

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Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985.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Repealed by R.1984 d.341, effective August 6, 1984.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".

(b) The name of the licensee in charge shall 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, consistent with the requirements of N.J.A.C. 13:36-5.12.

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.

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

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

In (b), added ", consistent with the requirements of N.J.A.C. 13:36-5.12".

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, electric aspirator, or other approved aspirator;
7. Waste sink with a minimum two inch drain;
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) and N.J.A.C. 7:26-3A, the Department of Environmental Protection regulations which implement the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.
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 aneurism needle or aneurism hook;
15. One large trocar;
16. One small trocar;
17. One scalpel;
18. One pair scissors;
19. At least two hemostats;
20. Two forceps;
21. One hypodermic syringe;
22. Hypodermic needles (assorted);
23. Suture needles; and
24. 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.

Amended by R.2002 d.76, effective March 18, 2002.
See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).

In (a), rewrote 6, 7, and 10, deleted existing 14, recodified existing 15 as 14 and substituted "hook" for "needle", and recodified existing 16 through 25 as 15 through 24.

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

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

"Public media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, letters, billboards, aerial displays, signs, television, radio, internet and any other similar item, document, publication or device used to communicate to the general public or to a specific group. "Public media" does not include manager signs which are subject to the requirements of N.J.A.C. 13:36-5.1 or establishment signs which are subject to the requirements of N.J.A.C. 13:36-5.10.

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

"Prior 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.

"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, and, by March 18, 2003, the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(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 statement 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).

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

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

Rewrote (a) and (c).

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 (Reserved)

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

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

Section was "Public accommodations".

Cross References

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

13:36-5.20 (Reserved)

New Rule, R.1993 d.76, effective February 16, 1993.

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

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

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

Section was "Referral fees".

“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 registered mortuary and the name of the manager or of the licensee in charge;
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 description of the services and container (where applicable) included in that price;

5. Transfer of remains to funeral home;

6. Embalming;

7. Other preparation of the body;

8. Use of facilities for viewing;

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.)"

Amended by R.2002 d.76, effective March 18, 2002.
Sec: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).
In (a), rewrote 1.

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.