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<sup>5</sup> Staff has previously stated that a non-declinable charge for an identification viewing would likely violate Section 453.4(b)(1) of the Rule if not required by law. Staff Opinion 97-4 (Oct. 31, 1997) *available at* <http://www.ftc.gov/ftc/funerals/opinions/opinion97-4.pdf>

employees to conduct and document the identification,<sup>10</sup> or securing an identification waiver and indemnification from family members.<sup>11</sup> The availability of such alternatives undermines any argument that disinfecting, washing and dressing remains in connection with an identification viewing before a direct cremation or immediate burial is a practical necessity. For the same reason, the Rule prohibition of a separate non-declinable charge for those services cannot be excessively burdensome.<sup>12</sup>

It is therefore staff's opinion that under the Funeral Rule a funeral provider may not require and impose a separate special charge for disinfecting, washing and dressing remains in connection with an identification viewing before a direct cremation or immediate burial absent a state law, cemetery or crematory requirement that is disclosed in writing on the provider's statement of funeral goods and services selected. We note, however, that nothing in the Rule prevents a funeral provider from offering and charging clients for services that go beyond an identification viewing, such as a private family viewing rather than a formal public viewing, so long as that service is entirely optional and listed on the provider's General Price List.

As you know, the views expressed in this letter are those of the FTC staff. They have not been reviewed, approved, or adopted by the Commission, and they are not binding on the Commission or any individual Commissioner. However, they do reflect the views of FTC staff charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are now routinely posted on the FTC website at <http://business.ftc.gov/content/funeral-rule-opinions>.

Sincerely,

/s/

Craig Tregillus  
Funeral Rule Coordinator

(Revised: 12/18/12)

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<sup>10</sup> This alternative may suffice, for example, in cases where there are readily identifiable distinguishing features such as scars or tattoos.

<sup>11</sup> A waiver and indemnification may be sufficient whenever a family member is present with the deceased at the time of removal.

<sup>12</sup> Nothing in the Rule prevents funeral providers from adding the cost of verifying and documenting the identity of the deceased before a direct cremation or immediate burial to the basic services fee included in their prices for those two specialized services because identification is equally important to "virtually all," if not all, of those two services. See Staff Opinion 07-2 (Mar. 21, 2007) at 2, available at <http://www.ftc.gov/ftc/funerals/opinions/opinion07-2.pdf>. Staff has previously determined that providers may reduce their standard basic services fee for direct cremation and immediate burial to reflect the proportionate reduction for each of those services in the actual professional services they provide and the accompanying overhead. Staff Opinion 09-6 (Nov. 24, 2009), available at <http://ftc.gov/bcp/edu/microsites/funerals/opinions/opinion09-6.pdf>. Thus, a funeral provider may recover its identification costs simply by adding them to the reduced basic services fee that it includes in its prices for direct cremation and immediate burial.

