board amend the provision to clearly reflect the Board's intention.

RESPONSE: The Board does not believe that the proposed amendments to N.J.A.C. 13:36-8.6(b) are inconsistent with the provisions of 16 CFR 453.2. As amended, N.J.A.C. 13:36-8.9 provides that only a licensee or an intern may quote prices to a consumer in connection with any funeral services and/or goods when funeral arrangements are being made, and clarifies that the rule permits the quotation of prices by a licensee or an intern when funeral arrangements are not being made. Unlicensed individuals are permitted to provide price quotations when funeral arrangements are not being made. The Board, therefore, declines to change N.J.A.C. 13:36-8.9(b) as the commenters suggest.

6. COMMENT: Mr. Beebe expressed objection to the proposed amendments to N.J.A.C. 13:36-4.4(c). The commenter noted that currently, N.J.A.C. 13:36-4.4(c) permits a mortuary that has undergone inspection for a temporary approval to operate until a certificate of registration has been "issued" by the Board. The proposed amendment provides that in such a situation, the registered mortuary may operate with temporary approval until the certificate of registration is actually "received" by the mortuary. The commenter objected to the amendment because he believes that the Board does not consistently exercise its authority to grant temporary approval to mortuaries that rely on such approval to begin operating. The commenter noted that the proposed amendment fails to take into account the ambiguities and delays often encountered when transferring or selling an existing funeral business. The commenter recommended that the Board develop a temporary registration model that can adequately anticipate such ambiguities and delays, and that until such a solution is developed, the Board should work with applicants for a new certificate of registration to ensure that the necessary paperwork and inspections are completed in a timely matter.

RESPONSE: The Board believes that the commenter's objections relate to concerns about internal Board operations incident to processing applications for registrations, and are not relevant to the technical, clarifying amendment proposed to N.J.A.C. 13:36-4.4. The Board, therefore, declines to readopt N.J.A.C. 13:36-4.4 without change as the commenter suggests. The Board notes that it has held several discussions with the NJSFDA representatives concerning the application of N.J.A.C. 13:36-4.4 and has agreed to propose substantive amendments to N.J.A.C. 13:36-4.4 at a later date to resolve those concerns.

7. COMMENT: Mr. Beebe expressed support for the proposed amendments to N.J.A.C. 13:36-2.7, which require a practitioner to be licensed in New Jersey for at least two years prior to becoming a preceptor, noting that that this requirement will increase the possibility that the funeral director has gained sufficient experience to provide an intern with proper instruction and training.

RESPONSE: The Board thanks the commenter for his support of the proposed amendments to N.J.A.C. 13:36-2.7.

8. COMMENT: Mr. Beebe expressed support for the proposed amendments to N.J.A.C. 13:36-5.1, which will eliminate the requirement that a licensee retained as the manager of more than one registered mortuary operating in the same physical location obtain a duplicate license for posting in each establishment. The commenter believes that displaying a single license at the location is sufficient and will reduce the licensee's cost of doing business.

RESPONSE: The Board thanks the commenter for his support of the proposed amendments to N.J.A.C. 13:36-5.1.

9. COMMENT: Mr. Beebe expressed support for proposed new N.J.A.C. 13:36-3.9, which provides that the Board will administratively [page=3371] close an application for licensure if a candidate fails to complete the application process within 18 months of the date of initial application. However, the commenter requested that the Board clarify that the

rule applies only to failures on the part of the applicant, and will not be used to close an application when a failure to complete the application process in a timely manner results from Board inaction. The commenter recommended that the proposed new rule be amended to clarify that applications submitted in a timely manner will remain open until Board action is taken.

RESPONSE: Proposed new N.J.A.C. 13:36-3.9 provides that the Board will administratively close an application when a candidate fails to complete the application process within 18 months. The Board believes that the rule clearly establishes that it is the candidate's conduct that triggers the rule's application. The amount of time required by the Board to review a submitted application would not be counted against the applicant and, therefore, the Board declines to change the new rule as the commenter suggests.

10. COMMENT: Mr. Jackson urged the Board to consider the comments submitted by the NJSFDA.

RESPONSE: The Board fully considered all comments submitted by Mr. Beebe on behalf of the NJSFDA, and reiterates the responses provided to Comments 1 through 9 above.

11. COMMENT: Mr. Arnold inquired whether the continuing education post-course examination required in N.J.A.C. 13:36-10.3 will be counted toward the course-hour requirement, and whether an attendee's failure of the post-course examination will result in the granting of no credit for the course. The commenter also asked who will grade the post-course examination, who will be responsible for administering the examination, who will report the grades to the Board, and who will retain copies of the examination. Ms. Sanzo also objected to the requirement of a post-course examination, believing such examinations to be unnecessary and cumbersome.

RESPONSE: The Board believes that continuing education in the areas of preneed funeral arrangements, funeral directing ethics, and New Jersey law and rules relating to the practice of mortuary science are necessary to help ensure the professional competence of licensees. The Board believes that requiring such courses to include a post-course examination is reasonable because it will allow a course provider to accurately assess a licensee's understanding of the information presented during the course. The structure and administration of post-course examinations will be determined by the course provider, and the results of such examinations will not be submitted to the Board. A licensee, however, has a professional duty to accurately convey to the Board the number of continuing education credits he or she has successfully completed.

12. COMMENT: Mr. Lovas expressed support for the proposed amendments to N.J.A.C. 13:36-1.8(c)3 and 2.14(a)3, which add "mosque" to the list of religious institutions referred to in the rules. The commenter suggested that the Board further amend the rules to also include a reference to "celebrant" or "certified celebrant."

RESPONSE: The Board thanks the commenter for his support of the proposed amendments to N.J.A.C. 13:36-1.8(c)3 and 2.14(a)3. The Board believes that it is reasonable to add the term "celebrant" to the list of references in N.J.A.C. 13:36-1.8(c)3 and 2.14(a)3, and has changed the rules upon adoption accordingly.

13. COMMENT: Mr. Lovas and Mr. Smith expressed support for the proposed amendment to N.J.A.C. 13:36-2.7, which will require a practitioner to be licensed for at least two years before he or she can assume the responsibilities of a preceptor.

RESPONSE: The Board thanks the commenters for their support of the proposed amendments to N.J.A.C. 13:36-2.7.

14. COMMENT: Mr. Smith expressed support for proposed new N.J.A.C. 13:36-3.9, noting that it is reasonable to require a candidate who has not completed the application process in the 18-month time frame established under the rule to start the application process over again.

RESPONSE: The Board thanks the commenter for his support of proposed new N.J.A.C. 13:36-3.9.

15. COMMENT: Mr. Smith requested clarification concerning the proposed amendment to N.J.A.C. 13:36-2.1(c)2, which changes the terminology in the rule from "semester" to "academic term," and eliminates the specific reference to "fall and spring semester" throughout the rule. The commenter inquired about the application of these changes to summer session terms, noting that some students who take summer session courses would find it difficult to obtain

eight credits in the session because of the abbreviated nature of the term. The commenter believes that a literal interpretation of the proposed amendment suggests that an intern will lose credit for the internship if he or she takes fewer than eight credits during a summer academic term.

RESPONSE: The Board believes that the proposed amendments to N.J.A.C. 13:36-2.1(c), which delete references to the "fall and spring semester," in favor of "academic term" will allow students greater flexibility in meeting the academic requirements for licensure mandated under the rule. "Academic term" is intended to capture the entire length of time that a student is enrolled during the academic year. The length of the academic term is established by individual colleges and universities. Some schools offer only fall and spring semesters, while others offer courses over fall, spring, and summer sessions. As amended, the rule will require an intern to complete eight credits per academic term with a minimum cumulative average of 2.0. The proposed amendments do not require interns to take eight credits in a summer session as the commenter suggests, nor will application of the proposed amendments result in loss of internship credit for a person who takes fewer than eight credits during a summer session of an academic term.

16. COMMENT: Mr. Smith requested clarification regarding the proposed amendments to N.J.A.C. 13:36-2.8, concerning requirements for Board notification when an intern will be absent from his or her internship. The commenter noted that the proposed amendments require interns to notify the Board within five days of the absence, but do not specify when that five-day period commences. The commenter believes that an intern should not be penalized for failing to notify the Board in a timely manner when an unanticipated illness or accident takes the intern out of the workforce, particularly in those cases when the diagnosis or prognosis of a 30-day absence cannot be determined within five days of onset. The commenter requested that the Board clarify when the five-day period begins.

RESPONSE: N.J.A.C. 13:36-2.8 requires an intern to notify the Board whenever he or she is absent from an internship for more than 30 days. The proposed amendment to the rule requires that notification of an extended absence of more than 30 days be provided to the Board within five days. The Board believes that the proposed amendment, when read in conjunction with the existing provisions of N.J.A.C. 13:36-2.8, clearly provide that the intern must notify the Board within five days of being absent for more than 30 days. The Board notes, however, that if the intern becomes aware during a period of absence that he or she will be absent for more than 30 days, the intern should endeavor to notify the Board as soon as is practically possible.

17. COMMENT: Mr. Smith expressed support for the proposed amendments to N.J.A.C. 13:36-10.3, which will make courses in preneed funeral arrangements, funeral directing ethics, and New Jersey law and rules relating to the practice of mortuary science mandatory topics for continuing education in each license renewal period. The commenter noted, however, that this requirement, coupled with the mandatory OSHA training requirement, will result in a licensee taking 60 percent of continuing education hours in mandated topics. The commenter believes that this will provide licensees with little option or incentive to expand their horizons in new areas. The commenter recommended that the Board amend the continuing education requirements in N.J.A.C. 13:36-10.3 to require licensees to take courses or programs in the specified areas, but to eliminate the specified the number of credits required in each subject area.

RESPONSE: The Board believes that continuing education in the areas of preneed funeral arrangements, funeral directing ethics, and New Jersey law and rules relating to the practice of mortuary science are necessary to help ensure the professional competence of licensees. The Board believes that requiring licensees to take a total of five continuing education hours in these three subjects, in addition to the mandatory course on applicable OHSA requirements, is reasonable. Licensees may take the remaining number of required credits in relevant, approved courses in subject areas they may find of interest. The Board, therefore, declines to change N.J.A.C. 13:36-10.3 as suggested by the commenter.

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18. COMMENT: Mr. Smith expressed support for the proposed amendments to N.J.A.C. 13:36-1.8(c)8, believing that it is reasonable to require a funeral director who submits a correction to the Death Certificate to retain a copy of the correction in the funeral records.

RESPONSE: The Board thanks the commenter for his support of the proposed amendments to N.J.A.C. 13:36-1.8(c)8.

19. COMMENT: Mr. Smith expressed support for the proposed amendments to N.J.A.C. 13:36-5.1(a) and (d), noting

that the suggested changes leave no question as to how the title of "Manager" is to be used and, therefore, should result in consumers having no question about who is in charge of a funeral establishment.

RESPONSE: The Board thanks the commenter for his support of the proposed amendments to N.J.A.C. 13:36-5.1(a) and (d).

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and a new rule are governed by N.J.S.A. 45:7-32 et seq., and are not subject to any Federal standards or requirements. Although the rules in N.J.A.C. 13:36 are not subject to any Federal requirements or standards, where deemed appropriate, the Board has incorporated Federal standards. Specifically, N.J.A.C. 13:36-6.2 requires all persons engaged in the embalming of a dead human body to be outfitted in protective apparel in compliance with OSHA requirements as outlined in 29 CFR 1910.1030. Similarly, N.J.A.C. 13:36-6.4 requires all practitioners to dispose of blood and excretions of a dead human body pursuant to OSHA requirements outlined in 29 CFR 1910.1030. N.J.A.C. 13:36-6.5 provides that all receptacles containing embalming fluid, formaldehyde or other poisonous or dangerous substances be plainly marked in compliance with 29 CFR 1910.1048. N.J.A.C. 13:36-7.1, which concerns the handling and embalming of bodies dead as a result of an infectious or contagious disease, provides that all personnel must comply with OSHA regulations set forth at 29 CFR 1910.1030 and that all fluids or other matters removed from such a body during the embalming process must be disposed of in accordance with all applicable Federal laws governing medical and infectious waste.

The rules of Subchapter 9 also incorporate many of the requirements of the Federal Trade Commission's rules on funeral practice set forth at 16 CFR 453.1 through 453.5, governing disclosures required on the Statement of Funeral Goods and Services Selected, general price list, outer burial container price list, and casket price list.

Licensees will also be required to take a course on OSHA laws and regulations under the adopted amendments to the Board's continuing education requirements in N.J.A.C. 13:36-10.3.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:36.

Full text of the adopted amendments and new rule follows (additions to the proposal indicated in boldface with asterisks ***thus***; deletions from the proposal indicated in brackets with asterisks *[thus]*):

(**Agency Note:** The text of N.J.A.C. 13:36-1.8 below reflects the adoption of amendments effective September 6, 2011.)

SUBCHAPTER 1. ADMINISTRATION

13:36-1.3 Board meetings

(a) (No change.)

(b) Regular monthly meetings shall be held in accordance with a published schedule of meetings. Special meetings of the Board may be called by the President upon reasonable notice being given to the members. In the event of unavailability of the President for illness or otherwise, three members of the Board shall have the power to call a special meeting in cases of emergency.

13:36-1.8 Recordkeeping

(a)-(b) (No change.)

(c) Funeral records shall include the following, if applicable:

1.-2. (No change.)

3. The name and address of any church, synagogue, mosque*,* and/or clergy *or celebrant* who participated in the funeral service and who received any offering or honorarium, and the amount thereof, if paid by the funeral home;

4.-8. (No change.)

9. A copy of the completed New Jersey Death Certificate, *[which includes the final cause of death,]* if the death occurred in the State, or if the death occurred outside of the State, a copy of the burial or transit papers or other final disposition documents;

[8.] *10.* A copy of any correction made to the New Jersey Death Certificate by the funeral director; and

[9.] *11.* (No change in text.)

13:36-1.9 Statement of Funeral Goods and Services Selected

(a) When making preneed and/or at need funeral arrangements, as defined in N.J.A.C. 13:36-11.1, the practitioner shall compile a Statement of Funeral Goods and Services Selected. The statement shall be on a pre-printed, single-sided sheet of paper that is at least 8 1/2 inches by 11 inches, but no more than 8 1/2 inches by 14 inches, and shall include at least the following information:

1.-2. (No change.)

3. The name and address of the consumer making the funeral arrangements and the date the arrangements are made;

4.-8. (No change.)

(b)-(c) (No change.)

(d) A practitioner who offers the Optional Packaged Services and has that offer accepted by a consumer shall not be required to detail the charges for Categories I through III set forth in (c) above, which are then not applicable. It shall not be mandatory for practitioners to include the category of "Optional Packaged Services" on the Statement of Funeral Goods and Services Selected if they do not offer for sale the services of Direct Cremation, Immediate Burial, Forwarding of Remains and/or Receiving of Remains or to include the "Package Reduction" category, if this category is not utilized by practitioners. A practitioner shall not include any charges for Category V cash disbursements in any Optional Packaged Services.

(e)-(g) (No change.)

13:36-1.10 Limited exemption for anatomical associations of a medical school established and operated by the State of New Jersey for the acceptance and disposition of human remains donated pursuant to the Revised Uniform Anatomical Gift Act

(a) The provisions of this section shall apply to the operation, maintenance and use of mortuaries by licensed practitioners of mortuary science for the benefit of anatomical associations of medical schools established and operated by the State of New Jersey, which association is the vehicle for the acceptance and disposition of human remains donated pursuant to the Revised Uniform Anatomical Gift Act, N.J.S.A. 26:6-77 et seq., for the purpose of medical research and education.

(b)-(e) (No change.)

SUBCHAPTER 2. INTERNS

13:36-2.1 Qualification for intern registration

(a) The following words and terms, when used in this section, have the following meaning, unless the context clearly indicates otherwise:

1. "Preceptor" means a practitioner of mortuary science who satisfies the requirements of N.J.A.C. 13:36-2.7 and who is responsible for the supervision of an intern during the intern's practical training period.

2.-4. (No change.)

(b) (No change.)

(c) An intern who is registered while concurrently attending college to complete the two-year or three-year academic educational licensure requirement shall:

1. Attend college until the requirement is met;

2. Achieve a minimum of eight degree program credits per academic term with a minimum cumulative average of 2.0 or its academic equivalent throughout the concurrent registration program. A person who receives less than a 2.0 cumulative average, carries less than the minimum of eight degree program credits at any time during the academic term, or who takes more than one remedial or basic course per academic term shall have his or her internship terminated unless good cause is established for the continuation of the internship. The intern shall submit a written request to the Board, which shall establish good cause for extension of his or her internship;

[page=3373] 3. Have an official transcript of credits forwarded directly to the Board by the institution being attended immediately at the completion of every academic term; and

4. (No change.)

(d)-(f) (No change.)

13:36-2.2 Request for application

An application for intern registration shall be requested, in writing, by the prospective intern's preceptor. Upon receipt of the request, an application shall be issued. The application shall be executed by the preceptor and intern and certified in affidavit form, and returned to the Board office immediately. A completed application form shall contain information concerning the prospective intern's educational background, the name and address of the registered mortuary where the prospective intern will be registered and the name and license number of the preceptor. An applicant shall report any changes in this information to the Board within five days. A prospective intern shall also submit two passport-size photographs with his or her application for registration.

13:36-2.7 Requirements for employment of interns

No practitioner of mortuary science shall engage an intern unless, prior to such engagement, the practitioner holds an active New Jersey license for at least two years and the practitioner's case volume during the previous calendar year is a minimum of 25 cases, which shall not include stillbirths.

13:36-2.8 Absence from training

If for any reason it becomes necessary for an intern to absent himself or herself during his or her internship for a period longer than 30 days, the intern shall submit to the Board in letter form the reason for his or her absence and the length of time he or she intends to be away. Such written notification shall be provided to the Board with five days of the absence.

13:36-2.11 Affidavit recommendation form

(a) Upon termination or completion of an internship, or change in registered mortuaries by an intern, an affidavit recommendation form shall be filed with the Board within five days of such action. Any preceptor who refuses to certify any intern for the internship served under his or her supervision shall furnish the Board with a statement under oath setting forth the reasons for such refusal. If not satisfied with such statement, the Board may take such action as it may deem proper.

(b) (No change.)

13:36-2.14 Preceptors' responsibility for training

(a) The preceptor shall ensure that interns are thoroughly trained in the theory and practice of mortuary science, and the laws, rules and regulations pertaining thereto, and are proficient in the following areas:

1.-2. (No change.)

3. Ordering and pricing funeral merchandise, including facilitating the arrangement of flowers, arranging for and coordinating a schedule for the clergy, ***celebrant,*** church, synagogue, mosque, crematory*,* or cemetery, livery, pallbearers, visitation of various organizations, transportation by common carrier*,* and delivery of outer enclosures to the cemetery; and

4. (No change.)

SUBCHAPTER 3. EXAMINATIONS AND CANDIDATE QUALIFICATIONS

13:36-3.1 Qualifications for licensure

(a) In order to be eligible for licensure, a candidate first shall submit to the Board the following:

1.-3. (No change.)

4. A certificate from a preceptor in this State, which shows that the candidate has served a one-year or two-year period of practical training as an intern under the preceptor, pursuant to the provisions of N.J.S.A. 45:7-49(a)(2) and the requirements of N.J.A.C. 13:36-2;

5.-8. (No change.)

13:36-3.9 Failure to complete application process

If a candidate for licensure fails to complete the application process within 18 months of the date of initial application, the Board shall administratively close the application. Following such action, an applicant making reapplication to the Board shall resubmit all required documentation and the applicable application fee set forth at N.J.A.C. 13:36-1.6.

SUBCHAPTER 4. LICENSE AND REGISTRATION GENERALLY

13:36-4.1 License and certificate of registration renewals; suspension; reinstatement

(a)-(c) (No change.)

(d) A licensee seeking reinstatement within five years following the suspension of a license pursuant to (a) above shall submit the following to the Board:

1.-2. (No change.)

3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6;

4. Payment of any outstanding penalties and evidence of satisfaction of other requirements imposed by an order of the Board; and

5. (No change in text.)

(e) A licensee seeking reinstatement more than five years following the suspension of a license pursuant to (a) above shall:

1.-5. (No change.)

6. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6;

7. Submit payment of any outstanding penalties and evidence of satisfaction of other requirements imposed by an order of the Board; and

8. (No change in text.)

(f) An owner seeking reinstatement following the suspension of a certificate of registration pursuant to (a) above shall:

1. (No change.)

2. Submit payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6;

3. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6; and

4. Submit payment of any outstanding penalties and evidence of satisfaction of other requirements imposed by an order of the Board.

13:36-4.4 New installations

(a)-(b) (No change.)

(c) When the new installation inspection is made, temporary approval may be granted to operate until a certificate of registration is received provided the mortuary satisfies all applicable requirements set forth in this chapter and the provisions of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq.

13:36-4.6 Registration of mortuary

(a) Applications for registration of a funeral establishment to be operated by a corporation, a partnership, a limited liability partnership, a limited liability company or other business entity shall be accompanied by the fee provided in N.J.A.C. 13:36-1.6 and by:

1.-3. (No change.)

4. In the case of corporations, an original certificate of good standing from the State of New Jersey;

5.-6. (No change.)

(b) (No change.)

13:36-4.8 Full-time licensed manager; termination; resignation; licensee in charge

(a) Every establishment authorized to carry on the practice of mortuary science shall be under the direct supervision of

a full-time licensed manager.

(b) (No change.)

(c) Whenever the manager is terminated or resigns, the owner of the registered mortuary shall retain the services of a licensed practitioner of mortuary science who shall be responsible for directing, managing and controlling all work performed by the establishment until such time as the manager is permanently replaced by another manager. That licensee shall be known as the licensee in charge. The owner of the mortuary shall notify the Board, in writing, within five business days of the termination or resignation, of the name and license number of the licensee in charge.

(d) Whenever the manager is terminated or resigns, the owner and the manager or licensee in charge shall provide the new manager with the records of prepaid funeral agreements required to be maintained pursuant to N.J.A.C. 13:36-11.16 no later than 10 days prior to such change, or as [page=3374] soon thereafter as mutually agreed upon by the parties. The owner and the manager or the licensee in charge shall notify the Board of compliance with this subsection at the same time that he or she files the notice of change in manager with the Board.

(e) Except as set forth in (f) below, the licensee in charge shall, within 30 days of the previous manager's termination or resignation, give notice to the Board of the name of the newly designated manager and, at that time, the newly designated manager shall submit to the Board the following:

1.-3. (No change.)

(f) The licensee in charge may, within 30 days of previous manager's termination or resignation, submit to the Board documented evidence of hardship or extenuating circumstance. The Board, if it deems such evidence acceptable, may grant the registered mortuary an extension of time up to, but not exceeding, six months after the termination or resignation of the former manager in which to secure the services of a new manager.

13:36-4.11 Trade names

(a)-(b) (No change.)

(c) The firm operating under a trade name shall forward to the Board the name of the full-time manager in charge. The manager shall also forward to the Board an affidavit stating he or she accepts said position.

(d) (No change.)

13:36-4.14 Active or inactive status; unauthorized practice as professional misconduct

(a)-(b) (No change.)

(c) A licensee who elects inactive paid or inactive unpaid status shall remain inactive for the entire biennial period unless the Board permits the inactive licensee to return to active status upon submission of evidence to the Board of having completed the continuing education requirements set forth at N.J.A.C. 13:36-10.11(b) and upon submission of a renewal application and the renewal fee for the current biennial registration period as set forth in N.J.A.C. 13:36-1.6. The renewal application shall include an affidavit of employment listing each job held during the period of inactive licensure, including the names, addresses and telephone numbers of each employer.

(d)-(e) (No change.)

SUBCHAPTER 5. MORTUARIES

13:36-5.1 Disclosure of manager name; posting of manager license

(a) The name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main

entrance of the funeral establishment or on the firm sign, provided, however, that at the option of the firm, the term "senior director" or "executive director" may be substituted for "manager." The firm shall utilize one term only to refer to the manager and such designated term shall be used consistently on all firm communications consistent with the requirements of (b) below. The sign shall contain legible letters that are no less than 1 1/2 inches in height.

(b) The name and license number of the manager shall appear with the designated title "manager," "senior director" or "executive director" on all stationery, billheads, advertising, price lists and in all other instances where the firm name is used, consistent with the requirements of N.J.A.C. 13:36-5.12.

(c) The license of the manager shall be conspicuously displayed in the registered mortuary as required pursuant to N.J.S.A. 45:7-61. If a licensee is retained as the manager of more than one registered mortuary, the licensee shall obtain a duplicate license for posting in such other establishments from the Board upon payment of the duplicate license fee provided in N.J.A.C. 13:36-1.6. The requirement to obtain a duplicate license shall not apply in the case of a licensee employed by multiple funeral establishments operating in the same location pursuant to N.J.A.C. 13:36-5.9.

(d) The designation of a licensee by a registered mortuary as the firm's "manager," "senior director" or "executive director," as provided in (a) above, shall preclude the use of any of those terms by any other licensee employed by the registered mortuary.

13:36-5.12 Advertising

(a)-(j) (No change.)

(k) An advertisement may include the name of an inactive licensee as defined in N.J.A.C. 13:36-4.14 provided that the inactive licensee is not held out as the manager, and provided the inactive licensee does not use any title or designation that implies that he or she holds an active license from the Board. Inactive licensees shall use titles or designations that contain the word inactive.

(l) (No change.)

13:36-5.16 Notice of absence from practice

(a) When the manager of an establishment is absent from practice for a period in excess of 30 days, the manager and the owner of the registered mortuary shall separately notify the Board in writing within five days of such absence. The written notice shall also include the name of the licensed employee who will be designated the licensee in charge, consistent with the provisions of N.J.A.C. 13:36-4.8. In the case of a manager who is also the owner of the registered mortuary, a single written notification shall be submitted to the Board that clearly indicates that the individual holds both positions.

(b) The designated licensee in charge retained by the owner of the registered mortuary pursuant to (a) above shall notify the Board in writing of his or her acceptance of the position within five days of such action.

SUBCHAPTER 8. GENERAL RULES OF PRACTICE

13:36-8.9 Funeral arrangements or quotation of funeral prices

(a) (No change.)

(b) Only a duly licensed practitioner of mortuary science or an intern shall quote prices to a consumer in connection with any funeral services and/or goods when funeral arrangements are being made. Nothing contained in this section shall preclude quotation of prices by a licensed practitioner of mortuary science or an intern when funeral arrangements are not being made.

13:36-8.11 Multiple burials

(a) (No change.)

(b) For the purposes of this section, the only persons who may authorize a licensee to perform a multiple burial are limited to the following:

1. The decedent or a person appointed by the decedent in a will to control the funeral and disposition of the decedent's remains or as provided in N.J.S.A. 45:27-22;

2. A relative or relatives of the decedent in the order of:

i. Surviving spouse of the decedent, the surviving domestic partner, as defined in N.J.S.A. 26:8A-3 or the surviving civil union partner, consistent with N.J.S.A. 37:1-28;

ii.-v. (No change.)

3.-5. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 9. PREVENTION OF UNFAIR OR DECEPTIVE ACTS AND PRACTICES

13:36-9.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Direct cremation" means a disposition of human remains by cremation, with or without embalming, without formal viewing, visitation or ceremony with the body present, conducted by a licensee under the direction of a registered mortuary.

...

"Funeral services" means any services conducted by a licensee under the direction of a registered mortuary that may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition and to arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

"Immediate burial" means a disposition of human remains by burial, with or without embalming, without formal viewing, visitation or [page=3375] ceremony with the body present, except for a graveside service, conducted by a licensee under the direction of a registered mortuary.

...

13:36-9.10 Casket for cremation provisions

(a) In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

1. Represent that State or local law requires a casket for direct cremations; and

2. Represent that a casket (other than an unfinished wood box or alternative container) is required for direct cremations.

(b) (No change.)

13:36-9.15 Required purchase of caskets for direct cremations

(a) In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to require that a casket other than an unfinished wood box or alternative container be purchased for direct cremation.

(b) (No change.)

SUBCHAPTER 10. CONTINUING EDUCATION

13:36-10.3 Minimum credit hours for biennial license renewal

(a) Each applicant for biennial license renewal shall complete a minimum of 10 credit hours of continuing education during every biennial licensing period, consistent with the requirements of (b) and (c) below.

(b) A licensee shall obtain 10 credit hours of continuing education in courses or programs approved by the Board, consistent with the following requirements:

1. A licensee shall obtain at least two credit hours in each biennial licensing period in **[pre-need]* **preneed*** funeral arrangements. The two credit hours shall require in-person attendance and shall include a post-course or program examination;

2. A licensee shall obtain at least three credit hours in each biennial licensing period in funeral directing ethics and in New Jersey law and rules relating to the practice of mortuary science. The three credit hours shall require in-person attendance and shall include a post-course or program examination;

3. A licensee may obtain no more than three credit hours in each biennial licensing period in courses or programs dealing with funeral merchandizing, such as caskets, outer burial containers and clothing. A licensee shall not receive any continuing education credit for viewing exhibits at professional and/or technical meetings and conferences;

4. A licensee shall complete a course or program in applicable Occupational Safety and Health Administration (OSHA) laws and regulations in each biennial licensing period, but may not obtain more than three credit hours in such courses or programs in each biennial licensing period; and

5. A licensee may receive continuing education credit for a course or program one time only per biennial licensing period.

(c) Licensees shall not be permitted to carry over continuing education credit hours into a succeeding biennial licensure period.

13:36-10.8 Presumptive approval and list of approved courses

(a) The Board shall grant credit for successful completion of the following, provided that the course or program meets the criteria of N.J.A.C. 13:36-10.7 and that any other source of credit directly and materially relates to the practice of mortuary science:

1.-4. (No change.)

5. Teaching or instruction of a new course or program as set forth in (a)1, 2 and 4 above. For purposes of this section, "new" means a course or program that the licensee has never taught before in an educational or practical setting. A licensee may obtain no more than three credits per biennial licensing period for teaching or instruction activities; and

6. (No change.)

(b) The Board may presumptively approve continuing education courses or programs that are accredited by any nationally-recognized association or entity whose primary function is to accredit continuing education courses or seminars regarding the practice of mortuary science anywhere in the United States.

(c) The Board shall maintain a list of courses currently approved pursuant to N.J.A.C. 13:36-10.6 and 10.7 and (b) above. This list shall be made available by the Executive Director to any licensee upon request.

13:36-10.9 Approval of course offerings; provider responsibilities

(a) A continuing education provider may receive approval for a continuing education course or program pursuant to the provisions of N.J.A.C. 13:36-10.7. For purposes of this section, the "continuing education provider" means the person or entity that determines the time, date, location and speaker for a course or program. Board approval of a continuing education course or program shall be valid only for the biennial licensing period in which approval was obtained. The provider may apply for Board approval either prior to or no more than 60 days following the offering of a course or program.

(b) A licensee seeking to take a course or program, which the provider has not had pre-approved by the Board may apply to the Board for pre-approval or post-approval of the course or program offering no more than 60 days following the course or program offering. The licensee shall submit information similar to that which is required to be supplied by course providers pursuant to N.J.A.C. 13:36-10.7.

(c) (No change.)

(d) A continuing education provider shall submit to the Board, in writing, any changes in course content, hours of instruction and/or lecturer for an approved course or program for review and re-approval by the Board. A continuing education provider shall notify the Board, in writing, of any changes in course date, time and location for an approved course or program.

(e) A continuing education provider shall maintain all records relating to approved courses or programs for two biennial licensing periods and shall provide such documentation to the Board upon request.

(f) A continuing education provider shall issue certificates of completion or other comparable documentation to course or program attendees. Such certificates or documentation shall be printed with the following information:

1. Title of the course or program;

2. Date attended and location;

3. Credit hours earned;

4. Name of the provider; and

5. Name of the instructor or speaker.

SUBCHAPTER 11. PREPAID FUNERAL AGREEMENTS AND ARRANGEMENTS

13:36-11.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Deliver" or "delivery" means the conveyance of actual control and possession of prepaid funeral goods that have been permanently relinquished by a provider, or other person, firm or corporation, or an agent thereof, to the purchaser, as defined in this section, or person paying the moneys, or personal representative of the intended funeral recipient. Delivery has not been made if the provider, or other person, firm or corporation, or an agent thereof:

1.-2. (No change.)

"Funeral arrangements" means funeral and burial plans made through a provider, as defined in this section, including the selection of plans for the furnishing of funeral goods and services pursuant to a completed plan of bodily disposition and the act of offering the opportunity to purchase or to enroll in a prepaid funeral agreement by the mortuary.

...

"Preneed funeral arrangements" means funeral arrangements made by a provider, as defined in this section, with an intended funeral recipient or his or her guardian, agent or next of kin, for the funeral of the intended funeral recipient.

...

[page=3376] 13:36-11.2 License and registration required; Statement of Funeral Goods and Services Selected and preneed arrangement required; price lists; compliance with at need laws

(a)-(c) (No change.)

(d) No provider shall offer, enter into or offer to enter into a prepaid funeral arrangement, whether funded by a funeral trust or funeral insurance policy, unless at the time of said transaction the provider furnishes the purchaser with:

1. (No change.)

2. A separate Statement of Funeral Goods and Services Selected for the intended funeral recipient describing and itemizing the prepaid funeral goods and services agreed upon, completed and signed in accordance with N.J.A.C. 13:36-1.9, whether or not the prepaid funeral agreement itself itemizes the funeral goods and services to be furnished at the time of need. A separate Statement of Funeral Goods and Services Selected shall also be completed and signed in accordance with N.J.A.C. 13:36-1.9 when at need funeral arrangements are made for the intended funeral recipient of the preneed funeral arrangement and when a revocable prepaid funeral agreement becomes an irrevocable funeral agreement and changes to the agreement are necessary to ensure compliance with the requirements of N.J.A.C. 13:36-11.6; and

3. (No change.)

(e)-(f) (No change.)

13:36-11.3 Contents of a *[revocable]* prepaid funeral agreement

(a) Every prepaid funeral agreement shall be signed by the provider, the purchaser or the intended funeral recipient or the intended funeral recipient's guardian, agent or next of kin, shall be in writing and, together with the requisite separate Statement of Funeral Goods and Services Selected required pursuant to N.J.A.C. 13:36-11.2, shall be provided to the purchaser at the time of entering into a prepaid funeral agreement. Every written prepaid funeral agreement shall, at a minimum, include the following information:

1.-7. (No change.)

8. Notice that a prepaid funeral agreement may be funded by an irrevocable trust or irrevocable funeral insurance policy, consistent with the requirements of N.J.A.C. 13:36-11.6, when the intended funeral recipient is an aged, blind or disabled applicant for, or recipient of, the public assistance programs provided for by N.J.S.A. 44:7-85 et seq., or is a similarly situated individual who reasonably anticipates applying for such assistance within six months from the execution of the prepaid funeral agreement;

9. Notice that a prepaid funeral agreement funded by an irrevocable trust or an irrevocable funeral insurance policy, as provided in N.J.A.C. 13:36-11.6, shall be nonrefundable during the lifetime of the intended funeral recipient;

10.-12. (No change.)

13. Notice that upon the death of the intended funeral recipient, the provider shall calculate the current retail prices of the prepaid funeral arrangements, and:

i. (No change.)

ii. In the case of any agreement funded through a revocable funeral trust, all surplus funds shall be paid to the purchaser, if alive, and if not, then to the personal representative of the estate of the deceased purchaser;

iii. (No change.)

14.-15. (No change.)

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