

CHAPTER 36

STATE BOARD OF MORTUARY SCIENCE

Authority

N.J.S.A. 45:7-32 et seq.

Source and Effective Date

R.1999 d.355, effective September 17, 1999.

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

Executive Order No. 66(1978) Expiration Date

Chapter 36, State Board of Mortuary Science, expires on September 17, 2004.

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, State Board of Mortuary Science, 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Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985.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, State Board of Mortuary Science, was readopted as R.1989 d.540, effective September 27, 1989. See: 21 N.J.R. 1971(a), 21 N.J.R. 3474(b).

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, State Board of Mortuary Science, was readopted as R.1994 d.523, effective September 19, 1994. See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Subchapter 10, Continuing Education, was adopted as R.1997 d.162, effective April 7, 1997. See: 29 N.J.R. 408(a), 29 N.J.R. 1340(b).

Subchapter 11, Prepaid Funeral Agreements and Arrangements, was adopted as R.1998 d.15, effective January 5, 1998. See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Pursuant to Executive Order No. 66(1978), Chapter 36, State Board of Mortuary Science, was readopted as R.1999 d.355, effective September 17, 1999. 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Repealed by R.1984 d.341, effective August 6, 1984.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) The State Board of Mortuary Science shall charge the following fees:

1. Application fee \$ 50.00
2. Initial license fee:
 - i. During the first year of a biennial renewal period \$250.00
 - ii. During the second year of a biennial renewal period \$125.00
3. Initial certificate of registration for a mortuary:
 - i. During the first year of a biennial renewal period \$500.00
 - ii. During the second year of a biennial renewal period \$250.00
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 \$250.00
 - ii. Mortuary certificate of registration \$500.00
 - iii. Late renewal fee (first 30 days) plus license or certificate renewal fee \$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).
 Amended by R.1999 d.118, effective April 5, 1999.
 See: 30 N.J.R. 4319(a), 31 N.J.R. 881(b).
 In (a), increased fees in 1 through 3, and rewrote 9.

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)	\$

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 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. 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

6. Evidence of having achieved a passing score on the Mortuary Jurisprudence examination administered by the Board pursuant to N.J.A.C. 13:36-3.2;

7. Evidence of having achieved a passing score on the practical examination administered by the Board pursuant to N.J.A.C. 13:36-3.7; and

8. An application fee pursuant to N.J.A.C. 13:36-1.6(a)1.

New Rule, R.1999 d.355, effective October 18, 1999.

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

Former N.J.A.C. 13:36-3.1, Application for examination, recodified to N.J.A.C. 13:36-3.2.

13:36-3.2 Application for Mortuary Jurisprudence examination

(a) Upon request, an application for the Mortuary Jurisprudence examination shall be forwarded to the applicant. The form shall be signed by the applicant and certified, unless notified otherwise. All applications shall be filed with the Board on or before the first day of the month in which the examination is to be held.

(b) The statements contained in the application for the Mortuary Jurisprudence examination must be complete and accurate before the application is processed or accepted by the Board.

(c) A candidate who fails to appear, without good cause, shall forfeit the Mortuary Jurisprudence examination fee.

(d) An out of state resident may make application for a written examination administered by the Board, provided the applicant meets all admission requirements.

(e) The 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, which shall be provided to the candidate by the Board upon application for licensure.

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

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

Old (a) deleted and new (a) substituted; new (d) added.

Recodified from N.J.A.C. 13:36-3.1 and 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 Mortuary Jurisprudence examinations for a reference to examinations; in (b), inserted a reference to Mortuary Jurisprudence examinations; in (c), substituted a reference to Mortuary Jurisprudence examination fees for a reference to examination fees; and added (e). Former N.J.A.C. 13:36-3.2, Waiver of practical training and experience, repealed.

13:36-3.3 (Reserved)

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.1999 d.355, effective October 18, 1999.

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

Section was "Examination procedure".

13:36-3.4 (Reserved)

Amended by R.1982 d.409, effective November 15, 1982.

See: 14 N.J.R. 897(a), 14 N.J.R. 1309(c).

Added 17 through 20 to (a).

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.1999 d.355, effective October 18, 1999.

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

Section was "Examination subjects".

13:36-3.5 Passing grades

(a) To successfully fulfill the examination requirement of N.J.S.A. 45:7-49, a candidate shall:

1. 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 Mortuary Jurisprudence examination given by the State Board; or

2. When the Board gives a written examination, including a section on mortuary jurisprudence, the candidate shall achieve a score of not less than 70.

Amended by R.1980 d.543, effective December 15, 1980.

See: 12 N.J.R. 670(b), 13 N.J.R. 104(b).

Deleted (b) concerning reexaminations.

Repeal and New Rule, R.1990 d.273, effective May 21, 1990.

See: 21 N.J.R. 1820(a), 22 N.J.R. 1614(a).

Revised rule specifying examination requirements.

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

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

Rewrote the section.

Case Notes

Claimant eligible for unemployment benefits due to discharge by hospital from licensed practical nurse position after her failure to pass second licensing examination; discharge from position required by nursing regulations (citing former N.J.A.C. 13:37-9.5). Means v. Bd. of Review, Dep't of Labor and Industry, 172 N.J. Super. 465, 412 A.2d 1053 (App.Div.1980), certification denied 84 N.J. 451, 420 A.2d 348 (1980).

13:36-3.6 Examination review procedure

(a) An unsuccessful candidate may apply to the Board for a review of his or her Mortuary Jurisprudence examination papers. Such application shall be submitted to the Executive Director in writing within 10 calendar days following notification of Mortuary Jurisprudence examination results. The Executive Director shall, upon receipt of the candidate's application within the allotted time, arrange a date for the candidate to compare his or her examination sheet with the key answer sheet to ascertain mechanical grading errors, if any.

(b) Such review will take place in the Board office with an observer. The candidate will receive a copy of his or her answer sheet, a copy of the key answer sheet and one blank paper on which to take notes. These documents cannot be removed from the Board office.

Amended by R.1975 d.309, effective October 20, 1975.

See: 7 N.J.R. 509(a).

Amended by R.1980 d.542, effective December 15, 1980.

See: 12 N.J.R. 670(c), 13 N.J.R. 104(a).

"one month" application submission period was "three months"; "convenient date" for exam review was "mutually convenient date". Amended by R.1990 d.273, effective May 21, 1990. See: 21 N.J.R. 1820(a), 22 N.J.R. 1614(a).

Added text to create new (a)-(b).

In (a): changed "one month" to "10 days" regarding submission of application. Added text to final sentence regarding answer sheets. 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 references to the Executive Director for references to the Board secretary throughout, substituted a reference to Mortuary Jurisprudence examination papers for a reference to examination papers in the first sentence, and substituted a reference to Mortuary Jurisprudence examination results for a reference to examination results in the second sentence.

13:36-3.7 Practical examination requirements

(a) No candidate will be given the practical examination until after he or she has successfully completed both the written examinations prescribed under N.J.S.A. 45:7-49 and the prescribed period of internship.

(b) Such practical examination shall be held at a place determined by the Board and the examination shall be conducted by one or more Board members. A candidate who has failed the practical examination must wait three months before being scheduled for re-examination.

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 from (a) and (a)1, and substituted new text therefor. Amended by R.1990 d.273, effective May 21, 1990. See: 21 N.J.R. 1820(a), 22 N.J.R. 1614(a).

Deleted (a)1 and 2 and specified practical examination requirements with new text in (a). In (b): deleted language regarding absence of a preceptor and scheduling of the candidate's examination.

13:36-3.8 (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 "Presentation of certificates of licensure."

SUBCHAPTER 4. LICENSE AND REGISTRATION GENERALLY

13:36-4.1 License renewals; reinstatement of lapsed licenses

(a) All applications for biennial license renewal shall be filed with the Board on or before the last day of February of every odd-numbered year or such other date established for renewal by the Division of Consumer Affairs. If the licensee fails to receive such renewal application on or before 30 days prior to the renewal date, he or she shall notify the Board in writing and request that the Board forward the necessary form.

(b) All applications for biennial establishment registration renewal shall be filed with the Board on or before the last day of December of every odd-numbered year or such other date established for renewal by the Division of Consumer Affairs. If the applicant fails to receive such renewal application on or before 30 days prior to the renewal date, he or she shall notify the Board in writing and request that the Board forward the necessary form.

(c) A licensee who has failed to renew his or her biennial license for two or more biennial license renewal periods may apply to the Board for reinstatement of his or her lapsed license upon submission to the Board of satisfactory proof of the following:

1. Achievement of a scaled score of not less than 70 on the Mortuary Jurisprudence examination administered by the Board within one year of application for reinstatement;
2. Payment of all biennial license renewal fees as provided in N.J.A.C. 13:36-1.6 for each biennial license renewal period in which the licensee has failed to renew his or her biennial license;
3. Payment of a reinstatement fee pursuant to N.J.A.C. 13:36-1.6; and
4. Satisfaction of the continuing professional competency requirements pursuant to N.J.A.C. 13:36-10.11(a).

Amended by R.1982 d.333, effective October 4, 1982.

See: 14 N.J.R. 751(a), 14 N.J.R. 1100(a).

Change renewal deadline from September to March or such other established day. Also changed failure to receive renewal from August 1 to 30 days prior to renewal date.

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).

Added (c).

13:36-4.2 Notice of residence address change; corporate structure

(a) Every licensee shall give notice in writing to the Board of Mortuary Science of any change of his or her residence address within 10 days after such change of address.

(b) When a funeral establishment is operated by a corporation, a limited partnership or a limited liability corporation, the licensee in charge shall notify the Board within 10 days of any change in the information requested pursuant to N.J.A.C. 13:36-4.6(a)2.

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).

13:36-4.3 Legal name change

(a) If a licensee changes his or her name, the change will 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 must 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.

13:36-4.11 Trade names

(a) An application for registration of a funeral establishment operated under a trade name or other assumed name must be accompanied by a certified copy of the trade name certificate as filed in the county clerk's office.

(b) Application for registration of a funeral establishment must be accompanied by an affidavit by the applicant setting forth the true full names, residences and residence telephone numbers of any and all persons having a proprietary or financial interest in the business.

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

(d) Whenever an individual licensed owner conducts an establishment under his or her own surname, then such use of the surname shall not be considered a trade name.

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

13:36-4.12 Death of licensee or owner

(a) The practice of a mortuary establishment shall cease and the certificate of registration shall become void upon the death of an owner and shall not be renewed unless the executor or administrator of the estate or the deceased owner's heir or heirs informs the Board within 30 days of the death of the owner of their intention to continue the mortuary practice and to apply for a certificate of registration. Such notice must be in writing and conform with the following requirements:

1. It shall state the practice shall be under the direct supervision of a licensed temporary or full-time manager, whichever is applicable, and contain the name of the licensee selected.

2. The firm may operate under the supervision of a temporary manager for a period not longer than 60 days to secure the services of a full-time licensed manager; provided, however, upon making a further request, the Board may grant an extension of time during which the temporary manager may serve.

3. The manager shall simultaneously submit to the Board an affidavit stating his or her willingness to act in such capacity.

4. When the firm is to be operated under an estate, a trade name certificate certified by the county clerk shall be submitted with the notice. This rule shall not apply to corporate firms.

(b) Upon request from the Board, 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 within 30 days of the owner's death.

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.1999 d.355, effective October 18, 1999.

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

In (a), inserted "of the death of the owner" following "days" in the introductory paragraph; and in (b), substituted "Upon request from the Board," for "Prior to operating pursuant to (a) above" at the beginning.

13:36-4.13 Use of a registered mortuary owned by another

(a) A person who owns a New Jersey registered mortuary may use another New Jersey registered mortuary without obtaining a certificate of registration or complying with new funeral home installation requirements up to three times per calendar year. The owner of a New Jersey registered mortuary may permit the owner of another New Jersey registered mortuary to use his or her mortuary up to three times per calendar year. The Board may waive these three times per calendar year limitations upon receipt of an application showing good cause for the waiver.

(b) All parties involved in such a special use agreement shall immediately forward written notice to the Board before each use of the establishment. This notice shall include the following information:

1. Title and address of the firm being used and the name of the manager;
2. The name and address of the firm using the establishment and the name of the licensee in charge;
3. Name of decedent; and
4. The exact date(s) the establishment is to be used.

(c) The name of the establishment using the facility is not to be inserted in obituary and death notices unless the name of the firm registered at that location is also inserted.

New Rule, R.1985 d.293, effective June 17, 1985.

See: 17 N.J.R. 797(a), 17 N.J.R. 1580(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.1999 d.355, effective October 18, 1999.

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

Rewrote (a).

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

(a) As used in this section, the following terms have the following meanings unless the context indicates otherwise:

1. "Active" means a licensee eligible to engage in the practice of mortuary science as set forth by the Mortuary Science Act, N.J.S.A. 45:7-32 et seq., and pursuant to the rules contained in this chapter.

2. "Board" means the State Board of Mortuary Science of New Jersey.

3. "Inactive" means a person licensed by the Board and in good standing, but who is not eligible to engage in the practice of mortuary science as set forth by the Mortuary Science Act, N.J.S.A. 45:7-32 et seq., and pursuant to the rules contained in this chapter.

4. "Licensee" means any person authorized to engage in the practice of mortuary science as regulated by the Board.

(b) All biennial renewal applications shall provide licensees with the option of either active or inactive license renewal.

1. Licensees may elect to be active or inactive for any biennial period regardless of their status during any prior biennial period.

2. If a licensee elects to return from inactive status to active status, he or she shall provide the Board with proof of compliance with N.J.A.C. 13:36-10.11(b).

3. Board-issued licenses shall conspicuously disclose whether the licensee is active or inactive.

(c) A licensee who elects to be inactive shall remain inactive for the entire biennial period unless, upon application to the Board, the Board elects to return an inactive licensee to active status provided such licensee has demonstrated compliance with N.J.A.C. 13:36-10.11(b).

(d) Any inactive licensee who engages in the practice of mortuary science shall be deemed to be practicing without a license and shall be deemed to have engaged in professional misconduct.

(e) Any licensee or registrant of the Board who permits, solicits, assists, aids, abets, or knowingly acquiesces in the unauthorized practice of mortuary science by an inactive licensee shall be deemed to have engaged in professional misconduct.

New Rule, R.1997 d.514, effective December 1, 1997.
See: 29 N.J.R. 4072(a), 29 N.J.R. 5071(a).

SUBCHAPTER 5. MORTUARIES

13:36-5.1 Display of "Manager" sign

(a) Whenever a firm is required to be operated under the supervision, management and control of a licensed manager pursuant to the provisions of N.J.A.C. 13:36-4.8, the name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the establishment or on the firm sign, provided, however, that at the option of the firm, the term "senior director" or "executive director" may be substituted for "manager." This sign shall contain legible letters that are no less than 1 1/2".

(b) The name of the licensee in charge must also appear with the title "manager," "senior director" or "executive director" on all stationery, billheads, advertising, and in all other instances where the firm name is used.

Amended by R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

Substantially amended.

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 N.J.A.C. 13:36-4.8.

Cross References

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

13:36-5.2 Application approved for specific locations; separate facilities construed

(a) An application for registration of a funeral establishment shall be approved for a specified address and location only.

(b) In the event that the applicant maintains a chapel, preparation room or other funeral service facility in a building or portion thereof physically separated from, and located at a location designated by an address differing from the office and/or chapel or other facilities of the applicant, such chapel, preparation room or other funeral facility shall be deemed a separate funeral establishment or funeral establishments, for which a separate application for registration shall be made.

(c) Nothing contained in this Section shall be construed or interpreted to require a separate registration for such a building, if the building or part thereof is joined or connected by any private passage, walk or driveway existing between the registered establishment and such other building.

13:36-5.3 Transferability of registration certificates

A certificate of registration is not transferable. When a business is discontinued at the registered address the certificate shall be immediately returned to the Board office for cancellation.

13:36-5.4 Physical structure of mortuary; separation from living quarters

(a) All mortuaries must have at least one viewing room, equipment, facilities and private lavatories suitable to serve the general public.

(b) The mortuary must be maintained on floor levels which are separate and distinct from living quarters, kitchens or other rooms that are ordinarily a part of the domestic household unit.

(c) In the case of ranch type establishments or other cases in which the architectural structure makes it impossible to have suitable parlors and facilities on a different floor level, the owner must prove to the Board's satisfaction the existence of a proper division between the mortuary section and the living quarters of the building.

Cross References

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

13:36-5.5 Preparation room requirements

(a) Every mortuary must contain a preparation room on the premises which is suitably located and private and shall comply with the following requirements:

1. The walls shall extend from floor to ceiling. The ceiling and walls must be covered with tile, finished plaster, composition wall board or other composition material or combination of these materials. With exception of tile, all of these materials must be finished with enamel, varnish or some other smooth-hard waterproof material.

2. Outside ventilation must be provided for by windows, transoms or air conditioning, and every preparation room shall comply in respect to ventilation with State and local laws, ordinances and regulations. It is also to be ventilated so that no deleterious odors shall be permitted to enter into any other part of the premises of the funeral establishment or into any other adjoining premises or property.

3. The floor shall be concrete or tile with glazed surface. Wood flooring may be used provided it is covered with linoleum or other composition material that is impervious to water.

4. All preparation rooms shall contain only equipment necessary for the preparation or care of dead human bodies for disposal or transportation, and shall not have an opening or doorway into a lavatory which is designated to serve the general public.

5. All doors leading from the preparation room or embalming room must have a smooth surface or covered with material impervious to dirt and liquids. All windows and outside doors must be screened.

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

13:36-5.6 Equipment requirements

(a) Every funeral establishment in the State shall have in its preparation or embalming room and shall be equipped with, at a minimum, the following:

1. Leakproof trash can;
2. Instrument cabinet;
3. Disinfecting agents;

4. Drainage or viscera bucket;

5. Embalming table, porcelain or metal with a drainage opening in the lower end;

6. Hydro-aspirator with approved vacuum breaker or other approved aspirator;

7. Waste sink installed pursuant to the provisions of N.J.A.C. 5:23;

8. Wash basin with hot and cold running potable water;

9. One leakproof container for storing dirty linens;

10. For each licensee and trainee, protection, apparel and/or equipment as required by all applicable standards of the Occupational Safety and Health Administration Agency (OSHA).

11. One container of hardening compound;

12. One set metal or rubber drain tubes (large, medium, small);

13. One set metal injection tubes (large, medium, small);

14. One grooved director equal;

15. One aneurism needle;

16. One large trocar;

17. One small trocar;

18. One scalpel;

19. One pair scissors;

20. At least two hemostats;

21. Two forceps;

22. One hypodermic syringe;

23. Hypodermic needles (assorted);

24. Suture needles; and

25. Suture thread.

(b) All instruments and appliances used in embalming shall be thoroughly cleansed and disinfected immediately after the conclusion of each individual case.

Amended by R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

(b) added.

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).

Rewrote (a); in (b), substituted a reference disinfection for a reference to sterilization.

Case Notes

Bankruptcy court order approving sale of Chapter 11 debtor's funeral home's assets was clear and unambiguous with respect to items of personal property included in sale, as required to hold former operator

of funeral home in contempt. In re Baker, Bkrtcy. D.N.J. 1996, 195 B.R. 309.

13:36-5.7 Potable water supply

(a) All licensed owners and managers of funeral establishments are charged with the responsibility of insuring that the potable water supply is not open to the danger of contamination from any source.

(b) This responsibility may be satisfied by the installation of any approved hydro-aspirator and such other devices as may be necessary to accomplish the purpose of this rule.

(c) Any infraction of this rule shall be reported immediately to the Board.

13:36-5.8 (Reserved)

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

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

Section was "Employment of licensed embalmer".

13:36-5.9 Multiple funeral establishments in same location

(a) Any individual, partnership, corporation or limited liability company that applies to register any additional funeral establishment(s) in a location already registered as a funeral establishment by the State of New Jersey shall comply with N.J.A.C. 13:36-4 and this subchapter.

(b) In the event an establishment has the same or similar ownership of individuals, partnerships, corporations or limited liability companies as the primary funeral establishment, prices quoted and charged to consumers shall be the same for all establishments in that location.

(c) No more than three funeral establishments shall operate in one facility unless, upon application, the Board in its discretion finds that permitting an additional establishment will be in the best interest of consumers.

Repealed by R.1985 d.293, effective June 17, 1985.

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

Section was "Branch mortuaries".

New Rule, R.1994 d.523, effective October 17, 1994.

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

13:36-5.10 Display of establishment sign

Every funeral home, except a trade service, shall display the firm name as registered in the certificate of registration on a sign located reasonably near the main entrance or clearly visible from the street and the main entrance.

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

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

Cross References

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

13:36-5.11 Burial preparation performed in separate room

No embalming or other preparation for burial or disposition of a dead human body shall be performed in any funeral establishment except in a room set aside exclusively and approved by the Board for such purpose.

13:36-5.12 Advertising

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

1. "Advertisement" means any attempt, direct or indirect, by publication, dissemination, circulation or broadcast through the public media to induce any person or entity to purchase or enter into an agreement to accept mortuary or funeral services or merchandise.

2. "Public media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, letters, billboards, aerial displays, signs, television, radio, and any other similar item, document, publication or device used to communicate to the general public or to a specific group.

3. "Licensee" means licensed practitioner of mortuary science as defined by N.J.S.A. 45:7-34(g).

4. "Price reduction statement" means a statement, suggestion or implication, direct or indirect, that a service or merchandise is being offered or made available for sale at a price less than the advertiser's routine price. The following words, terms and phrases or their substantial equivalent shall be deemed to indicate a price reduction statement: sale, discount, savings, price cut, bargain, reduced, prices slashed, clearance, regularly, usually, cut rate, originally, formerly, at cost, below cost, wholesale.

5. "Testimonial" means a statement by a person referring to his or her family's personal experience with a mortuary or licensee.

(b) All stationery must indicate the true firm name as registered with the Board of Mortuary Science.

(c) Advertisements shall contain the true firm name, address, and telephone number of the facility as registered with the Board. Advertisements shall also contain the name of the manager or licensee in charge.

(d) An advertisement that makes reference to more than one registered facility shall comply with (c) above regarding one facility provided that only the municipality where the facility is located and the true firm name as it is registered with the Board is disclosed for any additional facilities listed. If an advertisement for any additional facility discloses any further information than the municipality where the facility is located and the true firm name as it is registered with the Board, the advertisement shall satisfy the requirements of (c) above.

(e) Telephone book listings of two lines or less or small novelty items where the space of advertising is limited shall disclose the municipality where the facility is located and the true firm name as it is registered with the Board.

(f) No licensee or owner of a mortuary shall cause to be published, disseminated, circulated or broadcast any advertisement which is false, fraudulent, deceptive or misleading or which misrepresents, suppresses, conceals, obscures or distorts any material fact.

(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.

2. A price reduction statement where the advertisement or current price is in fact no less than the price at which the service or merchandise was offered for sale by the advertiser for a reasonable period of time at least 30 days prior to the advertisement. In the absence of the disclosure of the period during which an advertised price reduction will remain in effect, the period shall be deemed to be 30 days from the date of initial publication.

3. An offer of professional services or merchandise where such services or merchandise are in fact not available from the mortuary or are beyond the ability of the licensee to perform or supply.

4. A license number which has not been issued to the alleged licensee, has lapsed or has been revoked or currently suspended.

5. The name, address and telephone number of a mortuary which does not exist, has not been completely constructed or is not currently open for business.

6. A claim of professional superiority or superior quality of services or merchandise, unless such claim can be substantiated by the licensee upon demand by the Board.

7. Intimidation, undue pressure or undue influence.

(h) An advertisement may contain either a lay or expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial. A lay person's testimonial shall not attest to any technical matter beyond the testimonial giver's competence to comment upon. An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion. An advertiser shall be able to substantiate any objective, verifiable state-

ment of fact appearing in a testimonial, and the failure to do so, if required by the Board, may be deemed occupational misconduct.

1. The name of a person not licensed by the Board when appearing in any testimonial for a mortuary shall be accompanied by the following: "unlicensed and not qualified to make funeral arrangements, embalm or conduct a funeral". The surname of an unlicensed person may appear in the title of a mortuary as registered with the Board.

(i) An advertisement which refers to or sets forth a price shall disclose all services or merchandise which will be provided for that price. The name of the manufacturer and the model number of any casket which will be included for that price also shall be disclosed in the advertisement. Where a price is advertised, no additional charges shall be made for the advertised service or disposition unless the advertisement includes a specific delineation of additional services or merchandise which may be necessary.

(j) The responsibility for the form and content of any advertisement shall be joint and several among all licensees who are principals, partners, or officers of the mortuary identified in the advertisement.

(k) An advertisement may include the name of an inactive licensee as defined in N.J.A.C. 13:36-4.14 provided that the inactive licensee is not held out as the manager or licensee in charge.

(l) A copy of each printed advertisement and a video or audio tape recording of each broadcast advertisement shall be retained by the licensee for a period of three years from the date of initial publication or dissemination. Each such copy or tape shall be made available for review upon request by the Board.

Amended by R.1981 d.349, effective September 10, 1981.

See: 13 N.J.R. 368(a), 13 N.J.R. 609(a).

Section substantially amended.

As amended, R.1982 d.404, eff. November 15, 1982.

See: 14 N.J.R. 898(a), 14 N.J.R. 1309(d).

In (g) deleted requirement that license number be included in advertisement.

Administrative Correction to (d)1 and 2.

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

Amended by R.1993 d.76, effective February 16, 1993.

See: 24 N.J.R. 3016(a), 25 N.J.R. 709(b).

Deleted (d)1 and added new (d); revised (d)6; added new (e); redesignated existing (e) through (h) as (f) through (i) without change. 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.180, effective April 6, 1998.

See: 29 N.J.R. 5182(a), 30 N.J.R. 1297(a).

Added new (c), (d) and (e); recodified former (c) through (g) as (f) through (j); deleted former (h); added a new (k); and recodified former (i) as (l).

13:36-5.13 Transfer of funeral establishment to new location

Whenever a funeral establishment is to be moved to a new location, it shall be necessary to apply for certificate of

registration and to notify the Board, in writing, at least 15 days in advance of the proposed date of opening at the new location in order to allow time for an inspection and registration. A certificate of registration is not transferable.

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

13:36-5.14 Discontinuation of business or bankruptcy

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

1. Surrender the mortuary's Certificate of Registration to the Board;
2. Remove all signs from the exterior of the closed mortuary;
3. Discontinue the telephone service and all advertising; and
4. Furnish the Board with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36-11.16(a).

(b) When a mortuary files for any form of bankruptcy, the manager or licensee in charge shall, within 10 days of such filing, furnish the Board and the trustee in bankruptcy with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36-11.16(a), and upon request, with all other records required pursuant to N.J.A.C. 13:36-11.16.

Repeal and New Rule, R.1998 d.15, effective January 5, 1998.
See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).
Section was "Discontinuation of business".

13:36-5.15 Unlicensed persons in funeral directing or embalming practice

A licensed practitioner of mortuary science shall not permit any unlicensed person to engage in or take charge of the activities for which a license to engage in the business or practice of funeral directing or embalming is required by the provisions of the Mortuary Science Act.

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

13:36-5.16 Notice of absence from practice

In cases where a licensed practitioner of mortuary science in charge of an establishment intends to remain away from his or her establishment or practice for a period in excess of 30 days, he or she shall so notify the Board and furnish it with the name of the licensed employee who will remain in charge.

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

13:36-5.17 Removal of human remains; authorization

No person shall remove human remains from any residence or institution without first securing authorization consenting to the removal from the next of kin or a person legally entitled to grant said authorization.

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).

13:36-5.18 Disposition of human remains

(a) Whenever human remains are entrusted to the care of a licensed practitioner of mortuary science for a disposition, the practitioner shall conform with N.J.A.C. 8:9 and shall not remove any part or dispose of the remains in any manner whatsoever except as permitted by law and as authorized by the person legally entitled to grant said authorization.

(b) Viscera shall be treated with embalming fluid and hardening compound containing formaldehyde preservatives and interred with the remains.

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

Changed cross-reference.
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), substituted a reference to human remains for a reference to dead human remains.

13:36-5.19 Public accommodations

All funeral establishments are places of public accommodation and subject to public accommodation laws including the laws against discrimination.

Cross References

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

13:36-5.20 Referral fees

It shall be occupational 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. The within prohibition shall not prohibit the division of fees among licensees engaged in a bona fide employment, partnership or corporate relationship for the delivery of occupational services.

New Rule, R.1993 d.76, effective February 16, 1993.
See: 24 N.J.R. 3016(a), 25 N.J.R. 709(b).

SUBCHAPTER 6. EMBALMING PROCEDURE

13:36-6.1 Privacy of burial preparation

(a) The preparation for burial or other disposition of all dead human bodies shall be performed in privacy. No one shall 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 except the following:

1. Licensed practitioners of mortuary science and their employees;
2. Duly authorized instructors of funeral directing schools;
3. Duly registered interns;
4. Public officials or representatives in the discharge of their duties;
5. Duly accredited doctors or nurses;
6. Members of the immediate family of the deceased and their designated representatives; and
7. Persons who perform religious and/or ritual preparations.

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), rewrote 3, and added 7.

Cross References

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

13:36-6.2 Dress requirement for embalming

(a) Every person, while engaged in the actual embalming of a dead human body, shall be attired in a clean and sanitary smock or gown, which does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth or other mucous membranes, and shall while so engaged wear protective apparel in compliance with OSHA regulations (see 29 CFR 1910.1030).

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

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

13:36-6.3 Use of poisons

The use of any fluid or compound which contains arsenic, lead, mercury, zinc, silver, antimony or chloral or any poisonous alkaloid in the embalming of a dead human body is prohibited.

13:36-6.4 Disposal of blood and excretion

All blood and excretions of a dead human body shall be disposed of in a sanitary manner. Licensees shall comply with the OSHA regulations (see 29 CFR 1910.1030) in the operation of a licensed funeral establishment and shall use universal precautions according to the Centers for Disease Control recommendations (see Morbidity and Mortality Weekly Reports, including Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333), incorporated herein by reference. These precautions shall include taking due care to prevent any spread of infection in the handling

of a dead human body during transportation, in preparing and during embalming, and after contact with such body, and shall also include the disinfecting of hands and the removal of any soiled clothing.

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).

13:36-6.5 Marking receptacles

(a) All receptacles containing embalming fluid, formaldehyde or any poisonous or dangerous substances shall be plainly marked to indicate the contents thereof in compliance with 29 CFR 1910.1048.

(b) Receptacles containing blood or other potentially infectious materials shall be placed in a container that prevents leakage during collection or storage.

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

13:36-6.6 Unnatural deaths

No licensed practitioner of mortuary science shall permit the embalming of a dead human body where he or she has information reasonably indicating that death occurred as a result of accidental, homicidal or suicidal means or under suspicious or unnatural circumstances, until the body has been duly released to him or her for embalming or other preparation by the proper authority in accordance with the State Medical Examiners Act (N.J.S.A. 52:17B-87).

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

13:36-6.7 Interns

An intern may not embalm or perform any part of embalming procedure on a dead body unless such activity is performed under the immediate and direct supervision and control of a licensed practitioner of mortuary science holding a New Jersey license.

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

13:36-6.8 (Reserved)

Repealed by R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).
Section was "Sterilizing instruments."

SUBCHAPTER 7. SPECIAL RULES OF PRACTICE

13:36-7.1 Handling and embalming bodies dead of an infectious or contagious disease

(a) Except as otherwise provided by law, including, but not limited to, regulation, no person in the conduct of the practice of mortuary science shall:

1. Deny funeral services for any deceased person based upon the cause of death;
2. Place any condition upon the provision of funeral services for any deceased person based upon the cause of death; or
3. Represent that state or local law requires that any condition be placed upon the provision of funeral services for any deceased person based upon the cause of death.

(b) In the preparation for burial or transportation of a dead body, the funeral director, the embalmer and assistants shall use universal precautions according to the Centers for Disease Control recommendations (see Morbidity and Mortality Weekly Reports, including Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333), incorporated herein by reference, which shall include taking due care to prevent any spread of infection in the handling of such body during transportation, in preparation and during embalming, and after contact with such body, and shall disinfect their hands and remove any soiled clothing. All instruments, gloves, coverings and utensils used in embalming or in handling the body shall be disinfected immediately after being used. All fluids or other matters removed from such body in the process of embalming shall be disposed of in accordance with all applicable State, Federal and local laws and regulations governing medical and infectious waste.

SUBCHAPTER 8. GENERAL RULES OF PRACTICE

13:36-8.1 Carrying license identification card

Every licensed practitioner of mortuary science shall in the conduct of business carry on his or her person the current license identification card.

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

13:36-8.2 Divulging secrets

A licensed practitioner of mortuary science shall not divulge or permit his or her agents or employees to divulge any privacies, confidences or secrets that may come to his or her attention through the practice of mortuary science. However, this rule shall not be invoked to circumvent the Board's legal powers to carry out its duties and responsibilities under the law, nor the powers of the courts and other public bodies to compel the giving of testimony.

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

13:36-8.3 Safeguarding public health and decedent's dignity

Every licensed practitioner of mortuary science shall adopt all proper means and methods to safeguard the public health and the dignity of the decedent.

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).

13:36-8.4 Restrictions on employment

A licensed practitioner of mortuary science shall not employ or engage the services of any person other than his or her registered intern or interns or another practitioner in the embalming of cadavers or in the practice of funeral management pursuant to N.J.S.A. 45:7-47.

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

13:36-8.5 Unauthorized license use

No licensed practitioner of mortuary science shall lend his or her license to any other person, or employ it in such a way as to defeat the purposes of the law; provided, however, this rule shall not prevent the aforesaid licensee from embalming cadavers or supervising funerals and burials on behalf of out-of-State practitioners of mortuary science, funeral directors, or embalmers.

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

13:36-8.6 (Reserved)

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".

13:36-8.7 Authorized surrender of cadavers

A licensed practitioner of mortuary science shall promptly surrender a cadaver 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).

13:36-8.8 Authorization to embalm cadaver

No licensed practitioner of mortuary science shall take possession of or embalm a cadaver 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).

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 duly registered 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 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).

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

Pursuant to N.J.A.C. 3:41-7.4, no interment, cremation or other disposition of a dead human body, or any disinterment thereof, shall be made 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).

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, 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 required by the funeral record keeping rule of this chapter, and a signed copy shall be retained by the funeral director making such arrangements for at least seven years thereafter.

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).

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.

“Board” refers to the New Jersey State Board of Mortuary Science.

“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, 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 is a licensed practitioner of mortuary science or the holder of a certificate of registration to operate a mortuary 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.

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 must 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).

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 written 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. Provided however, that 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 list, regardless of whether it is printed or typewritten, or in any other format, the name of the funeral provider's place of business and a caption describing the list as a "casket price list."

Amended by R.1999 d.355, effective October 18, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

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 written 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. Provided however, that 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 list, regardless of whether it is printed or typewritten list or in any other

format, the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

Amended by R.1999 d.355, effective October 18, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

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. 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. This list shall contain at least the following information:

1. The name, address, and telephone number of the funeral provider's place of business;
2. A caption describing the list as a "general price list";
3. The effective date for the price list; and
4. In immediate conjunction with the price disclosures required by (b) below, the statement: "This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for those items will be shown on your bill or the statement describing the funeral goods and services you selected."

(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 descrip-

tion 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;
9. Use of facilities for funeral ceremony;
10. Other use of facilities, together with a list of facilities provided by any quoted price;
11. Hearse;
12. Limousine;
13. Other automotive equipment, together with a description of the automotive equipment provided for any quoted price; and
14. Acknowledgement cards.

(c) Funeral providers shall include on the price list in any order, the following information:

1. Either of the following:
 - i. The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home.;" or
 - ii. The prices of individual caskets disclosed in the manner specified by N.J.A.C. 13:36-9.5; and
2. Either of the following:
 - i. The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home.;" or
 - ii. The prices of individual outer burial containers, disclosed in the manner specified by N.J.A.C. 13:36-9.6; and
3. The price for the services of funeral director and staff, together with a list of the principal services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement: "This fee for our services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)"

13:36-9.8 Statement of funeral goods and services selected

(a) Funeral providers shall give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. This statement shall conform to the requirements of N.J.A.C. 13:36-1.9.

(b) The itemized cash advance prices shall be given to the extent known or reasonably ascertainable. If the cash advance prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.

(c) Funeral providers may give persons any other price information in any other format, in addition to that required by N.J.A.C. 13:36-9.5, 9.6 and 9.7 so long as the statement required by this section is given when required.

13:36-9.9 Embalming provisions

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

1. Represent that State or local law requires that a deceased person be embalmed when such is not the case;
2. Fail to disclose that embalming is not required by law except in certain special cases.

(b) To prevent 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. Not represent that a deceased person is required to be embalmed for direct cremation, immediate burial, a funeral using a sealed casket, or if refrigeration is available and the funeral is without viewing or visitation and with a closed casket when State or local law does not require embalming; and
2. Place the following disclosure on the general price list, required by N.J.A.C. 13:36-9.7, in immediate conjunction with the price shown for embalming; "Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial."

13:36-9.10 Casket for cremation provisions

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

1. Represent that State or local law requires a casket for direct cremations;
2. Represent that a casket (other than an unfinished wood box) is required for direct cremations.