

51 N.J.R. 880 (b)

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RULE ADOPTIONS

Reporter

51 N.J.R. 880 (b)

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ADOPTIONS > LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF
MORTUARY SCIENCE

Administrative Code Citation

Readoption with Amendments: N.J.A.C. 13:36

Adopted Repeal and New Rule: N.J.A.C. 13:36-4.1

Adopted New Rules: N.J.A.C. 13:36-2.13, 4.1A, 4.1B, 4.6A, and 4.17

Adopted Repeals: N.J.A.C. 13:36-4.14 and 10.11

Text

Board of Mortuary Science Rules

Proposed: October 15, 2018, at 50 N.J.R. 2122(a).

Adopted: February 5, 2019, by the Board of Mortuary Science, Charles F.
Bechtold, President.

Filed: April 29, 2019, as R.2019 d.051, **with non-substantial 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: April 29, 2019, Readoption;

June 3, 2019, Amendments, Repeals, and New Rules.

Delayed Operative Date: December 3, 2019, as to N.J.A.C. 13:36-1.9 and 9.7.

Expiration Date: April 29, 2026.

Summary of Public Comments and Agency Responses:

The official comment period ended December 14, 2018. The Board of Mortuary Science (Board) received comments from:

1. Preston Gibson, Chief Executive Officer, Seawave Corporation, Cape May County Herald/Seawave Digital;
2. Thomas J. Cafferty, Director, Gibbons, P.C., on behalf of the New Jersey Press Association; and
3. Althea D. Ford, Director of Government Relations, New Jersey State Funeral Directors Association, Inc.

1. COMMENT: One commenter expressed support for the Board's proposed amendments to the following regulations:

* N.J.A.C. 13:36-1.6 to remove the fee for the Board's provision of a copy of its rules and regulations and eliminate the "inactive paid" licensure status category.

* N.J.A.C. 13:36-1.8 to clarify the record retention requirements of a mortuary in the event of a closure or bankruptcy.

* N.J.A.C. 13:36-1.10 to replace an outdated regulatory citation.

* N.J.A.C. 13:36-2.2 to rename the regulation "Intern registration application" and to permit online access to the intern registration form.

* N.J.A.C. 13:36-2.5 to correct a grammatical error.

* N.J.A.C. 13:36-2.7 to rename the regulation "Preceptor requirements" and outline the eligibility requirements of a preceptor.

* N.J.A.C. 13:36-2.8 to correct a grammatical error.

* N.J.A.C. 13:36-4.12 to clarify that a copy of the Preneed Ledger maintained pursuant to N.J.A.C. 13:36-11.16 must be furnished to the Board within 10 days of the sole proprietor's death.

* N.J.A.C. 13:36-4.17 to require licensees to notify the Board upon conviction of a crime and certain arrests.

* N.J.A.C. 13:36-5.18 to clarify the professional responsibility provisions of a registered mortuary.

* N.J.A.C. 13:36-5.21 to remove the requirement that ownership disclosure information be published on casket price lists and outer burial container price lists.

* N.J.A.C. 13:36-6.2 to correct a grammatical error.

* N.J.A.C. 13:36-8.7 to include the statutory citation N.J.S.A. 45:27-22.

* N.J.A.C. 13:36-8.8 to include the statutory citation N.J.S.A. 45:27-22.

* N.J.A.C. 13:36-8.11 to correct a grammatical reference.

* N.J.A.C. 13:36-9.1 to correct a grammatical error.

[page=881] * N.J.A.C. 13:36-9.4 to clarify who can provide funeral pricing information to consumers.

* N.J.A.C. 13:36-9.5 to remove the requirement to publish the ownership disclosure statement on the casket price list.

* N.J.A.C. 13:36-9.6 to remove the requirement to publish the ownership disclosure statement on the outer burial container price list.

* N.J.A.C. 13:36-9.9, 9.10, and 9.11 to correct regulatory citations.

* N.J.A.C. 13:36-9.17 to rename the regulation "Embalming provided without prior approval."

* N.J.A.C. 13:36-9.18 to update the regulatory citation concerning the retention requirement for the Statement of Funeral Goods and Selected Services (SFGSS).

* N.J.A.C. 13:36-10.9 to clarify record retention expectations of continuing education providers.

* N.J.A.C. 13:36-10.11 to repeal and recodify the continuing education expectations for license reactivation into new N.J.A.C. 13:36-4.1A.

* N.J.A.C. 13:36-11.3 to update the statutory citation to N.J.S.A. 45:27-22.

* N.J.A.C. 13:36-11.7 to correct a grammatical error.

* N.J.A.C. 13:36-11.10 to clarify that the provision of periodic statements to a purchaser does not include furnishing the complete Preneed Ledger.

* N.J.A.C. 13:36-11.13 to align the regulation with State law regarding the revocation of a prepaid funeral agreement and to update a statutory reference.

* N.J.A.C. 13:36-11.16 to remove dated language regarding the establishment of the Preneed Ledger.

* N.J.A.C. 13:36-11.17 to clarify the conditions by which a copy of the Preneed Ledger must be furnished to the Board in the case of bankruptcy.

RESPONSE: The Board thanks the commenter for its support.

2. COMMENT: One commenter expressed support for the Board's amendment to N.J.A.C. 13:36-11.6(d) to correct a grammatical error.

RESPONSE: The Board thanks the commenter for its support.

3. COMMENT: One commenter expressed support for the Board's amendment to N.J.A.C. 13:36-11.6(e) to require funeral providers to notify the appropriate social services agency if, at the time of need, the personal representative or estate of a funeral recipient or beneficiary of a funeral insurance policy, if known, receives a refund from an irrevocable prepaid funeral agreement regardless of the amount refunded. The commenter believes that such notifications will be rare as the number of active irrevocable prepaid funeral agreements established prior to the enactment of New Jersey's Asset Recovery Law (N.J.S.A. 2A:102-20 et seq.) diminish.

RESPONSE: The Board thanks the commenter for its support.

4. COMMENT: Two commenters expressed concerns with the Board's proposed change to replace the term "Newspaper notices" with "Obituary charges," and with the placement of this item in the Cash Disbursement category. One of the commenters stated that the change in terminology would diminish the standing of newspapers as a presumed and a more enduring means of publicly commemorating the deceased. Another commenter disagreed with the Board that the use of the term "obituary charges" broadens the item to encompass both print and online obituary notices. The commenters requested that the Board amend and expand the term to "Newspaper notices and other obituary charges."

In addition, the commenters recommended placing the line item for "Newspaper notices and other obituary charges" in the Merchandise Category, instead of the Cash Category, of the Statement of Funeral Goods and Selected Services. The commenters' understand that by moving this line item to the Merchandise Category, this will allow a funeral home and entities carrying obituary notices to charge the price they deem appropriate for the services provided. The commenters further stated that by leaving it as a line item under the Cash Category, it would be considered a cash advance and, therefore, a funeral home would be unable to make a profit on obituary notices.

RESPONSE: The Board proposed replacing "newspaper notice" with "obituary charges" to recognize that such notices can appear in

different medium, both print and online, and notes many newspapers have an online presence. Moreover, the Board disagrees with the commenters that replacing the words "newspaper notices" with the broader term "obituary charges" on funeral homes' Statements of Funeral Goods and Services will impact the public perception of newspapers and declines to change and expand the term to "Newspaper notices and other obituary charges."

With respect to the placement of obituary charges on the SFGSS, because third-parties establish the costs for the placement of an obituary notice, the Board believes that charges are appropriately classified in the Category V Cash Disbursement. The Board also notes that if the licensed practitioner is providing a professional service by writing and/or editing the obituary notice, this service may be categorized as a Category I Professional Service.

5. COMMENT: One commenter expressed support for the Board's rulemaking to include a disclosure on the Statement of Funeral Goods and Services Selected (SFGSS) instructing consumers selecting an Optional Packaged Service to view the General Price List (GPL) for a list of included services. Although the commenter expressed support for the Board's attempt to amend the minimally required information to be captured on the SFGSS, the commenter believes that further amendments should be made.

The commenter recommended that the Board replace the term "deceased" with "decedent" in Section (a)(2), Section (c), and on the chapter Appendix A, for grammatical purposes.

The commenter recommended the removal of language in N.J.A.C. 13:36-1.9(d) that permits funeral homes to exclude the Optional Packaged Services on the SFGSS if they do not offer the services of Direct Cremation, Immediate Burial, Forwarding of Remains, and/or Receiving of Remains for sale. The commenter believes that this language conflicts with the guidance published by Federal Trade Commission (FTC) Funeral Rule staff regarding the relationship between Optional Packaged Services and non-mandated funeral packages. The commenter stated that the FTC defines Direct Cremation, Immediate Burial, Forwarding of Remains, and Receiving of Remains as four of the 16 specific goods and services items that are required to be listed on the GPL, and further stipulates that the required items only need to be listed on the GPL if offered for sale (16 CFR 453.2). The commenter also stated that funeral providers are also permitted to, and routinely offer, non-mandated funeral packages to consumers. The commenter stated that, should a provider offer a non-mandated package, FTC Funeral Rule compliance staff have opined that providers "must offer any packaged funerals in addition to and not in place of the required itemized prices," which

includes the four Optional Packaged Services (FTC Compliance Guide, p. 7-8, emphasis added).

The commenter supported the Board's amendment to replace the term "package reduction" with "price reduction." The commenter, however, recommended that the inclusion of this line item on the SFGSS be optional. The commenter believes that the decision to offer a price reduction on any good or service or package of goods and services is a business decision that can be made under a myriad of circumstances and, as a result, a funeral home should not be required to pre-print this line item on the SFGSS. The commenter also averred that, although the proposed language reads "Price reduction (if applicable)," its pre-printed inclusion on the SFGSS codified in chapter Appendix A gives the impression that consumers are entitled to be provided such reductions, when this may not be the case. The commenter believes that, should a registered mortuary offer a price reduction to the consumer at the time of arrangements, it should be required to disclose the price reduction being offered on the SFGSS.

In addition, the commenter believes that the change to eliminate the current prohibition on including Category I through III items when a consumer selects an Optional Packaged Service has the potential to destabilize the reliability of price quotations for Optional Packaged Services. The commenter expressed concern that the change will further contribute to the confusion of the regulated community as it relates to its comprehension of what the Board intends with its rules regarding itemization. The commenter stated that the FTC Funeral Rule requires that the four Optional Packaged Services (Immediate Burial, Direct Cremation, Forwarding of Remains, Receiving of Remains) are required to be itemized on the GPL and are to be stated together with "a list of the services provided for any quoted price" (in the case of Forwarding and Receiving of Remains) or "a description of the services and container [page=882] (where applicable), included in each [that] price" (in the case of Direct Cremation and Immediate Burial). The commenter also stated that, because these four packages are among the 16 items of goods and services that must be presented to the consumer on the GPL, they are permitted to be recorded on the SFGSS as a single line item purchase and the practitioner does not need to itemize the Optional Packaged Services, as is required with other, non-mandated packages (See FTC Funeral Rule Staff Opinion 07-06). The commenter believes that the current Board rule provides that, if one of the mandated Optional Packaged Services is selected, then the funeral home is not permitted to "tack on" selections from Categories I through III, which are, respectively, Professional Services, Other Staff and Related Services, and Transportation. The commenter noted that the original reasoning for this was to maintain consistency around itemization; for example, goods

and services selected are to be fully itemized except for these four exceptions. The commenter believes that the current Board rulemaking will allow for a hybrid method of price quotation and, under this method, one of the Optional Packaged Services can be selected in combination with other itemized choices. The commenter stated that, on its face, this seems a convenient way for funeral directors to price and quote around an Optional Packaged Service like Direct Cremation, by simply adding on a selection like a Memorial Service. The commenter, however, expressed concerns.

Specifically, the commenter believes that the rulemaking creates the opportunity for funeral directors to manipulate the content of an Optional Packaged Service in a way that could induce families to select their firm (because of their low price), and to then lead families into making other significant add on selections because they are not included in the Optional Packaged Service the family selected. The commenter noted that the FTC Funeral Rule at 16 CFR Part 453 does not specify what must be included in the price quotation for an Optional Packaged Service; only that the list of services must be defined on the GPL. The commenter believes that the Board's rulemaking has the potential to foster abusive practices. In addition, the commenter stated that allowing this hybrid price quotation method runs the risk of causing funeral homes to either unintentionally violate the FTC Funeral Rule by adding back services that are already included in the quoted package, or intentionally misleading consumers by the deliberate adding back of services by a funeral home. The commenter also believes that by blurring the lines between full itemization and the exception that the Funeral Rule makes for the four Optional Packaged Services, the rule change is likely to foster more non-compliant activities. The commenter would expect to see more funeral homes recording the sale of other packages of goods and services (not just the four mandated Optional Packaged Services) as single line items on the SFGSS, rather than providing for the required full itemization. The commenter also believes that the rulemaking undermines the historical emphasis of the Division of Consumer Affairs towards full and complete itemization as the best strategy for maximum consumer protection.

RESPONSE: The Board agrees with the commenter's suggestion to change the term "deceased" with "decedent" at N.J.A.C. 13:36-1.9(a)2 and 1.9(c).

The Board also agrees with the commenter that the inclusion of "price reduction" on the SFGSS should be optional and that if it is offered, its placement on the SFGSS should be standardized. Accordingly, upon adoption the Board proposes to change N.J.A.C. 13:36-1.9(c) to remove the "PRICE REDUCTION (If applicable)" line immediately preceding "GRAND TOTAL OF ESTIMATED CHARGES." In addition, the Board proposes changing

subsection (d) to specify that if a price reduction is offered, it must be reflected on the SFGSS and appear in the same location where it was proposed.

The Board declines to remove the language at N.J.A.C. 13:36-1.9(d) that permits funeral homes to exclude the Optional Packaged Services on the SFGSS if they do not offer the services of Direct Cremation, Immediate Burial, Forwarding of Remains, and/or Receiving of Remains for sale. The Board believes that its proposed amendments are in compliance with the Federal Trade Commission Funeral Rule and that allowing mortuaries to remove language concerning services that are not offered provides clarity to consumers. The Board disagrees that its proposed rule language will foster more non-compliance with its rules.

6. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-1.9(d) to permit practitioners to include only the actual third-party cost of cremation and necessary permits in the Direct Cremation Optional Packaged Service price.

The commenter stated that, when initially proposed in 2010, the Board commented that the language prohibiting the inclusion of any Category V cash disbursements in any Optional Packaged Service was to promote itemization and "ensure that these charges, which are paid by the funeral provider to a third party on behalf of the purchaser, are accurately reflected on the SFGSS, so that consumers may readily see and understand such charges" (see 42 N.J.R. 2732(a)). The commenter believes that the exclusion of such charges, specifically in the Direct Cremation Optional Packaged Service, has diminished the distribution of reliable information on prices and services. The commenter stated that although previously (prior to 2011) a funeral home could give a price quote for Direct Cremation that included the price of cremation itself (a Category V cash disbursement item)--thus, giving an inquiring consumer a dependable price that aligned with their expectations of what a price quotation for Direct Cremation means--that unitary price quotation is no longer possible. The commenter believes that the Board's current rule creates confusion amongst consumers who inquire about the cost of a direct cremation only to be informed that the funeral home's quote for direct cremation does not (and is prohibited to) include the actual cost of the cremation. The commenter stated that recognizing that funeral homes cannot dictate third-party charges, it understands that the decision to include such charges in the Direct Cremation Package price is a business decision. The commenter, therefore, encouraged the Board's adoption of the proposed language, which would permit funeral homes to either include the actual crematory and permit costs in the Direct Cremation Package or disclose that their quoted Direct Cremation Package does not include these items. The commenter believes that the amendment to permit funeral homes to

include the actual cost of cremation and necessary permits in the Direct Cremation Optional Packaged Service will mutually align the Board and funeral industry's concern for transparency and accurate pricing information to consumers regarding direct cremations.

The commenter recommended amending N.J.A.C. 13:36-1.9(d) as follows (additions in bold; deletions in brackets):

"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.] **If a price reduction is offered, a practitioner shall disclose such reduction on the Statement of Funeral Goods and Services Selected.** A practitioner may [shall not] include **only the actual** [any charges for] Category V cash disbursements **detailing the cost of cremation and necessary permits in the Direct Cremation** [any] Optional Packaged Service[s].

RESPONSE: The Board declines to change N.J.A.C. 13:36-1.9(d) as the commenter suggested. The charges assessed by a crematory vary and are not within the control of the mortuary. Accordingly, such charges must be treated as a Category V cash disbursement. The Board believes that including such charges in the Direct Cremation Optional Packaged Service would be misleading and inaccurate because the costs charged by a crematory vary based upon different factors, including the decedent's size.

7. COMMENT: One commenter expressed concerns with the Appendix at N.J.A.C. 13:36. The commenter stated that, although the proposed amendments to N.J.A.C. 13:36-1.9(g) suggest the Board's support of a more fluid document, the commenter is concerned that a continued reference to Appendix A will create a scenario where inspectors and other investigatory agents will demand the regulated version as formatted in Appendix A and assess penalties to firms that do not execute a SFGSS as conceptualized in Appendix A. The commenter noted that this concern is realized by the Board's proposed text to mandate that, should a provider not use Appendix A, "the practitioner must use a Statement of [page=883] Funeral Goods and Services Selected that ... follows the same basic format as the chapter Appendix A."

RESPONSE: The Board declines to remove Appendix A. The Board believes that its proposed amendments to the SFGSS consistent format is necessary to enforce a standard of practice and allow funeral homes greater flexibility in tailoring their business to meet consumer needs. Moreover, the Board notes that during inspections, inspectors note their observations, which are submitted to the Board to determine whether the SFGSS conforms to the Board's rules and, if not, what remedies are appropriate.

8. COMMENT: One commenter requested that the Board delay implementation of the amendments to N.J.A.C. 13:36-1.9 for six months from the date of the rule adoption. The commenter stated that, to the extent that registered mortuaries pre-print the SFGSS and GPL, the paperwork will need to be amended and preprinted for distribution. The commenter also stated that, for those that take advantage of software that require the revision of data-mapping functions to populate the forms from dynamic databases, these firms have to execute programming changes that reflect the Board's rule changes. The commenter noted that such changes are generally processed through vendors and have a charge associated with them. In addition, the commenter noted that, due to an estimated minimum out-of-pocket compliance cost for this rule of between \$ 155,000 and \$ 250,000, not including labor and overhead, the Board should delay implementation for at least six months so that firms may deplete current inventory.

RESPONSE: The Board is delaying the operative date of the amendments to N.J.A.C. 13:36-1.9 for six months from the effective date of the rulemaking to provide licensees and registered mortuaries with time to implement the changes to the SFGSS and deplete current inventory. The Board also proposes to delay the operative date of the amendments to the GPL at N.J.A.C. 13:36-9.7 because the proposed amendments to N.J.A.C. 13:36-1.9 and 9.7 are inextricably linked.

9. COMMENT: One commenter recommended that the Board amend proposed new N.J.A.C. 13:36-2.13(a)5 to state that an intern may make funeral arrangements on behalf of his or her preceptor, provided the preceptor reviews and executes the SFGSS prior to the consumer executing such arrangements. The commenter noted that, although interns are required to assist in the arranging of at least 25 funerals pursuant to N.J.A.C. 13:36-2.3, Board regulations require the SFGSS to be signed by a licensed practitioner on behalf of a registered mortuary. The commenter believes that this amendment provides necessary clarification regarding the role and relationship between the intern, preceptor/licensed practitioner, and the consumer.

RESPONSE: The Board agrees with the commenter that for consistency with N.J.A.C. 13:36-1.9, clarification is necessary. In accordance with

N.J.A.C. 13:36-1.9(e), the practitioner and the consumer are required to sign and date the SFGSS immediately upon completing the SFGSS. Accordingly, upon adoption, the Board will change N.J.A.C. 13:36-2.13(a)5 to specify that an intern may make funeral arrangements on behalf of his or her preceptor, provided the preceptor contemporaneously reviews and executes the SFGSS prior to the consumer executing such arrangements. The Board believes that adding this language will make it clearer that even if the intern is making the arrangements, the preceptor must be present to review and sign the SFGSS.

10. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-3.1(a)5 as follows (additions in bold):

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

5. Evidence of having achieved a passing score on the National Board Examination **or proof of proficiency on an examination approved by the Board pursuant to N.J.S.A. 45:7-49.**

The commenter believes that the overreliance on the completion of singular competency examination as a condition for licensure has resulted in myriad issues for licensees. As a result, the commenter urged the Board to exercise its authority to promulgate a rule that explicitly states its recognition and acceptance of an alternate examination, provided it meets the requirements outlined in N.J.S.A. 45:7-49.

RESPONSE: The Board declines to change the rule as the commenter suggested as there is no other examination currently available.

11. COMMENT: One commenter recommended that N.J.A.C. 13:36-3.2(d) be amended as follows (additions in bold):

"An out-of-State resident may make application for the Board's Mortuary Jurisprudence examination, provided the applicant meets all admission requirements **as outlined in N.J.S.A. 45:7-50.**"

The commenter believes that the inclusion of the statutory citation provides clear guidance on the requirements for admission to the Mortuary Jurisprudence examination, which include establishing residency six months prior to the examination date and furnishing a qualifying academic certificate from the New Jersey Commissioner of Education.

RESPONSE: In accordance with the Uniform Enforcement Act at N.J.S.A. 45:1-7.5, the Board does not have the statutory authority to impose a

residency requirement upon out-of-State holders of a valid professional or occupational license.

12. COMMENT: One commenter expressed its overall support for the recodification of N.J.A.C. 13:36-4.1 and 4.14 to proposed new N.J.A.C. 13:36-4.1, to clarify the renewal and reinstatement process for licensed funeral directors and registered mortuaries. The commenter recommended that the Board replace the reference to "holder" in proposed N.J.A.C. 13:36-4.1(a) with "licensee," in order to maintain consistency with the Board's reference to licensees throughout this section.

RESPONSE: The Board agrees with the commenter's suggestion and upon adoption will change N.J.A.C. 13:36-4.1(a) to update the reference from "holder" to "licensee."

13. COMMENT: One commenter recommended that the Board reconsider its use of the citation N.J.A.C. 13:36-4.1A, 4.1B, and 4.6A, as such codification is not currently used in Board regulations and may cause confusion within the industry, particularly when referencing N.J.A.C. 13:36-4.1(a), 4.1(b), or 4.6(a), respectively.

RESPONSE: The Board declines to change the codification and notes that it is an acceptable convention under the Administrative Procedures Act and its use avoids the need to recodify all of Subchapter 4 and update citation references throughout the chapter.

14. COMMENT: One commenter recommended that the Board amend proposed new N.J.A.C. 13:36-4.1A(a)4i and 4.1B(a)4i as follows (additions in bold; deletions in cursive braces):

"An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of mortuary science and submits proof of having satisfied that state's continuing education requirements for that license **that are substantially equivalent to the requirements of N.J.A.C. 13:36-10.3**, shall be deemed to have satisfied the requirements of (a)(4) [(a)(6), respectively,] above. If the other state does not have any continuing education requirements, the requirements of (a)(4) [(a)(6), respectively,] above apply."

The commenter believes that this clarification affirms that all individuals seeking to reactivate or reinstate a New Jersey funeral director license are required to submit proof of training in the mandated subject areas established by N.J.A.C. 13:36-10.3.

RESPONSE: In accordance with N.J.S.A. 45:1-7.4.c, the Board is required to accept the other state's continuing education requirements as satisfying the Board's requirements. Accordingly, the Board declines to

change proposed new N.J.A.C. 13:36-4.1A(a)4i or 4.1B(a)4i as the commenter suggested.

15. COMMENT: One commenter recommended that the Board amend proposed new N.J.A.C. 13:36-4.1A(b)6 and 4.1B(b)6 to replace "licensee" with "applicant" to be consistent with the Board's reference to applicants throughout these sections.

RESPONSE: The Board declines to change the reference at N.J.A.C. 13:36-4.A(b)6 or 4.B(b)6 from "licensee" to "applicant" because "licensee" correctly refers to the status of the individual currently holding another professional board's license either within New Jersey or in another jurisdiction.

16. COMMENT: One commenter recommended that the Board replace the reference to "holder" at proposed new N.J.A.C. 13:36-4.6A(c) with [page=884]"owner," in order to maintain consistency with the Board's reference to owners throughout the proposed section. The commenter also recommended the replacement of all references to "licenses" with "certificates of registration," as this proposed new rule is specifically addressing the renewal and reinstatement of certificates of registration.

RESPONSE: The Board agrees with the commenter's suggestion and upon adoption will change N.J.A.C. 13:36-4.6A(c) to change the reference from "holder" to "owner." In addition, the Board will change both subsections (a) and (c) to correct the references from "licenses" to "certificates of registration."

17. COMMENT: One commenter supported amending N.J.A.C. 13:36-4.8 to include the death of a manager as a condition for retaining the services of a licensee in charge and for the provision of preneed records to the new manager. The commenter recommended that the Board add new subsection (h) to address a scenario previously unaddressed by the regulations-the death of a manager who is also a sole proprietor of the registered mortuary, as follows:

(h) In the event of the death of the manager who is also the sole proprietor of the registered mortuary, the executor or administrator of the deceased manager's estate shall be responsible for complying with sections (c) through (d) and the provisions of N.J.A.C. 13:36-4.12.

RESPONSE: The Board declines to add new subsection (h) as the commenter suggested because existing N.J.A.C. 13:36-4.12 clearly sets forth what occurs upon the death of a sole proprietor and the responsibilities of the executor or administrator of the estate or the deceased owner's heir(s).

18. COMMENT: One commenter expressed support for the inclusion of social media at N.J.A.C. 13:36-5.12 as a method for the dissemination of an advertisement. The commenter also recommended that the Board amend proposed new N.J.A.C. 13:36-5.12(g)1i as follows (additions in bold; deletions in brackets):

"The disclosure identifying an unlicensed person as "unlicensed and not qualified to make funeral arrangements, embalm or conduct funerals" [prohibition set forth in (g)1 above] shall not apply to an intern registered with the Board **pursuant to N.J.A.C. 13:36-2.1** who is acting under the supervision of a preceptor. **If included in an advertisement, the name of the intern, the title "Registered Intern" and the registration number of the intern preceded by the phrase "N.J. Intern Registration No. _____ shall be listed."**

The commenter believes that the term "prohibition," which is being used to categorize paragraph (g)1 referencing the unlicensed person disclosure, is not a prohibition and referencing it as such is misleading and could lead to confusion within the industry. The commenter also believes that, similar to the required disclosure of the manager's name, title, and license number at N.J.A.C. 13:36-5.12(c), requiring the publication of the intern's name, title, and license number in an advertisement increases transparency with consumers. The commenter stated that disclosure is also consistent with proposed N.J.A.C. 13:36-8.6 to permit and establish criteria for the use of business cards by registered interns.

RESPONSE: The Board agrees with the commenter that N.J.A.C. 13:36-5.12(g)1i references a disclosure and not a prohibition. The Board also agrees that the advertisement should include the same information for an intern as that required for the manager as set forth in existing subsection (c), which is consistent with the required information on business cards as proposed at N.J.A.C. 13:36-8.6. Accordingly, upon adoption, the Board will change N.J.A.C. 13:36-5.12(g)1i to change "prohibition" to "disclosure" and to include the information that must be disclosed in an advertisement.

19. COMMENT: One commenter expressed support for the Board's proposed language at N.J.A.C. 13:36-5.14 to require the submission of proof from the Electronic Death Registration System that the mortuary's account is closed when a mortuary is permanently closed. The commenter recommended that the Board amend paragraph (a)7 as follows (additions in bold):

"Notify the Board of the location of the mortuary's records and the contact information for the person responsible for maintaining the records consistent with the requirements of N.J.A.C. 13:36-1.8, N.J.A.C. 13:36-11.16, and N.J.A.C. 13:36-11.17."

The commenter noted that N.J.A.C. 13:36-11.16 and 11.17 establish the preneed recordkeeping standards and require Board notification of the person responsible for the safekeeping of preneed records in the event the records are moved from the provider's existing registered mortuary. The commenter believes this cross-reference will provide more transparency with the notification obligations in the case of a mortuary closure.

RESPONSE: The Board agrees with the commenter to add the cross-references to the existing recordkeeping requirements at N.J.A.C. 13:36-11.16 and 11.17 for purposes of transparency with the notification obligations when a mortuary closes.

20. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-5.17 to add the phrase "as defined by N.J.S.A. 45:27-22" after the phrase "next of kin."

21. COMMENT: One commenter expressed support for the proposed language at N.J.A.C. 13:36-5.19 to allow the collection of a DNA sample via cheek swab, clipping of fingernails, and/or blood collection by a funeral director. In addition, the commenter recommended that the phrase "as defined by N.J.S.A. 45:27-22" be added after both uses of the word "kin."

RESPONSE TO COMMENTS 20 AND 21: The Board agrees with the commenter that there should be a reference to N.J.S.A. 45:27-22 and notes that N.J.S.A. 45:27-22 does not define "next of kin." The Board, upon adoption, will include language "consistent with N.J.S.A. 45:27-22."

22. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-8.5 as follows (additions in bold; deletions in brackets):

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

"Out-of-State practitioner of mortuary science" means a practitioner of mortuary science, funeral director, embalmer, disposer of any other person who, by title or function is endowed with the legal authority to dispose of human remains as an occupation or profession, as defined by or as granted by the laws of the State in which such person is so licensed or authorized.

"Out-of-State mortuary" means a mortuary that is licensed or registered by the laws of the State in which it is located and is not licensed or registered by this State to engage in the practice of mortuary science, embalming or funeral directing.

(a) It shall be deemed an unauthorized use of a license for a [No licensed] practitioner of mortuary science to [shall] lend his or

her license to any other person, **corporation or entity**, or employ it in such a way as to defeat the purposes of the law[; provided, however, this rule shall not prevent a licensee from embalming human remains or supervising funerals and burials on behalf of out-of-State practitioners of mortuary science, funeral directors, or embalmers].

(b) The provisions of subsection (a) shall not prevent a practitioner of mortuary science from embalming human remains, performing other preparation of human remains, obtaining and filing death certificates and permits, or supervising funerals and burials on behalf of out-of-State practitioners of mortuary science or out-of-State mortuaries where the death originates in one state and the disposition occurs in another.

(c) It shall be professional misconduct for a practitioner of mortuary science to:

(1) willfully provide services to persons, firms or corporations that, directly or indirectly, through an agent, agency or otherwise, hold themselves or itself out as being able to engage in the practice of mortuary science in this or any state, when such is not the case.

(2) engage in the practice of mortuary science or the operation of a mortuary on behalf of an out-of-State practitioner of mortuary science or an out-of-State mortuary, who or which, directly or indirectly, advertises for, solicits or conducts business in this State, or through [page=885] any agent, agency, or otherwise, or who or which otherwise hold themselves or itself out as being able to conduct business in this State when such is not the case.

The commenter believes that the inclusion of this language establishes clear expectations on the legitimate licensed individuals and registered business entities that are permitted to engage New Jersey licensees and registered mortuaries in order to conduct activities related to the practice of mortuary science. The commenter also notes that it is currently pursuing legislation to codify this proposed language into law.

RESPONSE: The Board agrees that it should develop rules so that licensed State practitioners of mortuary science and registered mortuaries are aware of the activities and functions that may be performed on behalf of out-of-State practitioners and mortuaries. However, such change is too substantive to make upon adoption, so the Board will propose a rulemaking to appear in a future issue of the New Jersey Register.

23. COMMENT: One commenter expressed support for the Board's amendment to N.J.A.C. 13:36-8.6 to authorize the use of business cards by registered interns. The commenter recommends that the phrase "preceded by the phrase N.J. Intern Registration No. _____" be added after "number." This phrase is consistent with the style in which the license number of licensed funeral directors is required to be displayed in business cards and other publications.

RESPONSE: The Board agrees with the commenter that the phraseology on the business cards for interns should be consistent with that for licensed funeral directors as set forth in existing N.J.A.C. 13:36-8.6(b). Accordingly, upon adoption, the Board proposes to change N.J.A.C. 13:36-8.6(d) as the commenter suggested.

24. COMMENT: One commenter proposed the addition of new subsections (b), (c), and (d) at N.J.A.C. 13:36-8.10 to promulgate a practical and uniform standard for compliance with the regulation requiring a New Jersey licensee's presence at disposition. The commenter proposed the following (additions in bold; deletions in brackets):

"N.J.A.C. 13:36-8.10 Presence of licensee for disposition

(a) Except for the transfer of remains from a place of temporary storage to a place of final entombment or interment within a single cemetery as provided in N.J.A.C. 13:44J-8.4, no interment, cremation or other disposition of a dead human body, or any disinterment thereof, shall be made by any person [in the State of New Jersey] unless a New Jersey licensed practitioner of mortuary science is present at the time of disposition, provided, however, that this rule shall not apply to a disinterment resulting from a court order in connection with a criminal investigation.

(b) A registered mortuary which has been given responsibility for the disposition of remains by the person(s) with the right to control that disposition, as established by N.J.S.A. 45:27-22, shall directly employ or hire a licensed practitioner of mortuary science on its behalf to be present at the time of disposition. Nothing in this section shall prohibit a registered mortuary from hiring or engaging another registered mortuary and/or its licensed practitioners of mortuary science for this purpose, provided that this shall not include a licensed practitioner of mortuary science directly or indirectly affiliated with or employed by the place of final disposition.

(c) The obligations under this section for dispositions in another state may be satisfied by:

1. directly employing or hiring a practitioner of mortuary science who is permitted by inter- state reciprocal or limited license

privileges to supervise dispositions in that state, or an out-of-State mortuary and/or its out-of-State practitioners of mortuary science authorized to practice in the state of disposition, provided that such persons are not directly or indirectly affiliated with or employed by the place of final disposition; or

2. giving custody of the remains to a common carrier not directly or indirectly affiliated with or employed by a place of final disposition, or to a state or federally recognized cargo security screening facility for a subsequent chain-of-custody transfer to a common carrier.

(d) Nothing in this section shall prevent a registered mortuary, operating in this State in conjunction with a crematory established prior to December 1, 1971, either for itself or for any registered mortuaries affiliated with it by common ownership control, from using licensed practitioners of mortuary science in its employ in order to meet the obligations for the supervision of disposition of human remains."

The commenter noted that it is currently pursuing legislation to codify this proposed language into law.

RESPONSE: The Board agrees that it should develop rules to establish a standard for compliance with the requirement for a New Jersey licensee to be present at disposition. However, such change is too substantive to make upon adoption, so the Board will propose a rulemaking to appear in a future issue of the New Jersey Register.

25. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-8.13(a) as follows (additions in bold; deletions in brackets):

"It shall be professional misconduct for a licensee to [pay, offer to pay, or to receive from any person any fee or other form of compensation for the referral of a purchaser of goods and services] **solicit, accept, offer to pay or pay any commission, bonus or rebate to use the services of a particular funeral director, or the services of a particular cemetery or crematory.**"

The commenter noted that N.J.S.A. 45:7-65.3 prohibits members of the funeral industry from soliciting and/or receiving commissions, bonuses, or rebates in connection with the referral of any person to use services rendered by a funeral director, crematory, mausoleum, or cemetery. The commenter supports such a prohibition. The commenter stated, however, that in its current form N.J.A.C. 13:36-8.13(a) surpasses the legislative intent of N.J.S.A. 45:7-65.3 by prohibiting funeral directors from receiving a fee for the referral to auxiliary industries that assist with the provision of goods and services, such as the local florist, printing company, or restaurant. The commenter

does not believe that it was the intent of the Legislature to prohibit such arrangements. The commenter believes that its proposed language eliminates confusion with regard to the statutory prohibitions codified at N.J.S.A. 45:7-65.3 and preserves the Legislature's intent regarding referral fees.

RESPONSE: The Board declines to change the rule language as the commenter suggested because the suggested language is too broad. In addition, the Board notes that N.J.A.C. 13:36-8.13(a) is consistent with N.J.S.A. 45:7-65.3.

26. COMMENT: One commenter recommended that the Board amend N.J.A.C. 13:36-9.7 to remove acknowledgement cards from the list of items that funeral providers shall include on the General Price List (GPL), if offered for sale. The commenter stated that this item is not required to be listed on the GPL by the Federal Trade Commission's Funeral Rule, and the Board's proposed amendments to N.J.A.C. 13:36-1.8 remove acknowledgement cards as a required item on the SFGSS.

RESPONSE: The Board declines to change N.J.A.C. 13:36-9.7 as the commenter suggested because it is unnecessary. In accordance with the rule, only if acknowledgement cards are offered for sale, must they be listed on the GPL.

27. COMMENT: One commenter recommended that the Board amend the definition of "at need funeral arrangements at N.J.A.C. 13:36-11.1 to include the phrase "as defined by N.J.S.A. 45:27-22" after the word "kin."

RESPONSE: Consistent with the Responses to Comments 20 and 21, upon adoption, the Board will include the language "consistent with N.J.S.A. 45:27-22."

28. COMMENT: One commenter opposed the Board's proposed amendment to N.J.A.C. 13:36-11.6(a)1 and 2 to eliminate the participation in General Assistance programs promulgated in N.J.A.C. 10:85 by an intended funeral recipient as a condition for eligibility to establish an irrevocable prepaid funeral agreement.

The commenter stated that N.J.S.A. 2A:102-16.1, the statutory reference cited in N.J.A.C. 13:36-11.6(a), does not explicitly state that an irrevocable prepaid funeral agreement may be established if at the time [page=886] the intended funeral recipient is an aged, blind, or disabled applicant for, or recipient of, benefits pursuant to the General Assistance programs as outlined at N.J.A.C. 10:85. The commenter also stated, however, that the asset recovery disclosure in N.J.S.A. 2A:102-24, which is mandated to be conspicuously displayed on every irrevocable prepaid funeral agreement, expressly states that

applicants of General Assistance are required to establish irrevocable prepaid funeral agreements:

"A prepaid funeral agreement as defined in section 19 of P.L.1993, c. 147 (C.2A:102-18) which is subject to the provisions of this act shall include, in a conspicuous manner, the following statement: "New Jersey law requires this agreement to be irrevocable for applicants or recipients of public assistance programs (such as the Medicaid, Supplemental Security Income (SSI), Work First New Jersey and Work First New Jersey General Public Assistance programs, or any successor program thereof) and for the State of New Jersey to be named as beneficiary of any irrevocable funeral trust or irrevocably assigned newly issued funeral insurance policy purchased or created for the provision and payment of funeral and burial goods and services. Any moneys remaining after the provision of funeral goods and services shall be paid over to the State as required by law" (N.J.S.A. 2A:102-24)."

The commenter recommended that, to reconcile the Board's regulation with existing State law, the Board amend N.J.A.C. 13:36-11.6(a) to add the term "et seq." after the phrase "in accordance with N.J.S.A. 2A:102-16.1." The commenter believes that this amendment will ensure that the Board regulations are not in conflict with current State law governing the individuals that are eligible for establishing irrevocable prepaid funeral agreements.

RESPONSE: The Board did not intend to inadvertently omit individuals who are statutorily eligible for establishing irrevocable prepaid funeral agreements. As noted in the Summary of the notice of proposal, the rules at N.J.A.C. 10:85 were repealed. However, the General Assistance program was replaced by successor program(s). Accordingly, upon adoption, the Board will change N.J.A.C. 13:36-11.6(a)1 and 2 to retain reference to the General Assistance program and add, or successor program(s).

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with new rules, amendments, and repeals 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.

Subchapter 9 also incorporates 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 are also required to take a course on OSHA laws and regulations as set forth in N.J.A.C. 13:36-10.3.

Regulations

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 rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. ADMINISTRATION

13:36-1.6 Fees and charges

(a) The Board shall charge the following fees:

1.-7. (No change.)

8. Biennial license renewal fees:

i.-iii. (No change.)

Recodify existing 10.-15. as 9.-14. (No change in text.)

13:36-1.8 Recordkeeping

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

(d) The record retention requirements of this section shall not cease because a mortuary permanently closes or files for bankruptcy. When a mortuary permanently closes or files for bankruptcy, the manager or

owner of the mortuary shall comply with the notification requirements of N.J.A.C. 13:36-5.14.

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 preprinted, 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. The full name of the funeral home, address, telephone number, manager's name, title and license number, and funeral file number, whether the statement is being completed for an at need arrangement or a preneed arrangement, as defined in N.J.A.C. 13:36-11.1, or for a price quotation only, and the language "This statement is subject to change by agreement of the parties";

2. The full name, legal address, date of birth, date and place of death, and sex of the *[deceased]* ***decedent***;

3.-8. (No change.)

(b) (No change.)

(c) All charges relative to the funeral shall be categorized as follows and the Statement of Funeral Goods and Services Selected shall contain the following information:

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.

I. PROFESSIONAL SERVICES

Basic Services of Funeral Director and Staff §

Embalming (including use of preparation room and sanitary care)

If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.

Other preparation of the body §

Other (specify)	
Professional Services TOTAL	\$
II. OTHER STAFF AND RELATED FACILITIES	
Use of facilities and staff for:	
Visitation (viewing)	\$
Funeral Ceremony	
Memorial Service	
Use of Equipment and Staff for:	
Graveside Service (including accompaniment of remains to place of final disposition)	
Other (specify)	
Other Staff and Related Facilities TOTAL	\$
III. TRANSPORTATION	
Transfer of Remains to Funeral Home	\$
Hearse	
Limousine	
Other (specify)	
Transportation TOTAL	\$
OPTIONAL PACKAGED SERVICES	
1. Direct Cremation	\$
2. Immediate Burial	
3. Forwarding Remains	
4. Receiving Remains	
(If you select an optional package, see General Price List for a list of included services.)	
Optional Packaged Services TOTAL	\$
IV. MERCHANDISE	
Casket or Alternative Container:	\$
Manufacturer	
Model	
Type of material	
Interior material	\$

Vault/Outer Burial Container:

Manufacturer

Model

Type of material

Other (specify)

Merchandise TOTAL \$

FUNERAL HOME CHARGES TOTAL (I-IV & Packaged Services) \$

V. CASH DISBURSEMENTS (Estimated)

Disposition: State permit and filing fees \$

Certified copies of death certificate #_____ @ \$_____

Cemetery or crematory

Officiant and/or place of worship

Music (specify)

Obituary charges

Other cash disbursements (specify)

Cash disbursements TOTAL \$

TOTAL OF ESTIMATED CHARGES (I-V & packaged services) \$

[PRICE REDUCTION (If applicable) \$]

GRAND TOTAL OF ESTIMATED CHARGES \$

IF ANY LAW, cemetery or crematory requirements have required the purchase of any of the items listed above, the law or requirement is described below:

...

Relationship to * [Deceased] **Decedent*

Street Address

City, State, Zip Code

(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. 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 "Price 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. ***If a price reduction is offered, a practitioner shall disclose such reduction on the Statement of Funeral Goods and Services Selected as "PRICE REDUCTION.....\$."....." on the line immediately above "GRAND TOTAL OF ESTIMATED CHARGES."***

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

(g) A practitioner may utilize a photocopy of the Statement of Funeral Goods and Services Selected contained in Appendix A, incorporated herein by reference, to satisfy the requirements of this section. A practitioner may fill in blank lines to customize the goods and services provided. If a practitioner does not use the chapter Appendix A, the practitioner must use a Statement of Funeral Goods and Services Selected that includes all of the required information and disclosures and follows the same basic format as the chapter Appendix A.

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) (No change.)

(b) Upon the Board's receipt of an application for registration of a mortuary at such an association as described in (a) above, the Board may exempt said association from the following provisions of this chapter:

1.-5. (No change.)

6. N.J.A.C. 13:36-8.12, Public accommodations; and

7. (No change.)

(c)-(e) (No change.)

SUBCHAPTER 2. INTERNS

13:36-2.2 Intern registration application

Applications for intern registration may be obtained from the State Board of Mortuary Science, PO Box 45009, 124 Halsey Street, Newark, New Jersey 07101 and on the Board's website at <http://www.njconsumeraffairs.gov/mor/Pages/applications.aspx>. The application shall be executed by the preceptor and intern and certified

in affidavit form, and returned to the Board office. 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 who meets the requirements of N.J.A.C. 13:36-2.7. 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.

13:36-2.5 Reporting embalmings, funeral attendance, and funeral arrangements; form

(a) (No change.)

(b) No internship credit shall be granted for embalmings performed, funerals attended, and funerals arranged during the month when a report is received after the prescribed monthly filing date except upon presentation of proof that good cause exists for failing to timely file the report.

13:36-2.7 Preceptor requirements

(a) No practitioner of mortuary science shall engage an intern unless the practitioner:

1. Prior to such engagement, holds an active New Jersey license for at least two years;

2. Has a case volume during the previous calendar year of a minimum of 25 cases, which shall not include stillbirths; and

3. Within five years of the engagement, has not been convicted of a crime or offense relating adversely to the practice of mortuary science consistent with N.J.S.A. 45:1-21(f), or a crime of moral turpitude and has not been the subject of disciplinary action taken by a professional board resulting in the suspension, revocation, or surrender of a license or the placement of significant limitations on such license.

i. A practitioner who does not satisfy the requirements of (a)3 above shall obtain approval of the Board to serve as a preceptor.

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 [page=888] absence and the length of time he or she

intends to be away. Such written notification shall be provided to the Board within five days of the absence.

13:36-2.13 Scope of practice: interns

(a) In accordance with N.J.S.A. 45:7-47, an intern registered with the Board acting under the direct supervision of a preceptor may:

1. Participate in any capacity in the actual funeral arrangements, preservation, or disposal of dead human bodies;
2. Participate in any capacity in the actual preparation of dead human bodies;
3. Be permitted to be present in the embalming, operating, or preparation room while a dead human body is being embalmed, washed, or otherwise prepared for burial or other disposition;
4. Participate in embalming as provided at N.J.A.C. 13:36-6.7;
5. Make funeral arrangements on behalf of any licensed practitioner of mortuary science*, **provided the preceptor contemporaneously reviews and executes the SFGSS prior to the consumer executing such arrangements***; and
6. Quote prices to a consumer in connection with any funeral services and/or goods when funeral arrangements are being made, consistent with the requirements of N.J.A.C. 13:36-9.

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.-5. (No change.)
6. Evidence of having achieved a passing score on the Board's Mortuary Jurisprudence examination pursuant to N.J.A.C. 13:36-3.2;
7. (No change.)
8. An application fee pursuant to N.J.A.C. 13:36-1.6.

13:36-3.2 Application for Mortuary Jurisprudence examination

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

(d) An out-of-State resident may make application for the Board's Mortuary Jurisprudence examination, provided the applicant meets all admission requirements.

(e) The Board's Mortuary Jurisprudence examination may include all State laws and rules relevant to the practice of mortuary science, as well as pertinent Federal laws and regulations.

13:36-3.5 Passing grades

To successfully fulfill the examination requirement of N.J.S.A. 45:7-49, a candidate shall achieve a scaled score of not less than 75 on each of the two parts of the National Board Examination and achieve a scaled score of not less than 70 on the Board's Mortuary Jurisprudence examination.

SUBCHAPTER 4. LICENSE AND REGISTRATION GENERALLY

13:36-4.1 License renewal

(a) The Board shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the *[holder]* *licensee* for failure to renew provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:36-1.6, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of mortuary science, or hold her- or himself out as eligible to engage in the practice of mortuary science in New Jersey, until such time as the license is returned to active status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:36-1.6. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of mortuary science with a suspended license shall be deemed to be engaging in the unauthorized practice of mortuary science and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:36-4.1A License reactivation

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:36-4.1(c) may apply to the Board for reactivation of an inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;
2. A certification of employment listing each job held during the period the license was inactive, which includes the name, address, and telephone number of each employer;
3. The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:36-1.6.
 - i. If the renewal application is sent during the first year of the biennial period, the applicant shall submit the renewal fee as set forth in N.J.A.C. 13:36-1.6.
 - ii. If the renewal application is sent during the second year of the biennial period, the applicant shall submit one-half of the renewal fee as set forth in N.J.A.C. 13:36-1.6; and
4. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:36-10.3.
 - i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of mortuary science and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or

assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reactivation of licensure, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of mortuary science or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of mortuary science or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

[page=889] 13:36-4.1B License reinstatement

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:36-4.1(e) may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the name, address, and telephone number of each employer;
3. The renewal fee set forth in N.J.A.C. 13:36-1.6 for the biennial period for which reinstatement is sought;

4. The past due renewal fee set forth in N.J.A.C. 13:36-1.6 for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth in N.J.A.C. 13:36-1.6; and

6. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:36-10.3.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of mortuary science and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was suspended;

2. Employment history;

3. Professional history;

4. Disciplinary history and any action taken against the applicant's license by any licensing board;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of mortuary science or other professional or occupational practice in New

Jersey, any other state, the District of Columbia, or any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of mortuary science or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

13:36-4.6A Certificate of registration renewal; reinstatement

(a) An owner shall renew his or her certificate of registration for a period of two years from the last expiration date. The owner shall remit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:36-1.6, prior to the date of expiration. An owner who submits a renewal application within 30 days following the date of expiration shall submit the renewal fee, as well as the late fee set forth in N.J.A.C. 13:36-1.6. An owner who fails to submit a renewal application within 30 days of expiration shall have his or her ***[license or]*** certificate of registration suspended without a hearing.

(b) An owner who continues to engage in the practice of mortuary science or continues to offer mortuary services with a suspended certificate of registration shall be deemed to be engaging in the unauthorized practice of mortuary science and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

(c) The Board shall send a notice of renewal to the owner at least 60 days prior to the expiration of the certificate of registration. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the ***[holder]* *owner*** for failure to renew provided that the ***[license]* *certificate of registration*** is renewed within 60 days from the date the notice is sent or within 30 days following the date of ***[license]* *registration*** expiration, whichever is later.

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

1. Submit a completed application and the application fee set forth in N.J.A.C. 13:36-1.6;

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.

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

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

(c) Whenever the manager is terminated, resigns, or dies, 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, resignation, or death, of the name and license number of the licensee in charge.

(d) Whenever the manager is terminated, resigns, or dies, the owner and, as applicable, 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 soon thereafter as mutually agreed upon by the parties. The owner and, as applicable, 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, resignation, or death, 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, resignation, or death, 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, resignation, or death of the former manager in which to secure the services of a new manager.

13:36-4.12 Death of sole proprietor

(a) (No change.)

(b) Within 10 days of the owner's death, the executor or administrator of the estate shall furnish to the Board a copy of the preneed ledger maintained pursuant to N.J.A.C. 13:36-11.16.

13:36-4.17 Notification: convictions or arrests

(a) Any licensee of the State Board of Mortuary Science, upon conviction of any crime, shall notify the Board of such conviction in writing within 30 days.

(b) Any licensee of the State Board of Mortuary Science shall notify the Board within 30 days of any arrest, summons, indictment, admission into pre-trial intervention (PTI), or plea of guilty to any violation of law, ordinance, felony, misdemeanor, or disorderly persons offense, in New Jersey, any other state, the District of Columbia, or any other jurisdiction. [page=890] This notification requirement shall not apply to parking or speeding violations, but does apply to motor vehicle violations, such as driving while impaired or intoxicated.

SUBCHAPTER 5. MORTUARIES

13:36-5.12 Advertising

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

"Advertisement" means any attempt, direct or indirect, by publication, dissemination, circulation, or broadcast through the public media or social media to induce any person or entity to purchase or enter into an agreement to accept mortuary or funeral services or merchandise. "Advertisement" includes business cards when business cards are used as copy in an advertisement or are published, disseminated, circulated, or broadcast in the public media, as defined below, or social media.

...

(b)-(f) (No change.)

(g) In addition, it shall be deceptive and misleading for any advertisement to contain the following:

1. The name of a person not licensed by the Board in connection with the name of a mortuary in any manner whatsoever, unless the unlicensed person is clearly and obviously identified in the advertisement as such by the use of the phrase "unlicensed and not qualified to make funeral arrangements, embalm or conduct funerals." The surname of an unlicensed person may appear in the title of a mortuary as registered with the Board.

i. The *[prohibition set forth in]* ***disclosure required pursuant to*** (g)1 above shall not apply to an intern registered with the Board who is acting under the supervision of a preceptor. ***If included in an advertisement, the name of the intern, the title "Registered Intern," and the registration number of the intern preceded by the phrase "N.J. Intern Registration No. _____ shall be listed."***

2.-7. (No change.)

(h)-(1) (No change.)

13:36-5.14 Discontinuation of business or bankruptcy

(a) When a mortuary is permanently closed for business, the manager or owner shall immediately:

1.-3. (No change.)

4. Furnish the Board with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36-11.16(a);

5. Submit to the Board a copy of the notice sent to all preneed purchasers regarding the discontinuation as required pursuant to N.J.A.C. 13:36-11.19, and proof of service of such notice to consumers;

6. Provide the Board with proof from the New Jersey Electronic Death Registration System (EDRS) confirming that the mortuary's account is closed; and

7. Notify the Board of the location of the mortuary's records and the contact information for the person responsible for maintaining the records consistent with the requirements of N.J.A.C. 13:36-1.8*, **11.16, and 11.17***.

(b) (No change.)

13:36-5.17 Removal of human remains; authorization

(a) No person shall remove human remains from any residence or institution without first securing authorization consenting to the removal from the legal next of kin*, **consistent with N.J.S.A. 45:27-22,*** or a person legally entitled to grant said authorization.

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

13:36-5.18 Disposition of human remains

(a) Whenever human remains are entrusted to the care of a registered mortuary for disposition, the registered mortuary shall retain professional responsibility for the remains from the point of removal

to the final place of disposition or upon transfer to another registered mortuary for disposition.

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

13:36-5.19 Use of registered mortuary in organ and tissue recovery

(a)-(d) (No change.)

(e) Nothing in this section shall preclude a licensed funeral director from collecting a DNA sample via cheek swab, clipping of fingernails, and/or blood collection, provided that the legal next of kin makes such a request and the sample is provided to the legal next of kin*, **consistent with N.J.S.A. 45:27-22,*** prior to the final disposition of remains.

13:36-5.21 Disclosure of ownership information

(a) The registered mortuary shall disclose on all general price lists, required pursuant to N.J.A.C. 13:36-9.5, whether any owner of the registered mortuary also owns 50 percent or greater interest in any other registered mortuary within the State. For purposes of this section, "person" means any individual, partnership, limited liability partnership, limited liability company, corporation, or other business entity.

(b) (No change.)

SUBCHAPTER 6. EMBALMING PROCEDURE

13:36-6.2 Dress requirement for embalming

(a) (No change.)

(b) The body being embalmed shall at all times be so covered as to ensure privacy of the body.

SUBCHAPTER 8. GENERAL RULES OF PRACTICE

13:36-8.6 Business cards

(a) Business cards may be used by licensed practitioners of mortuary science, registered interns, and unlicensed persons associated with a registered mortuary, for identification purposes only, as set forth in (b), (c), and (d) below. Business cards that are used as copy for an advertisement or that are published, disseminated, circulated, or broadcast in the public media or social media shall be subject to the requirements set forth in N.J.A.C. 13:36-5.12.

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

(d) An intern registered with the Board, pursuant to N.J.A.C. 13:36-2.1, and who is acting under the supervision of a preceptor, may use a business card provided that all business cards, at a minimum, include the intern's name, ***title of "registered intern," and*** registration number, ***[and title of "registered intern."]** ***preceded by the phrase "N.J. Intern Registration No. _____."***

13:36-8.7 Authorized surrender of human remains

A licensed practitioner of mortuary science shall promptly surrender human remains upon proper direction and authorization of the person who, in accordance with N.J.S.A. 45:27-22, is lawfully entitled to its custody.

13:36-8.8 Authorization to embalm human remains

No licensed practitioner of mortuary science shall take possession of or embalm human remains without first being directed and fully authorized to do by those whom, in accordance with N.J.S.A. 45:27-22, are charged with the duties of interment.

13:36-8.11 Multiple burials

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

(c) The written authorization to be obtained by the funeral director shall include the name and address, and signature of the person authorizing the multiple burial, the names, ages, and addresses of the decedents, the dates, places, and times of their death, the names and addresses of the hospitals or institutions from which the bodies were obtained, the name and address of the cemetery or crematory where the remains are to be interred or cremated, and the location of the grave in which any interment is to be made.

(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.

...

[page=891]"Services of funeral director and staff" means the services, not included in prices of other categories in N.J.A.C. 13:36-9.7, which may be furnished by a funeral provider in arranging and supervising a funeral, such as conducting the arrangement conference, planning the funeral, obtaining necessary permits, and placing obituary notices.

...

13:36-9.4 Telephone price disclosures

(a) Funeral providers shall tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists described in N.J.A.C. 13:36-9.5, 9.6, and 9.7, which reasonably answers the question, and any other information that reasonably answers the question and that is readily available.

(b) The manager of a registered mortuary may designate employees of the mortuary, including unlicensed persons, to provide accurate information from the price lists described in N.J.A.C. 13:36-9.5, 9.6, and 9.7. Responding to questions concerning information not on the price lists shall be referred to a licensee or intern in accordance with N.J.A.C. 13:36-8.9.

13:36-9.5 Casket price list

(a) (No change.)

(b) Funeral providers shall place on the casket price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

1. The name, address, and telephone number of the registered mortuary and the name, license number, and title of the manager; and
2. A caption describing the list as a "casket price list."

13:36-9.6 Outer burial container price list

(a) (No change.)

(b) Funeral providers shall place on the outer burial container price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

1. The name, address, and telephone number of the registered mortuary and the name, license number, and title of the manager; and
2. A caption describing the list as an "outer burial container price list."

13:36-9.7 General price list

(a) (No change.)

(b) Funeral providers shall include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile, or other unit of computation) and the other information

specified below for at least each of the following items, if offered for sale:

1.-13. (No change.)

14. Acknowledgement cards; and

15. Individual items of merchandise of less than \$ 400.00 each that are offered together as a packaged item.

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

13:36-9.9 Embalming provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the unfair or deceptive acts or practices defined in N.J.A.C. 13:36-9.16 and 9.17(a), funeral providers shall:

1. (No change.)

2. Provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)2.

13:36-9.10 Casket for cremation provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the unfair or deceptive acts or practices defined in N.J.A.C. 13:36-9.15(a), funeral providers shall provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)3.

13:36-9.11 Outer burial container provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, funeral providers shall provide on the outer burial container price list, and if applicable, on the general price list, the disclosure statement required by N.J.A.C. 13:36-9.7(d)4.

13:36-9.17 Embalming provided without prior approval

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

13:36-9.18 Retention of documents

To prevent the unfair or deceptive acts or practices specified in this subchapter, funeral providers shall retain and make available for

inspection by Board officials true and accurate copies of the price lists specified in N.J.A.C. 13:36-9.5, 9.6, and 9.7, as applicable, for at least three years after the date of their last distribution to customers, and a copy of each Statement of Funeral Goods and Services Selected, as required by N.J.A.C. 13:36-1.9, for at least seven years from the date on which the statement was signed, in conformity with N.J.A.C. 13:36-1.8.

SUBCHAPTER 10. CONTINUING EDUCATION

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

(a)-(e) (No change.)

(f) A continuing education provider shall monitor attendance at, or ensure completion of, each approved program or course and 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.-5. (No change.)

(g) A continuing education provider shall maintain a list of all attendees who completed each approved program or course for a period of five years from the date the program or course was offered.

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.

...

"At need funeral arrangements" means funeral arrangements made with legal next of kin*, **consistent with N.J.S.A. 45:27-22,*** or personal representatives of a person who has already died for that person's funeral.

...

13:36-11.3 Contents of a 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.-6. (No change.)

7. Notice that all funeral arrangements are revocable and that all funeral funding arrangements are severable from those funeral arrangements by the purchaser if alive, and if not, then by the intended funeral recipient where they are different persons. Upon the death of both the purchaser and the intended funeral recipient, the next of kin of the intended funeral recipient, in the order provided by N.J.S.A. 45:27-22, shall have the right to revoke the funeral arrangements and to sever the funeral funding arrangements from the funeral arrangements;

8.-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;

iii. (No change.)

14.-15. (No change.)

13:36-11.6 Irrevocable funeral agreements

(a) Notwithstanding the provisions of N.J.A.C. 13:36-11.3(a)8, and in accordance with N.J.S.A. 2A:102-16.1, a prepaid funeral agreement may [page=892] provide that its funding, whether in the form of a funeral trust or a funeral insurance policy, is irrevocable during the lifetime of the intended funeral recipient, provided that the intended funeral recipient is:

1. An aged, blind, or disabled applicant for, or recipient of, benefits pursuant to the Supplemental Security Income program (SSI) (N.J.S.A. 44:7-85 et seq.)*,* * [or]* any Medicaid program (N.J.S.A. 30:4D-1 et seq.)*, **or General Assistance, or successor program(s)***; or

2. An aged, blind, or disabled person who reasonably anticipates applying for, or receiving, the benefits provided by SSI*,* * [or]* Medicaid*, **or General Assistance, or successor program(s)*** within six months of the date of the signing of the prepaid funeral agreement.

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

(d) No provider shall knowingly solicit or induce any person to execute an irrevocable prepaid funeral agreement pursuant to this section with the intent to collect or charge more than the fair market value of the funeral goods or services solicited.

(e) A provider shall immediately notify in writing the appropriate social services agency or agencies if at, or subsequent to, the time of need the personal representative or estate of a funeral recipient, or if known by the provider, the beneficiary, in the case of a funeral insurance policy, receives a refund from an irrevocable prepaid funeral agreement.

13:36-11.7 Pooled trusts

(a) Moneys used to fund prepaid funeral agreements may be deposited into a pooled trust account in a Federally insured State or Federally chartered bank, savings bank, or savings and loan association pursuant to a written trust agreement, the beneficiaries of which shall be the purchasers, or intended funeral recipients, if different persons. Any such trust agreement shall conspicuously disclose in writing to the purchaser or intended funeral recipient, prior to the acceptance of any moneys by the trustees:

1. (No change.)

2. That the purchaser or the intended funeral recipient shall receive periodic statements not less than once per year reflecting the amount of principal and accrued interest, if any, in the trust;

3.-4. (No change.)

(b) (No change.)

13:36-11.10 Periodic statements of status of funeral trusts

(a) A provider shall immediately furnish to a purchaser any periodic statements received from the trustee of a funeral trust which reflect the amount of principal and accrued interest, if any, in the trust.

(b) For purposes of this section, with respect to the Preneed Ledger required pursuant to N.J.A.C. 13:36-11.16, a provider shall not be required to furnish the mortuary's complete Preneed Ledger, but shall provide the purchaser with his or her individual account information.

13:36-11.13 Return of prepaid moneys upon revocation or impossibility to perform; transfer of preneed arrangements or prepaid agreements; presumption of intent

(a)-(d) (No change.)

(e) If a provider is unable to furnish prepaid goods or services requested due to revocation of a prepaid funeral agreement or funding therefor, or is unable to perform due to the impossibility of performance:

1. (No change.)

2. The moneys used to fund a funeral trust shall be refunded within 10 days to:

i. (No change.)

ii. The estate or personal representative of the deceased purchaser.

(f) (No change.)

(g) A provider shall be entitled to presume that at the time of need, any prepaid funeral agreement and preneed funeral arrangement on file are those intended, unless the funeral recipient's personal representative, in the order provided in N.J.S.A. 45:27-22, actually makes changes in said agreement or arrangements.

13:36-11.16 Preneed ledgers of active prepaid funeral agreements and preneed funeral arrangements; maintenance of records of prepaid agreements and preneed arrangements; compilation of preneed ledger; biennial registration

(a) (No change.)

(b) The Preneed Ledger may be kept manually or electronically.

(c)-(h) (No change.)

(i) (No change in text.)

13:36-11.17 Records provided to the Board and to successors in interest

(a) A copy of the Preneed Ledger required to be maintained by N.J.A.C. 13:36-11.16(a) shall be provided to the Executive Director of the Board by the manager or owner of the registered mortuary immediately upon:

1.-2. (No change.)

3. Within 10 days of filing of any form of bankruptcy by the provider or the owner of the registered mortuary.

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

NAME OF FUNERAL HOME

John Smith, Manager, N.L. Lic. No. XXXX
 Street Address, City, State, Zip
 Phone: (XXX) XXX-XXXX

File # _____

At Home Arrangement Prepaid Arrangement Price Quotation Only
 This statement is subject to change by agreement of the parties

INFORMATION ON DECEASED

Name: _____ Sex: _____
 Male Female

Date of Birth: _____ Date of Death: _____ Place of Death: _____

Street Address: _____

City: _____ State: _____ Zip: _____

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

Charges are only for those items that you selected or that are required. If you are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.

I. PROFESSIONAL SERVICES

Basic services of funeral director and staff \$

Embalming (including use of preparation room & sanitary care)

If you selected a casket that may require embalming, such as a hermetically sealed casket, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.

Other preparation of the body

Other (specify)

.....

.....

.....

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.....

Professional Services TOTAL: \$

II. OTHER STAFF AND RELATED FACILITIES

Use of facilities and staff for:

Visitation (viewing) \$

Funeral ceremony

Memorial service

Use of equipment and staff for:

Graveside service (including accompaniment of remains to place of final disposition)

Other (specify)

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.....

Other Staff and Related Facilities TOTAL: \$

III. TRANSPORTATION

Transfer of remains to funeral home \$

Hearse

Limousine

Other (specify)

.....

.....

Transportation TOTAL: \$

OPTIONAL PACKAGED SERVICES

1. Direct cremation \$

2. Immediate burial

3. Forwarding remains

4. Receiving remains

(if you select an optional package, see General Price List for list of included services)

Optional Packaged Services TOTAL: \$

IV. MERCHANDISE

Casket or alternative container:

Manufacturer

Model

Type of material

Interior material \$

Vault/outer burial container:

Manufacturer

Model

Type of material

Other (specify)

.....

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.....

Merchandise TOTAL: \$

FUNERAL HOME CHARGES TOTAL (incl. & packaged services) \$

V. LASH DISBURSEMENTS (Estimated)

Disposition: state permit and filing fees \$

Certified copies of death certificate # _____ @ \$

Certified copies of death certificate # _____ @ \$

Cemetery or crematory

Officiant and/or place of worship

Music (specify)

Obituary charges

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IF ANY LAW, cemetery or crematory requirements have required the purchase of any of the items listed above, the law or requirement is described below:
 1. Cemetery requires casket: to surround the remains;
 2. Your cemetery requires an outer burial container; or
 3. Other: _____

REASON FOR EMBALMING
 Family authorized Other: _____

I have prepared the above Statement of Funeral Goods and Services Selected.
 Print name of practitioner: _____ N.J. Lic. No: _____
 Signature of practitioner: _____ Date: _____
 X _____

I have read and received a copy of the Statement of Funeral Goods and Services Selected.
 Print name of consumer making arrangements: _____
 Signature of consumer making arrangements: _____ Date: _____
 X _____
 Relationship to deceased: _____
 Street address: _____
 City: _____ State: _____ Zip: _____