

rangement, as defined in N.J.A.C. 13:36-11.1, or for a price quotation only;

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

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

4. The following disclosures:

i. "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." and

ii. "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."

5. Estimated charges;

6. All charges relative to the funeral, broken down into at least the five general categories set forth in (c) below, with subtotals and grand totals as indicated;

7. Cash disbursements paid by the family; and

8. The funeral record number as required by N.J.A.C. 13:36-1.8(b).

(b) Promissory notes, contracts, payment terms, and other non-related items shall not be included on the Statement of Funeral Goods and Services Selected.

(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.

CATEGORY I—PROFESSIONAL SERVICES

- 1. Basic Services of Funeral Director and Staff \$
- 2. 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.

- 3. Sanitary Care, Without Embalming \$
- 4. Other (Specify) \$
- Category I TOTAL \$

CATEGORY II—OTHER STAFF AND RELATED FACILITIES

- 1. Use of Facilities and Staff for Viewing \$
- 2. Use of Facilities and Staff for Funeral Ceremony \$
- 3. Use of Facilities and Staff for Memorial Service \$
- 4. Use of Equipment and Staff for Graveside Service \$
- 5. Use of Equipment and Staff for Funeral Service Off Premise \$
- 6. Other (Specify) \$
- Category II TOTAL \$

CATEGORY III—TRANSPORTATION

- 1. Transfer of Remains to Funeral Home \$
- 2. Use of Hearse \$
- 3. Use of Limousine(s) \$
- 4. Use of Flower Car(s) \$
- 5. Other (Specify) \$
- Category III TOTAL \$

OPTIONAL PACKAGED SERVICES

- 1. Direct Cremation \$
 - 2. Immediate Burial \$
 - 3. Forwarding or Receiving Remains \$
- If an optional packaged service is selected, Categories I through III are not applicable.
- Optional Packaged Services TOTAL \$

CATEGORY IV—MERCHANDISE

- 1. Casket or Alternative Container Manufacturer \$
- Model name/number
- Type of material
- Interior material \$
- 2. Vault/Outer Burial Container Manufacturer \$
- Model name/number
- Type of material \$
- 3. Clothing \$
- 4. Urn \$
- 5. Prayer Cards \$
- 6. Acknowledgment Cards \$
- 7. Register Book \$
- 8. Other (Specify—Items may be packaged for individual items less than \$100.00 each) \$
- Category IV TOTAL \$

CATEGORY V—CASH DISBURSEMENTS (Estimated)

- 1. Cemetery or Crematory \$
- 2. Clergy and/or Church \$
- 3. Pallbearers \$
- 4. Organist and/or Soloist \$
- 5. Certified Copies of Death Certificate and Permit Fee \$
- 6. Newspaper Notices \$

7. Other (Specify) \$
 Category V TOTAL \$
 TOTAL OF ESTIMATED CHARGES
 (Category I-V & Packaged Services) \$
 PACKAGE 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:

- 1. Crematory requires container to surround the remains;
- 2. Your cemetery requires an outer burial container; or
- 3. Other: _____

REASONS FOR EMBALMING:

- Family authorized; or
- Other: _____

I have prepared the above Statement of Funeral Goods and Services Selected: I have read and received a copy of the Statement of Funeral Goods and Services Selected:

Print Name of Practitioner Print Name of Consumer Making Arrangements

Signature of Practitioner, License #, and Date Signature of Consumer Making Arrangements and Date

Relationship to Deceased
 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 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.

(e) Immediately upon completing the Statement of Funeral Goods and Services Selected the practitioner and the consumer shall sign and date the Statement where indicated. If the consumer refuses to sign the Statement, the practitioner shall note on the signature line of the Statement that the consumer refused to sign. The practitioner shall immediately provide a copy to the person for whom the Statement was prepared.

(f) Any change, addition or deletion authorized by the purchaser after the completion of the Statement of Funeral Goods and Services Selected shall be included on the final bill.

(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.

Amended by R.1973 d.119, effective May 1, 1973.
 See: 5 N.J.R. 115(a), 5 N.J.R. 195(a).
 Amended by R.1984 d.341, effective August 6, 1984.
 See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
 Old text deleted, new text substituted.
 Amended by R.1987 d.243, effective June 15, 1987.
 See: 18 N.J.R. 2186(a), 19 N.J.R. 1100(b).
 Added text to (b): "except that a . . . the itemization form:" and added new (b)1.-3.
 Repeal and New Rule, R.1994 d.523, effective October 17, 1994.
 See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).
 Section was "Itemization of funeral expenses".
 Amended by R.2005 d.100, effective April 4, 2005 (operative date of October 31, 2005).
 See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
 Rewrote the section.
 Petition for Rulemaking.
 See: 41 N.J.R. 1529(b).

Case Notes

Rule cited in support of "good faith" defense to overtime claim based upon mortuary science being a profession rather than an occupation. State v. Frech Funeral Home, 185 N.J.Super. 385, 448 A.2d 1037 (Law Div.1982).

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 Uniform Anatomical Gift Act

(a) The provisions of this section shall apply to the operation, maintenance and use of mortuaries by licensed practitioners of mortuary science for the benefit of anatomical associations of medical schools established and operated by the State of New Jersey, which association is the vehicle for the acceptance and disposition of human remains donated pursuant to the Uniform Anatomical Gift Act, N.J.S.A. 26:6-57 et seq., for the purpose of medical research and education.

(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. N.J.A.C. 13:36-4.6, Corporation's application for registration of funeral establishment;
2. N.J.A.C. 13:36-4.7, Corporate applicant's charter;
3. N.J.A.C. 13:36-5.1, Display of "Manager" sign;
4. N.J.A.C. 13:36-5.4, Physical structure of mortuary; separation from living quarters;

(c) Service of any administrative complaint or other Board-initiated process at a licensee's address of record shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.1998 d.15, effective January 5, 1998.

See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Inserted (b).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote the section.

13:36-4.3 Legal name change

(a) If a licensee changes his or her name, the change shall only be recorded by the Board upon receipt of legal documentation to substantiate the name change.

(b) If it is necessary to issue a duplicate license certificate, the original certificate shall be returned for cancellation, if possible.

Amended by R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Substituted new text for (a) and deleted old text.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

13:36-4.4 New installations

(a) Except as provided in N.J.A.C. 13:36-4.13, any person, corporation, partnership, limited liability partnership, limited liability company or other business entity desiring to operate, maintain, or use a mortuary shall first apply to the Board and remit payment of the fee provided in N.J.A.C. 13:36-1.6 for a new installation inspection and an application for certificate of registration.

(b) A new installation inspection of the premises shall be made by the inspector before a certificate of registration is granted.

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

Amended by R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Section substantially amended.

As amended, R.1985 d.293, effective June 17, 1985.

See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

(a) substantially amended.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Rewrote (a); and in (b), substituted a reference to certificates of registration for a reference to applications.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (a) and (c).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-4.5 Change of ownership

(a) Whenever there are any changes whatsoever in ownership, including a change of stockholders in an existing and continuing corporation, it shall be necessary for the new ownership to notify the Board within five working days after the ownership changes or stock transfer.

(b) Upon request, any new owner shall provide the Board with records of prepaid funeral agreements required to be maintained pursuant to N.J.A.C. 13:36-11.16.

Amended by R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Deleted "apply in advance of ownership" and added "notify the . . . ownership changes".

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.1998 d.15, effective January 5, 1998.

See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Inserted (b).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-4.6 Registration of mortuary

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

1. A copy of the certificate of incorporation or certificate or agreement of formation certified by the Secretary of State;
2. The name, residence addresses and residence telephone numbers of the following:
 - i. The officers of the corporation;
 - ii. The general partner(s) of a partnership or limited partnership (and, if a general partner is a corporation, limited liability partnership, limited liability company, or other business entity, the officers of the corporation or the members of the limited liability partnership, limited liability company, or other business entity); and/or
 - iii. The managing or operating members of a limited liability company (and, if a member of a limited liability company is a corporation, the officers of the corporation);
3. A copy of the corporate resolution (certified by the secretary of the corporation and impressed with the corporate seal), the partnership agreement, or limited liability partnership or limited liability company operating agreement (certified by the general partner of the limited liability partnership or the managing or operating member of the limited liability company) designating the licensed practitioner of mortuary science;
4. In the case of corporations, the original certificate of good standing from the State of New Jersey;

5. In the case of partnerships, an application for registration signed by all partners, a certified copy of the partnership agreement, and the certificate of assumed name, if any, filed in the office of the county clerk; and

6. A letter forwarded to the Board by the funeral establishment manager indicating that he or she accepts the position.

(b) Any limited partnership seeking a certificate of registration shall conform to the requirements of the Limited Partnership Associations Act, set forth at N.J.S.A. 42:3-1 et seq.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In (a), inserted a reference to fees provided in N.J.A.C. 13:36-1.6 in the introductory paragraph, and substituted a reference to officers of corporations for a reference to offices of corporations in 2iii.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote the section.

Cross References

Exemption from provisions of this section, see N.J.A.C. 13:36-1.10.

13:36-4.7 Corporate charter, partnership agreement, operating agreement

(a) All corporate charters, partnership agreements or operating agreements submitted to the Board shall contain a provision stating that the practice of mortuary science, funeral directing and embalming shall be performed only by persons duly licensed by the State Board of Mortuary Science to do so.

(b) The following clause is an illustration of what the State Board of Mortuary Science shall accept as compliance with the Section.

To own, maintain, conduct, carry on and operate one or more funeral homes in the State of New Jersey, and for that purpose to hire, employ and engage the services of one or more embalmers and/or funeral directors duly licensed as such by the State of New Jersey, and to employ such other person or persons which the directors shall deem necessary to carry on and conduct such practice.

Subject to the rules and regulations heretofore made or promulgated by the State Board of Mortuary Science, and the said rules and regulations to be hereafter made or promulgated and other applicable laws of the State of New Jersey, to engage in the business and/or profession of mortuary science, embalming and funeral directing.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote the section.

Cross References

Exemption from provisions of this section, see N.J.A.C. 13:36-1.10.

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

(a) Every establishment authorized to carry on the practice of mortuary science, shall be under the direct supervision of a full-time licensed manager.

(b) The manager shall be responsible for the direction, management and control of all work emanating from the establishment.

(c) Whenever the manager's services are terminated, 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 of the name and license number of the licensee in charge.

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

(e) Except as set forth in (f) below, the licensee in charge shall within 30 days of termination of the previous manager's services 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. A letter indicating such acceptance;
2. An application to become a manager; and
3. The fee prescribed for the application.

(f) The licensee in charge may within 30 days of termination of the previous manager's services 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 of the former manager in which to secure the services of a new manager.

Administrative Correction to (a).

See: 21 N.J.R. 1830(a).

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.1998 d.15, effective January 5, 1998.

See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Inserted new (d) and recodified existing (d) and (e) as (e) and (f).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

(b) A licensed practitioner of mortuary science shall include on all business cards, at a minimum, the licensee's name, the licensee's title or position, such as "Manager," or "Funeral Director," and the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(c) A registered mortuary shall not permit an unlicensed person associated with the registered mortuary to use a business card for identification purposes unless the name and title or position of the unlicensed person appears on the card. An unlicensed person's business card shall not in any way connote that the person is licensed by the Board.

Amended by R.1973 d.16, effective January 10, 1973.

See: 4 N.J.R. 130(a), 5 N.J.R. 54(a).

Amended by R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

(d): Changed "45" to "44".

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Repealed by R.1998 d.15, effective January 5, 1998.

See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Section was "Funeral arrangements involving cash or negotiable instruments".

New Rule, R.2002 d.76, effective March 18, 2002.

See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

Former N.J.A.C. 13:36-8.6, was reserved.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (b), deleted "by March 18, 2003;".

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 lawfully entitled to its custody.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Substituted "human remains" for "a cadaver".

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 charged with the duties of interment.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Substituted "human remains" for "a cadaver" following "embalm".

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

(a) No unlicensed person shall be permitted to make funeral arrangements on behalf of any licensed practitioner of mortuary science, except that interns may make such arrangements pursuant to N.J.S.A. 45:7-47.

(b) When funeral arrangements are being made, no one but a duly licensed practitioner of mortuary science or an intern

shall quote prices to a consumer in connection with any funeral services and/or goods. Nothing contained in this section shall preclude quotation of prices when funeral arrangements are not being made.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (a), deleted "duly registered" preceding "interns may"; in (b), inserted "or an intern" following "mortuary science".

13:36-8.10 Presence of licensee for disposition of dead human body

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.

Amended by R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.2002 d.76, effective March 18, 2002.

See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

Rewrote the section.

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-8.11 Multiple burials

(a) No licensed practitioner of mortuary science shall place the remains, or any part of the remains, of more than one deceased person, stillborn infant, or fetus in a coffin, casket, or other container for the purpose of interment or cremation, or cause the remains, or any part of the remains, of more than one deceased person, stillborn infant, or fetus, to be interred or cremated together unless specific, written authorization to do so has been signed by a person charged with the duties of interment, as set forth in (b) below, for each decedent, or by a court of competent jurisdiction.

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

1. The decedent;
2. A relative or relatives in the order of:
 - i. Surviving spouse;
 - ii. A majority of surviving children of the decedent or the surviving child if one;
 - iii. The surviving parent or parents of the decedent;

iv. A majority of the brothers and sisters of the decedent if no child or parent is living; or

v. Other next of kin according to the degree of consanguinity.

3. City or county welfare director in cases involving the indigent.

4. Chief medical examiner in cases involving unidentified or unclaimed bodies.

5. A court of competent jurisdiction.

(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 deceased, 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) Each written authorization shall bear a number corresponding to the funeral record number and a signed copy shall be retained for at least seven years thereafter, as required pursuant to N.J.A.C. 13:36-1.8.

Amended by R.1979 d.420, effective October 18, 1979.

See: 11 N.J.R. 454(c), 11 N.J.R. 582(b).

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.2002 d.76, effective March 18, 2002.

See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

In (a), inserted “, as set forth in (b) below, for each decedent”.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (d).

13:36-8.12 Public accommodations

All funeral establishments shall be considered places of public accommodation and shall be subject to public accommodation laws including the Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

New Rule, R.2002 d.76, effective March 18, 2002.

See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

13:36-8.13 Referral fees

(a) 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.

(b) The prohibition of referral fees shall not prohibit the division of fees among licensees engaged in a bona fide employment or other business relationship for the delivery of professional services.

New Rule, R.2002 d.76, effective March 18, 2002.

See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (a), substituted “professional” for “occupational”; rewrote (b).

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.

“Accounting year” refers to the particular calendar year or other one year period used by a funeral provider in keeping financial records for tax or accounting purposes.

“Alternative container” means a non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of cardboard, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other materials.

“Cash advance item” means any item of service or merchandise described to a purchaser as a “cash advance”, “accommodation”, “cash disbursement”, or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser’s behalf. Cash advance items may include, but are not limited to, the following items: Cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

“Casket” means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material, and ornamented and lined with fabric.

“Cremation” means a heating process which incinerates human remains.

“Crematory” means any person, partnership or corporation that performs cremation.

“Direct cremation” means a disposition of human remains by cremation, with or without embalming, without formal viewing, visitation, or ceremony with the body present.

“Funeral goods” means goods which are sold or offered for sale directly to the public for use in connection with funeral services including, but not limited to, merchandise such as casket, vault or other enclosure, urns, clothing, prayer cards, register book, religious artifacts and any other items purchased by the licensed practitioner of mortuary science for resale without substantial alteration.

“Funeral provider” means any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public and holds a certificate of registration to operate a mortuary in the State of New Jersey or is a licensed practitioner of mortuary science in the State of New Jersey.

“Funeral services” means any services which may be used to care for and prepare deceased human bodies for burial,

cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

“Immediate burial” means a disposition of human remains by burial, with or without embalming, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

“Outer burial container” means any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

“Person” means any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

“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 arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

“Unfinished wood box” means an unornamented casket made of wood which does not have a fixed interior lining.

Amended by R.1994 d.523, effective October 17, 1994.

See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In “Direct cremation” and “Immediate burial”, inserted references to embalming.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Deleted “Board”; in “Funeral goods” inserted “urns” preceding “clothing”; rewrote “Funeral provider”.

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-9.2 Violations

It shall be a violation of the rules of this subchapter to engage in unfair or deceptive acts or practices as defined herein or to fail to comply with the preventive requirements specified herein; any such action may be deemed to be professional misconduct.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Substituted “; any such action” for “and failure to comply with such preventive requirements” following “herein”.

13:36-9.3 Failure to disclose required price information: an unfair or deceptive practice

(a) In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of

facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in (b) below is not engaged in the unfair or deceptive acts or practices defined here.

(b) To prevent the unfair or deceptive acts and practices mentioned in (a) above as well as those defined in N.J.A.C. 13:36-9.15(a), funeral providers shall comply with the provisions of N.J.A.C. 13:36-9.4, 9.5, 9.6, 9.7 and 9.8.

Administrative Correction to (b): changed cite from 13:35 to 13:36.

See: 22 N.J.R. 3384(b).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

13:36-9.4 Telephone price disclosures

(a) Funeral providers shall tell persons who call the funeral provider’s place of business and ask about the terms, conditions, or prices at which funeral goods or funeral services are offered, that price information is available over the telephone.

(b) 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 which reasonably answers the question and which is readily available.

13:36-9.5 Casket price list

(a) Funeral providers shall give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider shall offer the list upon beginning discussion of, but in any event before showing, caskets. The list shall contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list.

1. In lieu of a printed or typewritten list, other formats, such as notebooks, brochures, or charts, may be used if they contain the same information as would the printed or typewritten list, displayed in a clear and conspicuous manner. The price list shall not contain any handwritten information.

2. Funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in N.J.A.C. 13:36-9.7, the information which is required by this section.

(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;

2. A caption describing the list as a “casket price list”; and

3. If applicable, a statement disclosing the ownership of other registered mortuaries, as required pursuant to N.J.A.C. 13:36-5.21.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Amended by R.2003 d.166, effective April 21, 2003 (operative October 21, 2003).

See: 34 N.J.R. 1315(a), 35 N.J.R. 1675(a).

Rewrote (b).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (a), designated former 1 as 1 and 2, rewrote 1 and inserted “Funeral” preceding “providers do not have” in 2; rewrote (b)1.

13:36-9.6 Outer burial container price list

(a) Funeral providers shall give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider shall offer the list upon beginning discussion of, but in any event before showing, the containers. The list shall contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the price listed.

1. In lieu of a printed or typewritten list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, displayed in a clear and conspicuous manner. The price list shall not contain any handwritten information.

2. Funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in N.J.A.C. 13:36-9.7, the information which is required by this section.

(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;

2. A caption describing the list as an “outer burial container price list”; and

3. If applicable, a statement disclosing the ownership of other registered mortuaries, as required pursuant to N.J.A.C. 13:36-5.21.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Amended by R.2003 d.166, effective April 21, 2003 (operative October 21, 2003).

See: 34 N.J.R. 1315(a), 35 N.J.R. 1675(a).

Rewrote (b).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (a), designated former 1 as 1 and 2, rewrote 1 and inserted “Funeral” preceding “providers” in 2; rewrote (b)1.

13:36-9.7 General price list

(a) Funeral providers shall give a printed or typewritten price list for retention to persons who inquire in person about funeral arrangements or the prices of funeral goods or funeral services. The price list shall not contain any handwritten information. When people inquire in person about funeral arrangements or the prices of funeral goods or funeral services, the funeral provider shall offer them the list upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services. The general price list shall contain at least the following information:

1. The name, address, and telephone number of the registered mortuary and the name, license number and title of the manager;

2. A caption describing the list as a “general price list”;

3. The effective date of the price list; and

4. If applicable, a statement disclosing the ownership of other registered mortuaries, as required pursuant to N.J.A.C. 13:36-5.21.

(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. Forwarding the remains to another funeral home, together with a list of the services provided for any quoted price;

2. Receiving remains from another funeral home, together with a list of the services provided for any quoted price;

3. The price range for the direct cremations offered by the funeral provider, together with a separate price for a direct cremation where the purchaser provides the container; separate prices for each direct cremation offered including an unfinished wood box or alternative container; and a description of the services and container (where applicable), included in each price;

4. The price range for the immediate burials offered by the funeral provider, together with a separate price for an immediate burial where the purchaser provides the casket; separate prices for each immediate burial offered including a casket or alternative container; and a description of the services and container (where applicable) included in that price;

5. Transfer of remains to funeral home;

6. Embalming;

7. Other preparation of the body;

8. Use of facilities for viewing;

13:36-9.14 Cash advance provisions

In selling or offering to sell funeral goods and funeral services to the public any cash advance items shall reflect the actual cost to the funeral provider.

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

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

(b) To prevent the unfair or deceptive act or practice mentioned in (a) above, funeral providers must make an unfinished wood box or alternative container available for direct cremations, if they arrange direct cremations.

13:36-9.16 Other required purchases

(a) In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this section.

(b) To prevent the unfair or deceptive act or practice mentioned in (a) above, funeral providers shall:

1. Provide the disclosure statement on the general price list required pursuant to N.J.A.C. 13:36-9.7(d)1; and
2. Provide the disclosure statement on the Statement of Funeral Goods and Services Selected, required by N.J.A.C. 13:36-1.9.

(c) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (b), rewrote 1 and 2.

13:36-9.17 Services provided without prior approval

(a) In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

1. State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or
2. Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

3. The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider shall disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with a viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

(b) To prevent the unfair or deceptive acts or practices mentioned in (a) above, funeral providers shall include on the contract, final bill, or other written evidence of the agreement or obligation given to the customer, the disclosure statements required pursuant to N.J.A.C. 13:36-1.9(a).

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (b).

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. 13:36-1.9.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Substituted reference to three years for one year, amended the N.J.A.C. reference, and substituted "seven years" for "six years" preceding "years from the date".

13:36-9.19 Comprehension of disclosures

To prevent the unfair or deceptive acts or practices specified in this subchapter, funeral providers shall make all disclosures required in a clear and conspicuous manner.

SUBCHAPTER 10. CONTINUING EDUCATION**13:36-10.1 Purpose and scope**

(a) The rules established by this subchapter are designed to ensure that the practitioners of mortuary science maintain the highest degree of quality in their profession.

(b) The requirements set forth under this subchapter apply to all Board licensees practicing mortuary science in the State of New Jersey as a condition of biennial licensure, except where the rules provide for exemption or waiver.

13:36-10.2 Definitions

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

“Committee” means the Credentials Committee established by the Board pursuant to N.J.A.C. 13:36-10.6.

“Person” means any person as defined in N.J.S.A. 56:8-1.

“United States Armed Forces” means the United States Army, United States Navy, United States Air Force, United States Marine Corps, and United States Coast Guard.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In “Committee”, changed N.J.A.C. reference.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Deleted “Board”.

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

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

(b) A licensee shall obtain 10 credit hours of continuing education in courses or seminars accredited by the Board. No more than three credit hours may be obtained, during each biennial license period, in courses or seminars dealing with funeral merchandise, such as caskets, outer burial containers and clothing.

(c) Licensees shall not be permitted to carry over credit hours in excess of those required for one biennial licensure period to the next biennial licensure period.

Amended by R.1999 d.119 effective April 5, 1999.

See: 31 N.J.R. 26(a), 31 N.J.R. 882(a).

In (b), added a second sentence.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (a) and (b).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-10.4 Exemptions

(a) A person employed on a full-time basis by the Federal, State, county or municipal government who is not permitted by law or rule to actively engage in the practice of mortuary science shall be exempt from complying with the continuing education requirements of N.J.A.C. 13:36-10.3.

(b) A licensee who elects to be inactive pursuant to N.J.A.C. 13:36-4.14 shall be exempt from compliance with the continuing education requirements of N.J.A.C. 13:36-10.3 for any biennial period, or portion thereof, during which a licensee is inactive.

Amended by R.1997 d.514, effective December 1, 1997.

See: 29 N.J.R. 4072(a), 29 N.J.R. 5071(a).

Denoted the existing paragraph as (a); and added (b) and (c).

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In (b), inserted a reference to N.J.A.C. 13:36-4.14.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Deleted former (b) and recodified former (c) as (b).

13:36-10.5 Waiver of continuing competency requirement

(a) The Board may, in its discretion, waive continuing education requirements on an individual basis for reasons of hardship, such as illness or disability, or other good cause shown.

(b) Any licensee seeking a waiver of the continuing education requirement must apply to the Board, in writing, no later than three months prior to the expiration of the biennial licensing period then in effect, and set forth with specificity the reasons for requesting the waiver. The licensee shall also provide the Board with such additional information as it may reasonably request in support of the waiver request.

(c) A person licensed for the first time by the Board shall have all continuing education requirements waived solely for the remainder of that biennial licensing period.

(d) A licensee serving on active duty in the United States Armed Forces for a period of time exceeding 200 consecutive days in a biennial period shall have all continuing education requirements waived for that biennial period.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4615(a), 37 N.J.R. 1036(b).

Substituted “education” for “competency” throughout.

13:36-10.6 Credentials Committee

(a) The Board shall appoint a Credentials Committee to assist it in establishing guidelines and criteria for the approval of continuing education courses and seminars.

(b) The Credentials Committee’s responsibilities shall include:

1. Making recommendations to the Board regarding the approval of continuing education courses and seminars and the number of credit hours to be assigned to courses or seminars in satisfaction of the requirements of N.J.A.C. 13:36-10.3;

2. Developing procedures for the internal operation of the Committee; and

3. Maintaining substantive criteria for continuing education courses or seminars, which courses or seminars may include topics which:
 - i. Concern professional competency, ethics and legal developments relating to the practice of mortuary science;

ii. Examine and train licensees in the utilization and application of new techniques and scientific and clinical advances relating to mortuary science; and

iii. Deal with business management concepts as they relate to the delivery of efficient professional services to consumers.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (a).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-10.7 Criteria for continuing competency programs

(a) A course of acceptable subject matter shall directly and materially relate to the practice of mortuary science and shall be:

1. A formal course of learning which contributes directly to the maintenance of professional competence of a licensee;
2. At least one instructional hour in duration; and
3. Conducted by a qualified instructor or workshop leader.

(b) A program provider or a licensee seeking Board approval for a course of acceptable subject matter shall submit the following to the Board:

1. Information to document the elements of (a) above, in writing, and on a form provided by the Board, including, but not limited to:
 - i. A detailed description of course content and estimated hours of instruction; and
 - ii. The curriculum vitae of the lecturer, including specific background which qualifies the individual as a lecturer of repute in the area of instruction.

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-10.8 Presumptive accreditation and list of accredited courses

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

1. College courses;
2. Continuing education courses;
3. Correspondence, televised, videotaped and other short courses/tutorials;
4. Seminars, in-house courses, workshops and technical programs at professional meetings and conferences;

5. Teaching or instruction in (a)1, 2 and 4 above; and

6. Published papers, articles or books authored by the licensee.

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

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

Petition for Rulemaking.

See: 41 N.J.R. 1529(b).

13:36-10.9 Approval of course offerings

(a) A continuing education provider may receive approval for a continuing education course or program pursuant to the provisions of N.J.A.C. 13:36-10.7. The provider may apply for approval either prior to or up to six months following the offering of a course or program.

(b) A licensee seeking to take a course or program which the provider has not had pre-approved by the Board may apply to the Board for pre-approval or post-approval of the course or program offering. The licensee shall submit information similar to that which is required to be supplied by course providers pursuant to N.J.A.C. 13:36-10.7.

(c) An individual, group or association seeking course or program approval may impose a reasonable differential in course or program fees based upon membership within a group or association. However, in no event shall a sponsoring individual, group or association completely exclude from the course or program any licensee who is not a member of the group or association.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote (a).

13:36-10.10 Credit hour reporting procedure

(a) At the time of application for biennial license renewal, a licensee shall provide, on a form approved by the Board, a signed statement certifying that the licensee has completed the required number of continuing education credits.

(b) Each licensee shall maintain all evidence, as set forth in (e) below, of completion of continuing education credit requirements for two biennial periods after completion and shall submit such documentation to the Board upon request.

(c) Failure to maintain records or falsification of any information submitted with the renewal application may result in an appearance before the Board and, upon notice to the licensee and the opportunity to be heard, the assessment of

penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 et seq.

(d) The Board shall review the records of licensees from time to time, on a random basis, to determine compliance with continuing education requirements.

(e) Documentation of continuing education requirements shall consist of the following:

1. A log showing the type and titles of courses, programs or seminars completed, the sponsoring organizations, the locations of the courses, programs or seminars, the duration of the courses, programs or seminars, the instructors or speakers names and the number of continuing education credits claimed.
2. Attendance verification records in the form of college transcripts, completion certificates, paid receipts, and any other documents supporting evidence of attendance;
3. For publications, submission of the published article; and
4. For teaching, a statement of appropriate authority verifying the activity.

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In (e)1, substituted a reference to continuing education credits for a reference to credits.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Rewrote the section.

13:36-10.11 License reinstatement; activation

(a) The failure on the part of a licensee to renew his or her biennial license as required shall not relieve such person of the responsibility to maintain professional competence. At the time of application for reinstatement pursuant to N.J.A.C. 13:36-4.1, the licensee shall submit satisfactory proof to the Board that he or she has successfully completed all delinquent continuing education credits acceptable to the Board up to a maximum of 25 credits.

(b) Pursuant to N.J.A.C. 13:36-4.14, any inactive licensee who elects to return to active practice of mortuary science during any biennial license renewal period, or whom the Board permits to resume active practice during any biennial period, shall submit to the Board satisfactory proof that he or she has successfully completed all delinquent continuing education credits for each biennial period during which the licensee was active or inactive, including any part thereof, up to a maximum of 25 credits.

Amended by R.1997 d.514, effective December 1, 1997.

See: 29 N.J.R. 4072(a), 29 N.J.R. 5071(a).

Denoted the existing paragraph as (a); and added (b).

Amended by R.1999 d.355, effective October 18, 1999.

See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

In (a), substituted a reference to reinstatement for a reference to restoration.

Amended by R.2005 d.100, effective April 4, 2005.

See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

In (a), inserted an N.J.A.C. reference.

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.

“Assigned funeral insurance policy” means any insurance policy or annuity contract that is not a newly issued funeral insurance policy, but that, at the time an assignment was made of some or all of its proceeds, was intended to provide funds to the provider, whether directly or indirectly, at the time of the insured’s death in connection with a prepaid funeral agreement.

“At need funeral arrangements” means funeral arrangements made with survivors or personal representatives of a person who has already died for that person’s funeral.

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

1. Arranges or induces the purchaser or person paying the moneys to arrange for the storage or warehousing of prepaid funeral goods ordered pursuant to a prepaid funeral agreement, with or without evidence that legal title has passed; or
2. Acquires or reacquires actual or constructive possession or control of prepaid funeral goods after their initial delivery to the purchaser or person paying the moneys or personal representative of the intended funeral recipient.

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

“Funeral insurance policy” means any newly issued funeral insurance policy or assigned funeral insurance policy as defined in this section.

“Funeral trust” means a commingled or non-commingled account held in a pooled trust or P.O.D. account, established in accordance with P.L. 1957, c.182 (N.J.S.A. 2A:102-13 et seq.) or P.L. 1985, c.147 (N.J.S.A. 3B:11-16 et al.), which is intended as the depository for cash payments connected with a prepaid funeral agreement.