

CHAPTER 36

STATE BOARD OF MORTUARY SCIENCE

Authority

N.J.S.A. 45:7-38.

Source and Effective Date

R.1994 d.523, effective September 19, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Executive Order No. 66(1978) Expiration Date

Chapter 36, State Board of Mortuary Science, expires on September 19, 1999.

Chapter Historical Note

Chapter 36, State Board of Mortuary Science, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 36, Subchapters 1 through 8, was readopted as R.1984 d.341, effective July 23, 1984. See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b). Subchapter 9, Prevention of Unfair or Deceptive Acts and Practices, was adopted as R.1984 d.525, effective November 19, 1984. See: 16 N.J.R. 1315(a), 16 N.J.R. 3210(a). Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985. See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a). Pursuant to Executive Order No. 66(1978), Chapter 36 was readopted as R.1989 d.540, effective September 27, 1989. See: 21 N.J.R. 1971(a), 21 N.J.R. 3474(b). A new Subchapter 7, Special Rules of Practice, was adopted as R.1994 d.288, effective June 6, 1994. See: 26 N.J.R. 1302(a), 26 N.J.R. 2293(b).

Pursuant to Executive Order No. 66(1978), Chapter 36 was readopted as R.1994 d.523. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION**13:36-1.1 Seal of the Board**

The Seal of the Board shall be the Seal of New Jersey encircled with the words "State Board of Mortuary Science of New Jersey."

13:36-1.2 (Reserved)

Repealed by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Section was "Office of the Board."

13:36-1.3 Board meetings

(a) The Board shall hold an annual meeting in May each year, or at such other time as the President may direct, at which time the President and Secretary of the Board shall be elected for the ensuing year.

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

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

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

"July" changed to "May"; "five days" changed to "reasonable".

13:36-1.4 Duties of Executive Director

(a) The Executive Director shall be in full charge of office administration. It shall be his or her duty to:

1. Receive complaints and answers;
2. Set and calendar cases for hearings;
3. Issue notices of hearing and statements to respondents;
4. Perform any and all duties which the Board may from time to time impose upon him or her.

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

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

13:36-1.5 Inspector's duties

(a) The inspector shall:

1. Inspect mortuaries for cleanliness wherein practitioners of mortuary science are practicing;
2. Where necessary, view dead human bodies which have been placed in the care of any practitioner of mortuary science;
3. Inspect the license and registration of practitioners of mortuary science;
4. Verify employment and check credentials of all interns in training;
5. Visit any place where the practice of embalming is being conducted or where a funeral is in process of being directed; provided, however, that such visitation shall be made in a respectful and decorous manner, as may be fitting the presence of the dead;
6. Visit any cemetery, crematory or public mausoleum for the purpose of determining whether dead human bodies entrusted to the care of a practitioner of mortuary science or funeral director are being properly disposed of according to law.

(b) The inspector shall perform such other duties as may be directed by the Board and shall report to the Board at each regular meeting and at such other times as the Board may direct.

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).

13:36-1.6 Fees and charges

(a) There shall be paid to the State Board of Mortuary Science the following fees:

1. Application fee \$ 50.00;
2. Initial license fee:

i. During the first year of a biennial renewal period	\$170.00
ii. During the second year of a biennial renewal period	85.00
3. Initial certificate of registration for a mortuary:	
i. During the first year of a biennial renewal period	350.00
ii. During the second year of a biennial renewal period	175.00
4. Licensure examination fee	125.00
5. Practical examination fee	75.00
6. Intern registration fee	75.00
7. New installation inspection fee	150.00
8. Rules and regulations	5.00
9. Biennial license renewal fees:	
i. Practitioner	170.00
ii. Embalmer	170.00
iii. Funeral director	170.00
iv. Mortuary certificate of registration	350.00
v. Late renewal fee (first 30 days)	100.00
10. Change of manager registration fee	35.00
11. Funeral home name change fee	40.00
12. Duplicate license fee	25.00
13. Replacement, embossed registration certificate fee	25.00
14. Reinstatement fee (after 30 days) plus initial license fee	150.00
15. Verification of licensure	25.00

Amended by R.1974 d.281, effective October 9, 1974.
See: 6 N.J.R. 451(b).

Amended by R.1982 d.105, effective April 5, 1982.
See: 13 N.J.R. 367(c), 14 N.J.R. 346(d).

(a)2, 3, 4, and 5; fees were "\$50.00"; "\$25.00"; "\$25.00" and "\$25.00" respectively.

Amended by R.1985 d.175, effective April 15, 1985.
See: 17 N.J.R. 50(a), 17 N.J.R. 973(a).

Fees have been raised.

Amended by R.1988 d.158, effective April 18, 1988.
See: 20 N.J.R. 177(a), 20 N.J.R. 912(a).

New fees and increases.

Amended by R.1990 d.372, effective August 6, 1990.
See: 22 N.J.R. 1328(a), 22 N.J.R. 2331(b).

Added a revival fee for lapsed license and rescinded \$25.00 fee for each year license not renewed.

Amended by R.1991 d.356, effective July 15, 1991.
See: 23 N.J.R. 1063(b), 23 N.J.R. 2160(a).

Deleted (a)1, 3, 6, 8, 9; (a)11iv. Added (a)1 through 3. Redesignated existing (a)2, 4, 5, 10, 11, 12, 13, 14, 15 as (a)4, 5, 6, 8, 9, 10, 11, 12, 13 with fee changes. Changed fee in (a)7. Redesignated existing (a)11v as (a)9iv with fee change. Added (a)9v, (a)14 and 15.

Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-1.7 (Reserved)

Repealed by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Section was "Amendments."

13:36-1.8 Record keeping by practitioner of mortuary science

(a) All licensed practitioners of mortuary science shall be required to maintain full, accurate records of all funerals which they conduct or in which they participate in any manner.

(b) Such records are to be kept, electronically or otherwise, on an annualized basis for six years and each funeral will be designated by a number assigned consecutively at the time funeral arrangements are made. The information on

such records shall be recorded after the completion of each funeral.

(c) Such records are to include the following:

1. The Statement of Funeral Goods and Services Selected;
2. Cemetery in which burial was made or name of crematorium where appropriate, and the charges made by the cemetery or crematorium;
3. The name and address of any church, synagogue and/or clergy who participated in the funeral service and who received any offering or honorarium, and the amount thereof, if paid by the funeral home;
4. Date of disposition; and
5. The final bill.

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).

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

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

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

(a) The practitioner shall compile a "Statement of Funeral Goods and Services Selected" form. The form shall be on a single sheet of paper and shall include at least the following information:

1. The full name of the funeral home, address, telephone number, manager's name and funeral file number;
2. The full name, legal address, and date and place of death of the deceased;
3. The name and address of the person making the funeral arrangements;
4. Estimated charges;
5. All charges relative to the funeral, broken down into at least the five general categories set forth in (d) below, with subtotals and grand totals as indicated;
6. Cash disbursements paid by the family; and
7. The funeral record number as required by N.J.A.C. 13:36-1.8(b).

(b) Promissory notes and other non-related items shall not be included on the form.

(c) A contract may appear at the bottom of the form. If included, it shall be separated from the form by a horizontal line extending across the face of the page, and the heading "Contract" shall appear immediately below the horizontal line.

(d) All charges relative to the funeral shall be categorized as follows:

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)
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. 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—Direct Cremation, Immediate Burial.

If an optional packaged service is selected, categories I through III are not applicable.

CATEGORY IV—MERCHANDISE

- 1. Casket (Description to include manufacturer, name or model number, type of material and interior material)
2. Vault/Outer Burial Enclosure (Description to include manufacturer, name or model number, and type of material)
3. Clothing
4. 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. Certified Copies of Death Certificate and Permit Fee
5. Newspaper Notices
6. Other (Specify)

Category V TOTAL
GRAND TOTAL

\$
\$

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.

Signature of Practitioner and License #

Signature of Person Making Arrangements and Date

For Name of Funeral Home

Relationship of Deceased
Street Address
City, State, Zip Code

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.

- Crementary requires container to surround the remains.
Your cemetery requires an outer burial container
Other:

REASONS FOR EMBALMING:

- Family authorized.
Other:

(e) 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, 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 form if they do not offer for sale the services of Direct Cremation, Immediate Burial, Forwarding of Remains and/or Receiving of Remains.

(f) Immediately upon completing the "Statement of Funeral Goods and Services Selected" form, the practitioner and the consumer shall sign the form where indicated. The practitioner shall immediately provide a copy to the person for whom the form was prepared.

(g) Any change, addition or deletion authorized by the purchaser after the completion of the form shall be included on the final bill.

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".

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).

SUBCHAPTER 2. INTERNS

13:36-2.1 Qualification for intern registration

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

1. "Two years of academic instruction" means the successful completion of 60 degree credits at a community college or one-half the credits required to complete a degree at a four year college or university.
2. "Remedial or basic course" means a non-degree credit course required by a college or university to be completed by a student before being admitted to a specific college level course or degree program course.

(b) An applicant to be registered as an intern shall have satisfactorily completed two years of academic instruction in a college or university approved by the New Jersey State Department of Higher Education or shall be completing the requirement while registered as an intern.

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

1. Attend college in the Fall and Spring semester of each year until the requirement is met.
2. Achieve a minimum of eight degree program credits per semester with a minimum cumulative average of 2.0 or its academic equivalent throughout the concurrent registration program. A person who receives less than a 2.0 cumulative average, withdraws from a course, or who takes more than one remedial or basic course per semester shall have his or her internship terminated unless good cause is established for the continuation of the internship.
3. Have an official transcript of credits forwarded directly to the Board by the institution being attended immediately at the completion of every semester.
4. Notify the Board immediately if the college program is interrupted for any reason.

(d) An out of state resident may be registered as an intern, provided that the applicant is registered with a New Jersey practitioner of mortuary science.

(e) CLEP credits may be included in an academic evaluation by the New Jersey State Department of Higher Education.

(f) Any credit granted to a student by a college or university for completion of any remedial or basic course shall not be recognized by the Board in any transcript evaluation made by the New Jersey State Department of Higher Education for an academic qualifying certificate.

Repealed by R.1973 d.181, effective July 3, 1973.
See: 5 N.J.R. 52(a), 5 N.J.R. 290(c).

Section was "Qualifications for registration."
New Rule R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Amended by R.1988 d.111, effective March 7, 1988.
See: 19 N.J.R. 2245(a), 20 N.J.R. 542(a).

(a) substantially amended.
Administrative corrections to (b), (c), (d), (e) and added new (f).
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).

13:36-2.2 Request for application

An application for intern registration shall be requested, in writing, by the prospective intern's preceptor. Upon receipt of the request, an application shall be issued. The application shall be executed by the preceptor and intern and certified in affidavit form, and returned to the Board office immediately.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

"Trainee" is now "intern"; added "and returned . . . office immediately".

13:36-2.3 Availability of interns

Registered interns shall be available for funerals, embalmings, removals and other training instruction in accordance with N.J.A.C. 13:36-2.14 and shall assist in the embalmings of at least 75 bodies and the conduct of at least 75 funerals during the one or two year Practical Training period, whichever is applicable.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Deleted old text and substituted new.

13:36-2.4 Intern identification card

During the course of his or her training, every student intern shall at all times carry the intern card issued by the Board.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Substituted "intern" for "trainee".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.5 Reporting embalmments and funeral attendance; form

(a) The Board shall furnish monthly report forms to the intern for reporting embalmments and funerals attended, which shall be signed by the intern and preceptor and dated and filed with the Board no later than 15 days after the last day of each month. The intern shall complete such report

setting forth all information required therein and file the forms with the Board.

(b) No internship credit shall be granted for the month when a report is received after the prescribed monthly filing date except upon presentation of proof acceptable to the Board that good cause exists for failing to timely file the report.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Deleted old text and substituted new.
Administrative correction to (b).
See: 21 N.J.R. 1830(a).

13:36-2.6 Credit for embalming body

No licensed practitioner of mortuary science shall credit more than one student intern for the embalming of any one body.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "intern" for "trainee".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.7 Intern qualifications for employment

No licensed practitioner of mortuary science shall engage a student intern unless, prior to such engagement, his or her case volume during the previous calendar year shall meet a minimum requirement of 25 cases which shall not include stillbirths.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "intern" for "trainee".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

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 must submit to the Board in letter form the reason for his or her absence and the length of time he or she intends to be away.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "intern" for "trainee".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.9 Termination of training

Upon termination of any internship, the licensee preceptor shall immediately request of the Board a notice of termination form to be completed by him or her and filed with the Board within five days of its receipt.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "internship" for "traineeship".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.10 Return of intern identification card

Upon completion or termination of an internship for any reason, the intern shall be charged with the responsibility of returning his or her intern identification card immediately to the Board.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "intern" for "trainee".
Amended by R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).
Text "When an internship . . . internship is completed" is deleted.
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.11 Affidavit recommendation form

(a) Upon termination of an internship, an affidavit recommendation form shall be filed with the Board. Any licensed practitioner of mortuary science who refuses to certify any intern for the internship served under his or her license shall furnish the Board with a statement under oath setting forth the reasons for such refusal. If not satisfied with such statement, the Board may take such action as it may deem proper.

(b) In the event a preceptor or licensee is not available when the affidavit is to be executed, the Board may in its discretion, upon proper proof of satisfactory internship, select someone to sign the affidavit.

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted "intern" for "trainee".
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.12 Extension of internship

No intern shall be permitted to continue his or her period of practical training as a registered intern for more than three years.

Repealed by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Section was "Recognition of traineeship".
New Rule, R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

13:36-2.13 (Reserved)

Repealed by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Section was "Concurrence of traineeship and school attendance".

13:36-2.14 Preceptors' responsibility for training

(a) The preceptor shall be charged with the professional responsibility of insuring bona fide internships for all student interns by seeing to it that such interns are thoroughly trained in the theory and practice of mortuary science, the laws, rules and regulations pertaining thereto, and are proficient in the following areas:

1. Removal of remains, embalming, restorative art, dressing and casketing remains;