

CHAPTER 36

STATE BOARD OF MORTUARY SCIENCE

Authority

N.J.S.A. 45:1-15.1 and 45:7-32 et seq.

Source and Effective Date

R.2005 d.100, effective March 2, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from March 2, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 2732(a).

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Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985.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: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Chapter 36, State Board of Mortuary Science, was readopted as R.2005 d.100, effective March 2, 2005. See: Source and Effective Date. See, also, section annotations.

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APPENDIX

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 Definitions

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

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

“Licensee” means a person licensed to engage in the practice of mortuary science in the State of New Jersey and includes embalmers, funeral directors, practitioners, and practitioners of mortuary science.

“Registered mortuary” means any individual, partnership, limited liability partnership, limited liability company, corporation or other business entity issued a certificate of registration for a place or premises to be used in the care and preparation for burial, disposition, or transportation of dead human bodies in the State of New Jersey and includes funeral establishments, funeral homes and mortuaries.

“Intern” means a person registered with the Board who is engaged in learning to practice as a practitioner of mortuary science under the supervision of a Board licensee, and includes registered trainees.

“Manager” means a licensee responsible for the direction, management and control of all work emanating from a funeral establishment.

“Owner” means any individual, partnership, limited liability partnership, limited liability company, corporation or other business entity that sells or offers to sell funeral goods and funeral services to the public and holds a certificate of registration to operate a registered mortuary in the State.

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

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 to ensure compliance with the provisions of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq., and the rules governing the practice of mortuary science in the State set forth in this chapter;
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 the 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).

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

In (a), rewrote 1.

13:36-1.6 Fees and charges

(a) The Board 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.....	\$100.00
iv. Inactive paid license renewal	\$125.00
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.....	\$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.
 Amended by R.2005 d.100, effective April 4, 2005.
 See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
 In (a), rewrote 9iii, added 9iv and rewrote 14.

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 Recordkeeping

(a) The registered mortuary shall maintain full, accurate records of all funerals which it conducts or in which it participates in any manner, except as provided in N.J.A.C. 13:36-4.13.

(b) Funeral records shall be kept, electronically or otherwise, on an annualized basis for seven years and each funeral

shall 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. The oldest six years of information shall be maintained in such a manner so as to be retrievable and readable within two weeks. The most recent one year of information shall be immediately retrievable and readable.

(c) Funeral records shall include the following if applicable:

1. The Statement of Funeral Goods and Services Selected;
2. The name and location of the cemetery in which burial was made or the name and location of the 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. The name and license number of the practitioner or intern who provided embalming services;
5. The name and license number of the practitioner or intern who provided religious and/or ritual preparation services, and the location where such services were provided. If religious and/or ritual preparation services were provided by other than a licensee or intern, the name and address of the unlicensed person or, where the unlicensed person is performing the services for a religious or commercial entity, the name and address of the entity that provided the religious and/or ritual preparation services;
6. The name and license number of the practitioner or intern who provided removal services. If removal services were provided by other than a licensee or intern, the name and address of the unlicensed person or, where the unlicensed person is performing the removal services for a religious or commercial entity, the name and address of the entity that provided the removal services;
7. Date of disposition;
8. The final bill;
9. A copy of the completed New Jersey Death Certificate, if the death occurred in the State, or if the death occurred outside of the State, a copy of the burial or transit papers or other final disposition documents; and
10. A copy of the disinterment permit.

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).
 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); in (c), inserted new 4, and recodified existing 4 and 5 as 5 and 6.

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

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

Rewrote the section.

Amended by R.2011 d.229, effective September 6, 2011.

See: 42 N.J.R. 1674(a), 43 N.J.R. 2360(a).

In the introductory paragraph of (c), substituted "Funeral" for "Such"; added new (c)5 and (c)6; and recodified former (c)5 through (c)8 as (c)7 through (c)10.

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

(a) When making preneed and/or at need funeral arrangements, as defined in N.J.A.C. 13:36-11.1, the practitioner

shall compile a Statement of Funeral Goods and Services Selected. The statement shall be on a pre-printed, single-sided sheet of paper that is at least 8½ inches by 11 inches, but no more than 8½ inches by 14 inches, and shall include at least the following information:

1. The full name of the funeral home, address, telephone number, manager's name, title and license number, and funeral file number, and whether the statement is being completed for an at need arrangement or a preneed ar-

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

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

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

4. The following disclosures:

i. "Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below." and

ii. "If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below."

5. Estimated charges;

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

7. Cash disbursements paid by the family; and

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

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

(c) All charges relative to the funeral shall be categorized as follows and the Statement of Funeral Goods and Services Selected shall contain the following information:

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.

CATEGORY I—PROFESSIONAL SERVICES

- | | |
|--|----|
| 1. Basic Services of Funeral Director and Staff | \$ |
| 2. Embalming (including use of preparation room and sanitary care) | \$ |

If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.

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

CATEGORY II—OTHER STAFF AND RELATED FACILITIES

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

CATEGORY III—TRANSPORTATION

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

OPTIONAL PACKAGED SERVICES

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

CATEGORY IV—MERCHANDISE

- | | |
|--|----|
| 1. Casket or Alternative Container
Manufacturer
Model name/number
Type of material
Interior material | \$ |
| 2. Vault/Outer Burial Container
Manufacturer
Model name/number
Type of material | \$ |
| 3. Clothing | \$ |
| 4. Urn | \$ |
| 5. Prayer Cards | \$ |
| 6. Acknowledgment Cards | \$ |
| 7. Register Book | \$ |
| 8. Other (Specify—Items may be packaged for individual items less than \$400.00 each) | \$ |
| Category IV TOTAL | \$ |

CATEGORY V—CASH DISBURSEMENTS (Estimated)

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

7. Other (Specify) \$
 Category V TOTAL \$

TOTAL OF ESTIMATED CHARGES
 (Category I-V & Packaged Services) \$
 PACKAGE REDUCTION (If Applicable) \$
 GRAND TOTAL OF ESTIMATED CHARGES \$

IF ANY LAW, cemetery or crematory requirements have required the purchase of any of the items listed above, the law or requirement is described below:

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

REASONS FOR EMBALMING:

- Family authorized; or
- Other: ____

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

Print Name of Practitioner Print Name of Consumer Making Arrangements

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

Relationship to Deceased
 Street Address
 City, State, Zip Code

(d) A practitioner who offers the Optional Packaged Services and has that offer accepted by a consumer shall not be required to detail the charges for Categories I through III set forth in (c) above which are then not applicable. It shall not be mandatory for practitioners to include the category of "Optional Packaged Services" on the Statement of Funeral Goods and Services Selected if they do not offer for sale the services of Direct Cremation, Immediate Burial, Forwarding of Remains and/or Receiving of Remains or to include the "Package Reduction" category, if this category is not utilized by practitioners.

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

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

(g) A practitioner may utilize a photocopy of the Statement of Funeral Goods and Services Selected contained in Appendix A, incorporated herein by reference, to satisfy the requirements of this section.

Amended by R.1973 d.119, effective May 1, 1973.
 See: 5 N.J.R. 115(a), 5 N.J.R. 195(a).
 Amended by R.1984 d.341, effective August 6, 1984.
 See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
 Old text deleted, new text substituted.
 Amended by R.1987 d.243, effective June 15, 1987.
 See: 18 N.J.R. 2186(a), 19 N.J.R. 1100(b).
 Added text to (b): "except that a . . . the itemization form:" and added new (b)1.-3.
 Repeal and New Rule, R.1994 d.523, effective October 17, 1994.
 See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).
 Section was "Itemization of funeral expenses".
 Amended by R.2005 d.100, effective April 4, 2005 (operative date of October 31, 2005).
 See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
 Rewrote the section.
 Petition for Rulemaking.
 See: 41 N.J.R. 1529(b), 2150(a), 2987(b).
 Amended by R.2010 d.042, effective May 17, 2010.
 See: 41 N.J.R. 4056(a), 42 N.J.R. 939(a).
 In item 8 of CATEGORY IV of the STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED table in (c), substituted "\$400.00" for "\$100.00".

Case Notes

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

13:36-1.10 Limited exemption for anatomical associations of a medical school established and operated by the State of New Jersey for the acceptance and disposition of human remains donated pursuant to the Uniform Anatomical Gift Act

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

(b) Upon the Board's receipt of an application for registration of a mortuary at such an association as described in (a) above, the Board may exempt said association from the following provisions of this chapter:

1. N.J.A.C. 13:36-4.6, Corporation's application for registration of funeral establishment;
2. N.J.A.C. 13:36-4.7, Corporate applicant's charter;

3. N.J.A.C. 13:36-5.1, Display of "Manager" sign;
4. N.J.A.C. 13:36-5.4, Physical structure of mortuary; separation from living quarters;
5. N.J.A.C. 13:36-5.10, Display of establishment sign;
6. N.J.A.C. 13:36-5.19, Public accommodations; and
7. N.J.A.C. 13:36-6.1, Privacy of burial preparation.

(c) Factors the Board shall consider in granting these exemptions include whether the exemptions, if granted, will promote medical research and education and whether the public health, safety and welfare will be safeguarded if the exemptions are granted.

(d) The exemptions, if granted by the Board, shall be specifically identified on the certificate of registration and shall apply only to licensees of the Board who are employed by such association as described in (a) above. Unless otherwise provided by the Board, upon expiration of the certificate of registration, any exemptions granted pursuant to this section shall be invalid unless renewed by the Board upon application by said association.

(e) Any association granted such exemptions shall not charge a fee for the operation, maintenance and use of a mortuary pursuant to N.J.S.A. 45:7-61 and this chapter, except for the actual costs of shipping of cremated remains.

New Rule, R.1997 d.16, effective January 6, 1997.
See: 28 N.J.R. 4723(a), 29 N.J.R. 149(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 (e), substituted a reference to cremated remains for a reference to cremains.

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

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

In (a), substituted "section" for "chapter" preceding "shall apply": in (d), deleted "of Mortuary Science" following "licensees of the Board" in the first sentence and deleted "paragraph" preceding "section" in the second sentence.

SUBCHAPTER 2. INTERNS

13:36-2.1 Qualification for intern registration

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

1. "Preceptor" means a duly licensed practitioner of mortuary science responsible for the supervision of an intern during the intern's practical training period.

2. "Two years of academic instruction" means the successful completion of 60 degree credits at a community or county college or one-half the credits required to complete a degree at the four-year college or university in which the student is enrolled.

3. "Three years of academic instruction" means the completion of 90 degree credits at a community or county college or four-year college or university or a combination thereof or three-quarters of the credits required to complete a degree at the four-year college or university in which the student is enrolled.

4. "Remedial or basic course" means a non-degree credit course required by a college or university to be completed by a student before being admitted to a specific college level course or degree program course.

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

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

1. Attend college in the Fall and Spring semester of each year until the requirement is met.

2. Achieve a minimum of eight degree program credits per semester with a minimum cumulative average of 2.0 or its academic equivalent throughout the concurrent registration program. A person who receives less than a 2.0 cumulative average, carries less than the minimum of eight degree program credits at any time during the semester, or who takes more than one remedial or basic course per semester shall have his or her internship terminated unless good cause is established for the continuation of the internship. The intern shall submit a written request to the Board which shall establish good cause for extension of his or her internship.

3. Have an official transcript of credits forwarded directly to the Board by the institution being attended immediately at the completion of every semester.

4. Notify the Board immediately if the college program is interrupted for any reason.

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

(e) CLEP credits may be included in an academic evaluation by the Commission on Higher Education.

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

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

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

(a) substantially amended.

Administrative corrections to (b), (c), (d), (e) and added new (f).
See: 21 N.J.R. 1830(a).

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

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

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

Substituted references to the Commission on Higher Education for references to the New Jersey State Department of Higher Education throughout; rewrote (a); in (b), inserted "or three" following "two"; and in (c), inserted "or three-year" following "two-year" in the introductory paragraph, and substituted "carries less than the minimum of eight degree program credits at any time during the semester" for "withdraws from a course" following "average," in 2.

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

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

In (c), added the last sentence to 2; in (f), substituted "basic" for "basis" following "any remedial or".

13:36-2.2 Request for application

An application for intern registration shall be requested, in writing, by the prospective intern's preceptor. Upon receipt of the request, an application shall be issued. The application shall be executed by the preceptor and intern and certified in affidavit form, and returned to the Board office immediately. A completed application form shall contain information concerning the prospective intern's educational background, the name and address of the funeral home where the prospective intern will be registered, and the name and license number of the preceptor. A prospective intern shall also submit two passport-size photographs with his or her application for registration.

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

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

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

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

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

Added the fourth and fifth sentences.

13:36-2.3 Availability of interns

Interns shall be available for funerals, embalmings, removals and other training instruction in accordance with N.J.A.C. 13:36-2.14 and shall assist in the embalmings of at least 75 bodies, the conduct of at least 75 funerals and the arranging of at least 25 funerals (whether preneed or at need) during the practical training period which shall not exceed three years pursuant to N.J.A.C. 13:36-2.12.

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

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

Deleted old text and substituted new.

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

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

Substituted "practical training period which shall not exceed three years pursuant to N.J.A.C. 13:36-2.12" for "one or two year Practical Training period, whichever is applicable" at the end.

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

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

Substituted "Interns" for "Registered interns" preceding "shall be available" and inserted "and the arranging of at least 25 funerals (whether preneed or at need)" preceding "during the practical training course".

13:36-2.4 Intern identification card

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

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

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

Substituted "intern" for "trainee".

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

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

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

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

Rewrote the section.

13:36-2.5 Reporting embalmings, funeral attendance and funeral arrangements; form

(a) The Board shall furnish monthly report forms to the intern for reporting embalmings, funerals attended and funerals arranged, which shall be signed by the intern and preceptor and dated and filed with the Board no later than the 15th day of each month of the training period. The intern shall complete such monthly reports setting forth all information required therein and shall file the forms with the Board. Such reporting shall continue until the intern becomes licensed.

(b) No internship credit shall be granted for embalmings performed, funerals attended and funeral arranged during the month when a report is received after the prescribed monthly filing date except upon presentation of proof that good cause exists for failing to timely file the report.

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

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

Deleted old text and substituted new.

Administrative correction to (b).

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

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 "embalmings" for "embalment" following "reporting" and substituted "the 15th day of each month of the training period" for "15 days after the last day of each month" at the end of the first sentence, substituted a reference to monthly reports for a reference to reports in the second sentence, and added a third sentence; and in (b), inserted "embalmings performed and funerals attended during" following "granted for", and deleted "acceptable to the Board" following "proof".

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

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

Inserted "and funerals arranged" following "funerals attended" throughout.

13:36-2.6 Credit for embalming body

No more than one intern shall receive credit for the embalming of any one body.

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

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

Substituted "intern" for "trainee".

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

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

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.

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

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

Deleted "student" preceding "intern".

13:36-2.7 Practitioner qualifications for employment of interns

No licensed practitioner of mortuary science shall engage an intern unless, prior to such engagement, the practitioner's case volume during the previous calendar year is a minimum of 25 cases which shall not include stillbirths.

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

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

Substituted "intern" for "trainee".

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

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

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

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

Rewrote the section.

13:36-2.8 Absence from training

If for any reason it becomes necessary for an intern to absent himself or herself during his or her internship for a period longer than 30 days, the intern must submit to the Board in letter form the reason for his or her absence and the length of time he or she intends to be away.

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

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

Substituted "intern" for "trainee".

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

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

13:36-2.9 Termination or completion of training

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

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

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

Substituted "internship" for "traineeship".

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

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

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

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

Substituted a reference to preceptors for a reference to licensee preceptors.

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

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

Rewrote the section.

13:36-2.10 Return of intern identification card

Upon completion or termination of an internship for any reason, the intern shall return his or her intern identification card immediately to the Board.

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

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

Substituted "intern" for "trainee".

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

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

Text "When an internship . . . internship is completed" is deleted.

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

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

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

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

Substituted "return" for "be charged with the responsibility of returning" following "intern shall".

13:36-2.11 Affidavit recommendation form

(a) Upon termination or completion of an internship, or change in registered mortuaries by an intern, an affidavit recommendation form shall be filed with the Board. Any preceptor who refuses to certify any intern for the internship served under his or her supervision shall furnish the Board with a statement under oath setting forth the reasons for such refusal. If not satisfied with such statement, the Board may take such action as it may deem proper.

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

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

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

Substituted "intern" for "trainee".

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

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

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 preceptors for a reference to licensed practitioners of mortuary science, and substituted a reference to supervision for a reference to licenses; and in (b), deleted a reference to licensees.

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

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

Inserted "or completion" preceding "of an internship" and "or change in registered mortuaries by an intern," preceding "an affidavit recommendation form".

13:36-2.12 Extension of internship

No intern shall be permitted to continue his or her period of practical training as an intern for more than three years without prior Board approval, which shall only be granted for reasons of hardship, such as illness, disability, active service in the military or other good cause demonstrated by the intern.

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

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

Section was "Recognition of traineeship".

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

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

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.

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

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

Substituted "an" for "a registered" following "practical training as", substituted "intern" for "licensee" following "demonstrated by the".

13:36-2.13 (Reserved)

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

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

Section was "Concurrence of traineeship and school attendance".

13:36-2.14 Preceptors' responsibility for training

(a) The preceptor shall ensure that interns are thoroughly trained in the theory and practice of mortuary science, and the laws, rules and regulations pertaining thereto, and are proficient in the following areas:

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

2. Making funeral arrangements with families, which includes attending funeral arrangement conferences, selling of merchandise, taking statistical information from families, filing death certificates, preparing obituary notices and placing such notices with newspapers, and attending viewings;

3. Ordering and pricing funeral merchandise, including facilitating the arrangement of flowers, arranging for and coordinating a schedule for the clergyman, church, crematory or cemetery, livery, pallbearers, visitation of various organizations, transportation by common carrier, and delivery of outer enclosures to the cemetery; and

4. Performing such other incidental duties related to the practice of mortuary science and the maintenance of the funeral establishment.

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

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

Old text deleted and new text substituted.

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 "ensuring interns" for "insuring the bona fide internships for all student interns by seeing to it that such interns" following "responsibility of" in the introductory paragraph, deleted a reference to arranging flowers in 2, and inserted a reference to facilitating the arrangement of flowers in 3.

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

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

In (a), rewrote the introductory paragraph and 2.

Case Notes

Belief in professional nature of mortuary science by funeral director provided "good faith" defense against action for overtime pay by mortician trainee. *State v. Frech Funeral Home*, 185 N.J.Super. 385, 448 A.2d 1037 (Law Div.1982).

13:36-2.15 Failure to file reports

Failure on the part of a preceptor to file any reports required by this subchapter shall be deemed professional misconduct and shall subject the licensee to the penalties set forth at N.J.S.A. 45:1-25.

New Rule, R.2005 d.100, effective April 4, 2005.

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

SUBCHAPTER 3. EXAMINATIONS AND CANDIDATE QUALIFICATIONS

13:36-3.1 Qualifications for licensure

(a) In order to be eligible for licensure, a candidate first shall submit to the Board the following:

1. A completed application form which shall contain the name and address of the candidate and the name and address of the candidate's employer;

2. An official transcript or diploma which shows that before entering a school of mortuary science, the candidate completed a four-year course of study in an approved public or private high school or the equivalent thereof;

3. Evidence that the candidate has completed a minimum of two years of academic instruction in a college or university approved by the Commission on Higher Edu-

cation and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education or has completed a minimum of three years of academic instruction in a college or university approved by the Commission on Higher Education and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education;

4. A certificate from a preceptor in this State which shows that the candidate has served a one-year or two-year period of practical training as an intern under the preceptor, pursuant to the provisions of N.J.S.A. 45:7-49(a)(2);

5. Evidence of having achieved a passing score on the National Board Examination;

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.

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

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

in (a), substituted references to the candidate for references to the applicant in 1 and substituted "an" for "a registered" preceding "intern" in 4.

13:36-3.2 Application for Mortuary Jurisprudence examination

(a) Upon request, an application for the Mortuary Jurisprudence examination shall be forwarded to a candidate who has completed a minimum of two years of academic instruction in a college or university approved by the Commission on Higher Education and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education or who has completed a minimum of three years of academic instruction in a college or university approved by the Commission on Higher Education and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education. The form shall be signed by the candidate 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 shall 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.

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

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

Rewrote (a).

13:36-3.3 (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 shall be given the practical examination until after he or she has successfully completed the written examinations prescribed under N.J.S.A. 45:7-49. The practical examination shall be taken no sooner than 90 days before, or no later than 90 days after, completion of the prescribed period of internship.

(b) A candidate wishing to take the practical examination more than 90 days after the completion of the internship period at the same funeral establishment where the candidate completed his or her internship shall apply to the

Board for an extension of the internship prior to taking the practical examination.

(c) A candidate wishing to take the practical examination more than 90 days after the completion of the internship period at a funeral establishment other than the one where the candidate completed his or her internship shall re-register as an intern and shall pay the intern registration fee set forth at N.J.A.C. 13:36-1.6.

(d) 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 shall wait 30 days 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.

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), substituted "shall" for "will", deleted "both" preceding "the written", and inserted "the candidate is within 90 days of completing".

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

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

Rewrote the section.

13:36-3.8 Expiration of mortuary jurisprudence and practical examination results

Results from the Mortuary Jurisprudence examination, required pursuant to N.J.A.C. 13:36-3.1(a)6, and the practical examination, required pursuant to N.J.A.C. 13:36-3.1(a)7, shall be valid for three years from the date of successful completion of the respective examinations. A candidate who does not obtain a license to engage in the practice of mortuary science within three years of passing the respective examinations shall retake and pass the examination for which the results have expired in order to be eligible for licensure pursuant to N.J.A.C. 13:36-3.1.

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."

New Rule, R.2005 d.100, effective April 4, 2005.

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

SUBCHAPTER 4. LICENSE AND REGISTRATION GENERALLY

13:36-4.1 License and certificate of registration renewals; suspension; reinstatement

(a) A licensee or owner shall renew his or her license or certificate of registration for a period of two years from the last expiration date. The licensee or owner shall remit a

renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:36-1.6, prior to the date of expiration. A licensee or owner who submits a renewal application within 30 days following the date of expiration shall submit the renewal fee, as well as the late fee set forth in N.J.A.C. 13:36-1.6. A licensee or owner who fails to submit a renewal application within 30 days of expiration shall have his or her license or certificate of registration suspended without a hearing.

(b) A licensee or owner who continues to engage in the practice of mortuary science or continues to offer mortuary services with a suspended license or certificate of registration shall be deemed to be engaging in the unauthorized practice of mortuary science and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

(c) The Board shall send a notice of renewal to the licensee and/or owner at least 60 days prior to the expiration of the license and/or certificate of registration. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall be imposed upon the licensee and/or owner for failure to renew.

(d) A licensee seeking reinstatement within five years following the suspension of a license pursuant to (a) above shall submit the following to the Board:

1. A completed licensure application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers of each employer; and the application fee set forth at N.J.A.C. 13:36-1.6;

2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6;

3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6; and

4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:36-10 for each biennial renewal period in which the license was suspended, to a maximum of 25 credits.

(e) A licensee seeking reinstatement more than five years following the suspension of a license pursuant to (a) above shall:

1. Successfully complete an internship under the supervision of a licensed practitioner of mortuary science. The internship, which shall be completed before application to take the practical examination, shall consist of a minimum of 25 embalmings, 25 funerals and 25 arrangements, consistent with the requirements set forth in N.J.A.C. 13:36-2. The internship shall be at least three months in length, but no longer than one year. Request to extend the period of internship beyond one year shall be made to the Board in writing;

2. Successfully complete the practical examination set forth in N.J.A.C. 13:36-3.7;

3. Successfully complete the Mortuary Jurisprudence examination as set forth in N.J.A.C. 13:36-3.2;

4. Submit a completed licensure application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers of each employer; and the application fee set forth at N.J.A.C. 13:36-1.6;

5. Submit payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6;

6. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6; and

7. Submit a certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:36-10 for each biennial renewal period in which the license was suspended to a maximum of 25 credits.

(f) An owner seeking reinstatement following the suspension of a certificate of registration pursuant to (a) above shall:

1. Submit a completed application and the application fee set forth at N.J.A.C. 13:36-1.6;

2. Submit payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6; and

3. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6.

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).

Repeal and New Rule, R.2005 d.100, effective April 4, 2005.

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

Section was "License renewals; reinstatement of lapsed licenses".

13:36-4.2 Notice of address change; service of process

(a) Every licensee shall give notice in writing to the Board of any change of his or her address of record within 10 days after such change of address. For purposes of this section, "address of record" means an address designated by a licensee which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee's home, business or mailing address, but shall not be a post office box unless the licensee also provides another address which includes a street, city, state and zip code.

(b) Failure to notify the Board of any change in a licensee's address of record pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h) and the imposition of penalties set forth in N.J.S.A. 45:1-25.

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

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

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

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

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

Inserted (b).

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

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

Rewrote the section.

13:36-4.3 Legal name change

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

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

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

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

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

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

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

13:36-4.4 New installations

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

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

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

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

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

Section substantially amended.

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

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

(a) substantially amended.

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

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

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

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

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

Rewrote (a) and (c).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-4.5 Change of ownership

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

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

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

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

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

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

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

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

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

Inserted (b).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-4.6 Registration of mortuary

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

1. A copy of the certificate of incorporation or certificate or agreement of formation certified by the Secretary of State;
2. The name, residence addresses and residence telephone numbers of the following:
 - i. The officers of the corporation;
 - ii. The general partner(s) of a partnership or limited partnership (and, if a general partner is a corporation, limited liability partnership, limited liability company, or other business entity, the officers of the corporation or the members of the limited liability partnership, limited liability company, or other business entity); and/or
 - iii. The managing or operating members of a limited liability company (and, if a member of a limited liability company is a corporation, the officers of the corporation);

3. A copy of the corporate resolution (certified by the secretary of the corporation and impressed with the corporate seal), the partnership agreement, or limited liability partnership or limited liability company operating agreement (certified by the general partner of the limited liability partnership or the managing or operating member of the limited liability company) designating the licensed practitioner of mortuary science;

4. In the case of corporations, the original certificate of good standing from the State of New Jersey;

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

Cross References

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

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

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

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

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

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

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

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

Rewrote the section.

Cross References

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

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

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

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

(c) Whenever the manager's services are terminated, the owner of the registered mortuary shall retain the services of a licensed practitioner of mortuary science who shall be responsible for directing, managing and controlling all work performed by the establishment until such time as the manager is permanently replaced by another manager. That licensee shall be known as the licensee in charge. The owner of the mortuary shall notify the Board, in writing, within five business days of the termination of the name and license number of the licensee in charge.

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

(e) Except as set forth in (f) below, the licensee in charge shall within 30 days of termination of the previous manager's services give notice to the Board of the name of the newly designated manager and, at that time, the newly designated manager shall submit to the Board the following:

1. A letter indicating such acceptance;
2. An application to become a manager; and
3. The fee prescribed for the application.

(f) The licensee in charge may within 30 days of termination of the previous manager's services submit to the Board documented evidence of hardship or extenuating circumstance. The Board, if it deems such evidence acceptable, may grant the registered mortuary an extension of time up to, but not exceeding, six months after the termination of the former manager in which to secure the services of a new manager.

Administrative Correction to (a).

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

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

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

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

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

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

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

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

Rewrote the section.

13:36-4.9 Participation of unlicensed persons

(a) No unlicensed person shall actively participate in any capacity in the actual funeral arrangements, preservation or disposal of dead human bodies, except that interns may participate in such activities pursuant to the provisions of N.J.S.A. 45:7-47.

(b) No unlicensed person shall actively participate in any capacity in the actual preparation of dead human bodies except for the following:

1. Interns;
2. Persons who perform religious and/or ritual preparations; and
3. Unlicensed persons who perform tasks on behalf of the registered mortuary for which a license is not required.

(c) A registered mortuary shall retain professional responsibility for all activities conducted by any unlicensed person participating in the preparation of dead human bodies pursuant to (b) above, and shall ensure that such persons utilize universal precautions as set forth in N.J.A.C. 13:36-6.4 and comply with all applicable Board rules.

(d) The use by an unlicensed person of the words "mortician," "funeral director," "undertaker," or any other words or title of the like import or significance, including, but not limited to, "consultant," "counselor" or "provider" in connection with the offering of any funeral services or merchandise, shall constitute unlicensed practice pursuant to N.J.S.A. 45:7-47.

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

Deleted text "financially interested in the corporation in any manner whatsoever".

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); inserted a new (b); and recodified former (b) as (c), and substituted a reference to unlicensed practices for a reference to deceptive practices.

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

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

In (a) and (b)1, substituted references to interns for references to duly registered interns.

Amended by R.2011 d.229, effective September 6, 2011.

See: 42 N.J.R. 1674(a), 43 N.J.R. 2360(a).

Added new (c); and recodified former (c) as (d).

13:36-4.10 (Reserved)

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), added a reference to fees provided in N.J.A.C. 13:36-1.6 at the end.

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

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

Section was "Partnership's application for registration of funeral establishment".

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 a funeral 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).

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

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

In (d), substituted "a funeral" for "an" preceding "establishment".

13:36-4.12 Death of sole proprietor

(a) The practice of a mortuary establishment shall cease and the certificate of registration shall become void upon the death of a sole proprietor 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 new certificate of registration. Such notice shall be in writing and conform with the following requirements:

1. It shall state the practice shall be under the direct supervision of a licensed practitioner of mortuary science who shall serve as the manager or the licensee in charge as provided in N.J.A.C. 13:36-4.8(c), whichever is applicable, and shall contain the name of the licensee selected.

2. The firm may operate under the supervision of a licensee in charge 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 licensee in charge 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.

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

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

Rewrote (a).

13:36-4.13 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) A licensee may, upon application to the Board, renew his or her license by choosing inactive status. A licensee choosing inactive status shall be provided with the option of

choosing either inactive paid or inactive unpaid status. A licensee choosing inactive paid status shall remit to the Board the inactive fee set forth at N.J.A.C. 13:36-1.6 which shall entitle the licensee to obtain all printed information disseminated by the Board to all active licensees. A licensee choosing inactive unpaid status shall not be required to remit a fee to the Board and shall not be entitled to obtain any printed information disseminated by the Board to active licensees.

(b) A licensee electing to renew his or her license as inactive shall not engage in the practice of mortuary science for the entire biennial registration period.

(c) A licensee who elects inactive paid or inactive unpaid status shall remain inactive for the entire biennial period unless the Board permits the inactive licensee to return to active status upon submission of evidence to the Board of having completed the continuing education requirements set forth at N.J.A.C. 13:36-10.11(b) and upon submission of a renewal application and the renewal fee for the current biennial registration period as set forth in N.J.A.C. 13:36-1.6.

(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).

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

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

Rewrote (a) through (c).

13:36-4.15 Licensure by credentials

(a) The Board shall issue a license to engage in the practice of mortuary science to any person who holds a valid license or certification to practice mortuary science issued by another state or possession of the United States, or the District of Columbia, provided that the applicant has met education and experience requirements substantially equivalent to the requirements set forth at N.J.A.C. 13:36-3.1, has satisfied the requirement of (c) below, and submits the following:

1. A completed application documenting and certifying the applicant's education and experience;
2. The fee set forth at N.J.A.C. 13:36-1.6(a)1;
3. A certification verifying that the applicant has been actively engaged in the practice of mortuary science for at least two years immediately preceding the submission of the application;

4. A certification from the licensing authority in each jurisdiction in which the applicant has been licensed or certified verifying the applicant's licensure status; and

5. A certification from the licensing authority in each jurisdiction in which the applicant has been licensed or certified documenting any final or pending public disciplinary action taken against the applicant.

(b) In the event that an applicant for licensure under (a) above has met education requirements which are substantially equivalent to the requirements set forth in N.J.A.C. 13:36-3.1, but has not attained the practical training and experience requirements which are substantially equivalent to the requirements set forth at N.J.A.C. 13:36-3.1, the Board shall issue a license to engage in the practice of mortuary science provided the applicant submits the items listed in (a)1, 2, 4 and 5 above, submits a certification verifying that the applicant has been actively engaged in the practice of mortuary science for at least five years immediately preceding the submission of the application, and has satisfied the requirement of (c) below.

(c) An applicant applying for licensure pursuant to (a) or (b) above shall pass the Mortuary Jurisprudence examination administered by the Board pursuant to N.J.A.C. 13:36-3.2, upon notification from the Board that the applicant is eligible to sit for the examination and upon payment of the fee set forth in N.J.A.C. 13:36-1.6(a)4.

(d) Notwithstanding (a), (b) and (c) above, the Board may deny an application for licensure by credentials for any of the reasons set forth in N.J.S.A. 45:1-21.

New Rule, R.2003 d.264, effective July 7, 2003.
See: 34 N.J.R. 3062(a), 35 N.J.R. 2935(b).

13:36-4.16 Responsibilities of licensee and owner

(a) All licensees and owners shall be responsible for compliance with all laws and regulations governing the practice of mortuary science in the State.

(b) Violations of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq. or the rules of this chapter by a licensee or owner may subject the licensee or owner to disciplinary action.

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

SUBCHAPTER 5. MORTUARIES

13:36-5.1 Disclosure of manager name; posting of manager license

(a) The name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the funeral 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 1½ inches in height.

(b) The name and license number of the manager shall appear with the title "manager," "senior director" or "executive director" on all stationery, billheads, advertising, price lists, and in all other instances where the firm name is used, consistent with the requirements of N.J.A.C. 13:36-5.12.

(c) The license of the manager shall be conspicuously displayed in the registered mortuary as required pursuant to N.J.S.A. 45:7-61. If a licensee is retained as the manager of more than one registered mortuary, the licensee shall obtain a duplicate license for posting in such other establishments from the Board upon payment of the duplicate license fee provided in N.J.A.C. 13:36-1.6.

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".

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

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

Added (c).

Amended by R.2005 d.100, effective April 4, 2005 (operative date of October 31, 2005).

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

Rewrote (a) and (b).

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; new location

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

(b) Whenever a registered mortuary is to be moved to a new location, the owner shall apply for a new certificate of registration and notify the Board, in writing, at least 15

business days in advance of the proposed date of opening at the new location. The new certificate of registration shall not be issued until all applicable requirements in this chapter and all relevant statutes, regulations and ordinances are satisfied. The registered mortuary shall not begin operation at the new location until approval is granted by the Board.

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

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

Designated existing paragraph as (a) and substituted "registered mortuary" for "business"; added (b).

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

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

(b) All registered mortuaries shall 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. If the registered mortuary maintains a break room, the room shall be separate and distinct from the preparation room and shall be inaccessible to the public.

(c) In the case of ranch type funeral 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 shall prove to the Board's satisfaction the existence of a proper division between the mortuary section and the living quarters of the building.

(d) All areas in a registered mortuary that are not used exclusively as living quarters may be subject to Board inspection.

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

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

In (a), inserted "registered" preceding "mortuaries"; rewrote (b); in (c), inserted "funeral" following "ranch type"; added (d).

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 registered mortuary shall 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 shall 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 shall be finished with enamel, varnish or some other smooth-hard waterproof material.

2. Outside ventilation shall 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. A preparation room

shall 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 shall have a smooth surface or be covered with material impervious to dirt and liquids. All windows and outside doors shall 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).

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

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

In (a), inserted "registered" preceding "mortuary" in the introductory paragraph and substituted "A preparation room shall" for "It is also to" in 2.

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. Two hemostats;
20. Two forceps;
21. One hypodermic syringe;
22. Hypodermic needles (assorted);
23. Suture needles;
24. Suture thread; and
25. An electrically-powered embalming machine.

(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.

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

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

In (a), substituted "Two" for "At least two" in 19 and added 25.

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 owners and managers shall ensure that the potable water supply is not open to the danger of contamination from any source.

(b) The requirement in (a) above 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.

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

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

Rewrote (a); in (b), substituted "The requirements in (a) above" for "This responsibility".

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, limited liability partnership, corporation, limited liability company or other business entity 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 the registration requirements set forth in N.J.A.C. 13:36-4 and all applicable rules in this subchapter.

(b) In the event a funeral establishment has the same or similar ownership of individuals, partnerships, limited liability partnerships, corporations, limited liability companies, or other business entities as the primary funeral establishment, prices quoted and charged to consumers shall be the same for all funeral 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).

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

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

Rewrote (a) and (b).

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.

“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.

“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.

“Testimonial” means a statement by a person referring to his or her family’s personal experience with a mortuary or licensee.

(b) All stationery shall indicate the true firm name of the mortuary as registered with the Board, the address and telephone number of the mortuary, and the name of the manager, and his or her title and license number preceded by the phrase “N.J. Lic. No. ___.”

(c) Advertisements shall contain the true firm name, address, and telephone number of the mortuary as registered with the Board. Advertisements shall also contain the name of the manager and 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 mortuary shall comply with (c) above regarding one mortuary provided that only the municipality where the mortuary is located and the true firm name as it is registered with the Board is disclosed for any additional mortuaries listed. If an advertisement for any additional mortuary discloses any further information than the municipality where the mortuary 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 registered mortuary 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.

(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).

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

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

In (a), deleted "Licensee" and substituted "Price reduction statement" for "Prior reduction statement"; substituted references to mortuary for references to facility and deleted references to licensee in charge throughout.

Amended by R.2005 d.100, effective April 4, 2005 (operative date of October 31, 2005).

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

Rewrote (b).

13:36-5.13 (Reserved)

Administrative Correction.

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

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

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

Section was "Transfer of funeral establishment to new location".

13:36-5.14 Discontinuation of business or bankruptcy

(a) When a mortuary is permanently closed for business, the manager 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 all advertising and notify the Board as to the disposition of the mortuary's telephone service;
4. Furnish the Board with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36-11.16(a); and
5. Submit to the Board a copy of the notice sent to all preneed purchasers regarding the discontinuation as required pursuant to N.J.A.C. 13:36-11.19, and proof of service of such notice to consumers.

(b) When a mortuary files for any form of bankruptcy, the manager 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".

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

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

In (a), rewrote 3 and added 5; deleted references to licensee in charge throughout.

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 practice of mortuary science is required by the provisions of the Mortuary Science Act, set forth at N.J.S.A. 45:7-32 et seq.

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

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

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

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

Rewrote the section.

13:36-5.16 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

(a) 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.

(b) All removals of human remains shall be made pursuant to the direction of a registered mortuary.

(c) A registered mortuary shall ensure that all persons providing removal services utilize universal precautions as set forth in N.J.A.C. 13:36-6.4 and comply with all applicable Board rules.

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).
Amended by R.2011 d.229, effective September 6, 2011.
See: 42 N.J.R. 1674(a), 43 N.J.R. 2360(a).
Inserted designation (a); and added (b) and (c).

13:36-5.18 Disposition of human remains

(a) Whenever human remains are entrusted to the care of a registered mortuary for disposition, the registered mortuary shall retain professional responsibility for the remains from the point of removal to the final place of disposition.

(b) Notwithstanding (a) above, a licensed practitioner of mortuary science shall be present at the time of final disposition of human remains, consistent with N.J.A.C. 13:36-8.10, and shall comply with the requirements of N.J.A.C. 8:9 and shall not remove any body part or dispose of the remains in any manner, except as permitted by law and as authorized by the person legally entitled to grant said authorization.

(c) Viscera shall be treated in the same manner as the remains and shall be disposed of 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.
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
In (a), substituted "to the requirements of" for "with" preceding "N.J.A.C. 8:9"; rewrote (b).

Amended by R.2011 d.229, effective September 6, 2011.
See: 42 N.J.R. 1674(a), 43 N.J.R. 2360(a).
Rewrote (a); added new (b); and recodified former (b) as (c).

13:36-5.19 Use of registered mortuary in organ and tissue recovery

(a) A registered mortuary shall not be used as a site for recovering organs and/or tissues from a decedent.

(b) A licensed funeral director who permits a registered mortuary to be used as a site for recovering organs and/or tissues from a decedent shall be deemed to have engaged in professional misconduct and shall be subject to disciplinary action pursuant to N.J.S.A. 45:1-21 et seq.

(c) Nothing contained in this section shall preclude the use of a registered mortuary for the purpose of conducting examinations to determine the cause and/or manner of death of a decedent.

(d) Nothing in this section shall preclude a licensed funeral director from providing a lock of the decedent's hair to a member of the decedent's immediate family prior to the final disposition of remains.

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".
New Rule, R.2008 d.40, effective March 3, 2008.
See: 39 N.J.R. 1638(a), 40 N.J.R. 1355(b).
Section was "Reserved".

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".

13:36-5.21 Disclosure of ownership information

(a) The registered mortuary shall disclose on all general price lists, casket price lists, and outer burial container price lists, required pursuant to N.J.A.C. 13:36-9.5, 9.6 and 9.7, whether any owner of the registered mortuary also owns 50 percent or greater interest in any other registered mortuary within the State. For purposes of this section, "person" means any individual, partnership, limited liability partnership, limited liability company, corporation or other business entity.

(b) If disclosure of ownership information is required, the following statement shall appear on all required price lists: "A person who owns 50 percent or greater interest in this registered mortuary also owns 50 percent or greater interest in the following registered mortuaries in the State of New Jersey:". This disclosure shall include the municipality in which the registered mortuary is located and the mortuary's true firm name as registered with the Board.

New Rule, R.2003 d.166, effective April 21, 2003 (operative October 21, 2003).
See: 34 N.J.R. 1315(a), 35 N.J.R. 1675(a).

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. 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.

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

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

In (a), substituted "Interns" for "Duly registered interns" in 3.

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 set forth at 29 CFR 1910.1030, incorporated herein by reference.

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

In (a), substituted "set forth at 29 CFR 1910.1030, incorporated herein by reference" for "(see 29 CFR 1910.1030)".

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 OSHA regulations set forth at 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 set forth in Morbidity and Mortality Weekly Reports, Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333 or at www.cdc.gov, 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).
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Deleted "including" preceding "Volume 38, S-6" and inserted "or at www.cdc.gov" following the Centers for Disease Control address.

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 Participation of interns in embalming

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

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

Deleted "licensed" preceding "practitioner" and inserted "an active" preceding "New Jersey license".

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, 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, intern, and assistants shall comply with OSHA regulations set forth at 29 CFR 1910.1030 and shall use universal precautions according to Centers for Disease Control recommendations set forth in Morbidity and Mortality Weekly Reports, Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333 or at www.cdc.gov, 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.

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

In (a), deleted "including, but not limited to, regulation," in the introductory paragraph; in (b), rewrote the first sentence.

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 issued by the Board.

Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).

Inserted "issued by the Board" following "identification card".

13:36-8.2 Divulging secrets

(a) 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.

(b) This section shall not be invoked to circumvent the Board's legal authority 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, nor any State or Federal law or rule that requires disclosure of such information.

Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).
Amended by R.2002 d.76, effective March 18, 2002.
See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).
Rewrote the section.

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 intern or interns or another licensed practitioner of mortuary science in the embalming of human remains or in the practice of mortuary science or funeral directing 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).
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
Rewrote the section.

13:36-8.5 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 a licensee from embalming human remains 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).
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
Substituted "prevent a licensee from embalming human remains" for "prevent the aforesaid licensee from embalming cadavers".

13:36-8.6 Business cards

(a) Business cards may be used by licensed practitioners of mortuary science and unlicensed persons associated with a registered mortuary, for identification purposes only, as set forth in (b) and (c) below. Business cards which are used as copy for an advertisement or which are published, disseminated, circulated or broadcast in the public media shall be subject to the requirements set forth in N.J.A.C. 13:36-5.12.

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

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

Amended by R.1973 d.16, effective January 10, 1973.
See: 4 N.J.R. 130(a), 5 N.J.R. 54(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

13:36-8.7 Authorized surrender of human remains

A licensed practitioner of mortuary science shall promptly surrender human remains upon proper direction and authorization of the person lawfully entitled to its custody.

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

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

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

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

Substituted "human remains" for "a cadaver".

13:36-8.8 Authorization to embalm human remains

No licensed practitioner of mortuary science shall take possession of or embalm human remains without first being directed and fully authorized to do by those charged with the duties of interment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Except for the transfer of remains from a place of temporary storage to a place of final entombment or interment within a single cemetery as provided in N.J.A.C. 13:44J-8.4, no interment, cremation or other disposition of a dead human body, or any disinterment thereof, shall be made by any person in the State of New Jersey unless a New Jersey licensed practitioner of mortuary science is present at the time of disposition, provided, however, that this rule shall not apply to a disinterment resulting from a court order in connection with a criminal investigation.

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

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

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

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

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

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

Rewrote the section.

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-8.11 Multiple burials

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

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

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

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

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

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

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

5. A court of competent jurisdiction.

(c) The written authorization to be obtained by the funeral director shall include the name and address, and signature of the person authorizing the multiple burial, the names, ages, and addresses of the deceased, the dates, places and times of their death, the names and addresses of the hospitals or institutions from which the bodies were obtained, the name and address of the cemetery or crematory where the remains are to be interred, or cremated, and the location of the grave in which any interment is to be made.

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

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

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

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

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

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

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

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

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

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

Rewrote (d).

13:36-8.12 Public accommodations

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

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

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

13:36-8.13 Referral fees

(a) It shall be professional misconduct for a licensee to pay, offer to pay, or to receive from any person any fee or other form of compensation for the referral of a purchaser of goods and services.

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

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

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

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

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

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

SUBCHAPTER 9. PREVENTION OF UNFAIR OR DECEPTIVE ACTS AND PRACTICES

13:36-9.1 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Services of funeral director and staff” means the services, not included in prices of other categories in N.J.A.C. 13:36-9.7 which may be furnished by a funeral provider in arranging and supervising a funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

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

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

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

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

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

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

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

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

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

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-9.2 Violations

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

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

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

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

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

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

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

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

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

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

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

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

13:36-9.4 Telephone price disclosures

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

(b) Funeral providers shall tell persons who ask by telephone about the funeral provider’s offerings or prices any accurate information from the price lists described in N.J.A.C. 13:36-9.5, 9.6 and 9.7 which reasonably answers the question and any other information which reasonably answers the question and which is readily available.

13:36-9.5 Casket price list

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

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

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

(b) Funeral providers shall place on the casket price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

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

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

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

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

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

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

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

Rewrote (b).

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

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

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

13:36-9.6 Outer burial container price list

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

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

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

(b) Funeral providers shall place on the outer burial container price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

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

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

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

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

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

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

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

Rewrote (b).

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

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

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

13:36-9.7 General price list

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

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

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

3. The effective date of the price list; and

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

(b) Funeral providers shall include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

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

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

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

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

5. Transfer of remains to funeral home;

6. Embalming;

7. Other preparation of the body;

8. Use of facilities for viewing;

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.)"

(d) Funeral providers shall include on the general price list the following disclosure statements:

1. In immediate conjunction with the price disclosures required by required by (b) above, "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected." Provided, however, that if the charge for "services of funeral director and staff" cannot be declined by the purchaser, the statement shall include the sentence: "However, any funeral arrangements you select will include a charge for our services" between the second and third sentences of the statement specified above herein.

2. 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 a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial;" and "If you choose to have an embalming performed, the decedent may be embalmed at a location other than this registered mortuary."

3. In immediate conjunction with the price range shown for direct cremations, "If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (specify containers)." This disclosure shall only be placed on the general price list if the licensed practitioner of mortuary science arranges direct cremations.

4. In immediate conjunction with the prices shown for outer burial containers if such prices are included on the general price list, "In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner will satisfy these requirements."

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 1.

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

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

Rewrote (a).

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

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

Rewrote (a); added (d).

13:36-9.8 Provision of Statement of Funeral Goods and Services Selected

(a) Funeral providers shall provide a Statement of Funeral Goods and Services Selected for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The Statement of Funeral Goods and Services Selected 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 provided that the Statement of Funeral Goods and Services Selected required by this section is given when required.

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

13:36-9.9 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 the 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. Provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)3.

Amended by R.2003 d.166, effective April 21, 2003 (operative October 21, 2003).
See: 34 N.J.R. 1315(a), 35 N.J.R. 1675(a).
In (b), added 2ii.
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
Rewrote (b).

13:36-9.10 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.

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the unfair or deceptive acts or practices defined in N.J.A.C. 13:36-9.15(a), funeral providers shall provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)4.

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

13:36-9.11 Outer burial container provisions

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

1. Represent that State or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case;
2. Fail to disclose to persons arranging funerals that State law does not require the purchase of an outer burial container.

(b) To prevent the deceptive acts or practices mentioned in (a) above, funeral providers shall provide on the outer burial container price list, and if applicable, on the general price list, the disclosure statement required by N.J.A.C. 13:36-9.7(d)5.

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)2, inserted "law" following "State".
Amended by R.2005 d.100, effective April 4, 2005.
See: 36 N.J.R. 4651(a), 37 N.J.R. 1036(b).
Rewrote (b).

13:36-9.12 General provisions on legal and cemetery requirements

(a) In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that Federal, State or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the deceptive acts or practices identified in N.J.A.C. 13:36-9.9, 9.10 and 9.11, funeral providers shall identify and briefly describe in writing on the statement of funeral goods and services selected (required by N.J.A.C. 13:36-9.8) any legal, cemetery, or crematory requirement which the funeral provider represents to persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

13:36-9.13 Provisions on preservative and protective value claims

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 represent that funeral goods have protective features or will protect the body from gravesite substances when such is not the case.

Amended by R.1999 d.355, effective October 18, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).
Deleted (a) and (a)1 designations.

13:36-9.14 Cash advance provisions

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

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

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

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

13:36-9.16 Other required purchases

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

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

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

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

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

In (b), rewrote 1 and 2.

13:36-9.17 Services provided without prior approval

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

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

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

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

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

13:36-9.18 Retention of documents

To prevent the unfair or deceptive acts or practices specified in this subchapter, funeral providers shall retain and make available for inspection by Board officials true and accurate copies of the price lists specified in N.J.A.C. 13:36-9.5, 9.6 and 9.7, as applicable, for at least three years after the date of their last distribution to customers, and a copy of each Statement of Funeral Goods and Services Selected, as required by N.J.A.C. 13:36-1.9 for at least seven years from the date on which the statement was signed, in conformity with N.J.A.C. 13:36-1.9.

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

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

13:36-9.19 Comprehension of disclosures

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

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

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

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

13:36-10.2 Definitions

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

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

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

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

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

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

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

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

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

Deleted “Board”.

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

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

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

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

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

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

In (b), added a second sentence.

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

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

Rewrote (a) and (b).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-10.4 Exemptions

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

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

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

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

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

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

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

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

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

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

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

13:36-10.5 Waiver of continuing competency requirement

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

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

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

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

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

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

Substituted “education” for “competency” throughout.

13:36-10.6 Credentials Committee

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

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

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

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

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

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

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

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

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

Rewrote (a).

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-10.7 Criteria for continuing competency programs

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

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

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

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

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

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

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

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

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

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

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

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

Petition for Rulemaking.

See: 41 N.J.R. 1529(b), 2150(a), 2987(b).

13:36-10.9 Approval of course offerings

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

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

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

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

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

Rewrote (a).

13:36-10.10 Credit hour reporting procedure

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

13:36-10.11 License reinstatement; activation

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

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

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

Denoted the existing paragraph as (a); and added (b).
Amended by R.1999 d.355, effective October 18, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

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

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

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

SUBCHAPTER 11. PREPAID FUNERAL AGREEMENTS AND ARRANGEMENTS

13:36-11.1 Definitions

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

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

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

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

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

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

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

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

“Guaranteed price agreement” means a prepaid funeral agreement under which, in exchange for the proceeds of a funeral trust or funeral insurance policy, the provider agrees to provide the stated goods and services in the future, at the agreed upon price regardless of whether or not the retail value of those goods and services exceeds the funds available from the funeral trust or funeral insurance policy at the time of death of the intended funeral recipient.

“Intended funeral recipient” means the person named in a prepaid funeral agreement for whose bodily disposition the prepaid funeral agreement is intended to provide. The intended funeral recipient may or may not be the purchaser.

“Newly issued funeral insurance policy” means any insurance policy or annuity contract that, at the time of issue, was intended to provide, or was explicitly marketed for the purpose of providing, funds to the provider, whether directly or indirectly, at the time of the insured’s death in connection with a prepaid funeral agreement.

“Non-guaranteed price agreement” means a prepaid funeral agreement funded with a funeral trust or funeral insurance policy, the proceeds of which the provider shall apply to the current retail value of the prepaid funeral goods and services previously selected at the time of death of the intended funeral recipient, but which agreement shall not bind the provider to provide the goods and services if the value thereof exceeds the funds available at the time of death of the intended funeral recipient.

“Payable on death account” or **“P.O.D. account”** means an account payable on request to the purchaser or intended funeral recipient of a prepaid funeral agreement during the lifetime of the intended funeral recipient and on his or her death, to a provider of funeral goods and services.

“Pooled trust” means a pooled trust account established pursuant to P.L. 1985, c.147 (N.J.S.A. 3B:11-16 et al.).

“Preneed funeral arrangements” means funeral arrangements made with an intended funeral recipient or his or her guardian, agent or next of kin, for the funeral of the intended funeral recipient.

“Prepaid funeral agreement” means a written agreement and all documents related thereto made by a purchaser with a provider prior to the death of the intended funeral recipient, with which there is connected a provisional means of paying for preneed funeral arrangements upon the death of the intended funeral recipient by the use of a funeral trust or funeral insurance policy, made payable to a provider and in return for which the provider promises to furnish, make available or provide the prepaid funeral goods or services, or both, specified in the agreement, the delivery of which occurs after the death of the intended funeral recipient.

“Prepaid funeral goods” means personal property typically sold or provided in connection with a funeral, or the final disposition of human remains, including, but not limited to, caskets or the primary containers, cremation or transportation containers, outer burial containers, vaults, as defined in N.J.S.A. 8A:1-2, memorials as defined in N.J.S.A. 8A:1-2, funeral clothing or accessories, monuments, cremation urns, and similar funeral or burial items, which goods are purchased in advance of need and which will not be delivered until the death of the intended funeral recipient named in a prepaid funeral agreement. Prepaid funeral goods shall not mean the sale of interment spaces or any related personal property offered or sold by a cemetery company as provided for in N.J.S.A. 8A:1-1 et seq.

“Prepaid funeral services” means those services typically provided in connection with a funeral, or the final disposition of human remains, including, but not limited to, funeral direction services, embalming services, care of human remains, preparation of human remains for final disposition, transportation of human remains, use of facilities or equipment for viewing human remains, visitation, memorial services or services which are used in connection with a funeral or the disposition of human remains, coordinating or conducting funeral rites or ceremonies and similar funeral or burial services, including limousine services provided in connection therewith, which services are purchased in advance of need and which will not be provided or delivered until the death of the intended funeral recipient named in a prepaid funeral agreement. Prepaid funeral services shall not mean the sale of services incidental to the provision of interment spaces or any related personal services offered or sold by a cemetery company as provided for in N.J.S.A. 8A:1-1 et seq.

“Provider” means a person, firm or corporation duly licensed and registered pursuant to the “Mortuary Science Act,” P.L. 1952, c.340 (N.J.S.A. 45:7-32 et seq.) to engage in the business and practice of funeral directing or mortuary science, or an individual serving as an agent or employee thereof and so licensed:

1. Operating a duly registered mortuary in accordance with P.L. 1952, c.340 (N.J.S.A. 45:7-32 et seq.) and the rules promulgated thereunder;
2. Having his or its business and practice based within the physical confines of the registered mortuary; and
3. Engaging in the practice of making preneed funeral arrangements, including, but not limited to, offering the opportunity to purchase or enroll in prepaid funeral agreements.

“Purchaser” means the person named in a prepaid funeral agreement who purchases the prepaid funeral goods and services to be provided thereunder. The purchaser may or may not be the intended funeral recipient. If the purchaser is different than the intended funeral recipient, it is understood that the relationship of the purchaser to the intended

funeral recipient includes a means to provide administrative control over the agreement on behalf of the intended funeral recipient.

“Retail installment contract” means an agreement to pay with interest the purchase price of goods or services in two or more installments over a period of time.

“Statement of Funeral Goods and Services Selected” means the itemized written statement required to be given to each person making funeral arrangements in accordance with the regulations of the Federal Trade Commission (16 C.F.R. 453.2) and the Board (N.J.A.C. 13:36-1.8 and 9.8).

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

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

In “Licensee”, deleted a reference to funeral directing.

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

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

Deleted “Board” and “License” and substituted “Statement of Funeral Goods and Services Selected” for “Statement of funeral goods and services”.

13:36-11.2 License and registration required; Statement of Funeral Goods and Services Selected and preneed arrangement required; price lists; compliance with at need laws

(a) No person, firm or corporation shall sell, offer to sell, or make, or offer to make preneed funeral arrangements or prepaid funeral agreements unless that person, firm or corporation is licensed and registered pursuant to the Mortuary Science Act, N.J.S.A. 45:7-32, to engage in the business and practice of mortuary science.

(b) Only a provider whose business and practice is located within the physical confines of a mortuary registered by the Board may make prepaid funeral agreements or preneed funeral arrangements, although providers may make prepaid agreements or preneed arrangements outside the actual confines of a registered mortuary.

(c) This section shall not be construed to prohibit an otherwise qualified person, firm or corporation from acting as a provider operating under a trade name or other assumed name or through a subsidiary of a corporation duly licensed and registered pursuant to the Mortuary Science Act, N.J.S.A. 45:7-32, to engage in the business and practice of mortuary science.

(d) No provider shall offer, enter into, or offer to enter into a prepaid funeral arrangement, whether funded by a funeral trust or funeral insurance policy, unless at the time of said transaction the provider furnishes the purchaser with:

1. A prepaid funeral agreement as defined and described by N.J.A.C. 13:36-11.1, 11.3 and 11.4;

2. A separate Statement of Funeral Goods and Services Selected for the intended funeral recipient describing and itemizing the prepaid funeral goods and services agreed upon, completed and signed in accordance with N.J.A.C. 13:36-1.9, whether or not the prepaid funeral agreement itself itemizes the funeral goods and services to be furnished at the time of need. A separate Statement of Funeral Goods and Services Selected shall also be completed and signed in accordance with N.J.A.C. 13:36-1.9 when at need funeral arrangements are made for the intended funeral recipient of the preneed funeral arrangement; and

3. The price lists as required by N.J.A.C. 13:36-9.5, 9.6 and 9.7 to be offered and provided to a purchaser at the time of an at need funeral arrangement.

(e) A provider shall comply with all of the requirements provided by statute and this subchapter for the making of an at need funeral arrangement when making or offering to make prepaid funerals or preneed funeral arrangements.

(f) All newly issued funeral insurance policies sold for the purpose of funding a prepaid funeral agreement shall:

1. Be sold by an individual who is licensed to sell insurance pursuant to N.J.S.A. 17:22A-1 et seq.; and

2. Fully comply with all relevant insurance laws of this State including but not limited to, N.J.S.A. 17B:17-5.1.

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) and (c), deleted references to funeral directing.

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

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

In (d), substituted “arrangement” for “agreement” in the introductory paragraph and rewrote 2.

13:36-11.3 Contents of a prepaid funeral agreement

(a) Every prepaid funeral agreement shall be signed by the provider, the purchaser or the intended funeral recipient or the intended funeral recipient’s guardian, agent or next of kin, shall be in writing and, together with the requisite separate Statement of Funeral Goods and Services Selected required pursuant to N.J.A.C. 13:36-11.2, shall be provided to the purchaser at the time of entering into a prepaid funeral agreement. Every written prepaid funeral agreement shall, at a minimum, include the following information:

1. The name, title and license number of the provider;

2. The name, address, and telephone number of the provider’s registered mortuary;

3. The name and address of the purchaser and, if different, the name of the intended funeral recipient;

4. The amount and method of the funding for the prepaid funeral agreement and a statement specifically indicating whether the prepaid funeral agreement is:

- i. A guaranteed price agreement, including those goods and services guaranteed; or

- ii. A non-guaranteed price agreement;
5. The name and location of the bank or pooled trust in which the prepaid moneys will be deposited if the funeral agreement is funded by a funeral trust;
 6. If a funeral insurance policy, the policy number, if known, and the name and address of:
 - i. The insurance company;
 - ii. The beneficiary of the policy;
 - iii. The purchaser of the policy; and
 - iv. The intended funeral recipient, if different from the purchaser;
 7. Notice that all funeral arrangements are revocable and that all funeral funding arrangements are severable from those funeral arrangements by the purchaser if alive, and if not, then by the intended funeral recipient where they are different persons. Upon the death of both the purchaser and the intended funeral recipient, the next of kin of the intended funeral recipient, in the order provided by N.J.S.A. 8A:5-18, shall have the right to revoke the funeral arrangements and to sever the funeral funding arrangements from the funeral arrangements;
 8. Notice that a prepaid funeral agreement may be funded by an irrevocable trust or irrevocable funeral insurance policy when the intended funeral recipient is an aged, blind or disabled applicant for, or recipient of, the public assistance programs provided for by N.J.S.A. 44:7-85 et seq., or is a similarly situated individual who reasonably anticipates applying for such assistance within six months from the execution of the prepaid funeral agreement;
 9. Notice that a prepaid funeral agreement funded by an irrevocable trust or an irrevocable funeral insurance policy shall be nonrefundable during the lifetime of the intended funeral recipient;
 10. Notice that, if the intended funeral recipient's death occurs in a location other than that served by the provider, alternate funeral arrangements may be required unless otherwise specified;
 11. Notice that a provider may substitute goods or services of equal quality, value and workmanship if those specified in the funeral agreement are unavailable at the time of need. Any resulting change in price will be reflected on a revised statement which shall be furnished at the time of need;
 12. Notice that the intended funeral recipient shall automatically assume the same legal rights as the purchaser to administer a prepaid funeral arrangement if the purchaser predeceases the intended funeral recipient;
 13. Notice that upon the death of the intended funeral recipient, the provider shall calculate the current retail prices of the prepaid funeral arrangements, and:

- i. In the case of a non-guaranteed prepaid funeral agreement, if there are insufficient funds to pay for the current retail prices of the prepaid funeral goods and services requested, the provider shall consult with the appropriate representative of the intended funeral recipient for the supplementation of funds or modification of the funeral arrangements set forth in the agreement prior to the provider's performance under the agreement;

- ii. In the case of any agreement funded through a funeral trust, all surplus funds shall be paid to the purchaser, if alive, and if not, then to the personal representative of the estate of the deceased purchaser;

- iii. In the case of an agreement funded through any funeral insurance policy, all surplus funds shall be paid to the named beneficiary of the funeral insurance policy;

14. Notice that if a prepaid funeral agreement is a guaranteed price agreement, the provider is liable for the price guarantee, and neither the issuer of a funeral insurance policy nor the trustee of a funeral trust is liable; and

15. Notice that the provider shall present a final and comprehensive bill to the legal representative of the deceased funeral recipient upon completion of performance under the prepaid funeral agreement.

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

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

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

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

In (a), rewrote 1, and substituted "prepaid" for "prepared" in 8.

13:36-11.4 Additional requirements of prepaid funeral agreements funded by funeral insurance policies; signing of insurance documents; providers not beneficiaries

(a) A provider who funds a prepaid funeral agreement by selling a newly issued funeral insurance policy shall conspicuously and in plain language disclose to the purchaser:

1. In boldface, that the provider will receive a commission or other remuneration based on the transaction;

2. That the provider is a duly licensed insurance producer in the State of New Jersey and is an agent of the insurance company issuing the policy;

3. The license number of the provider currently on file with the New Jersey Department of Banking and Insurance;

4. That cancellation of the prepaid funeral agreement shall not result in a refund of premiums paid;

5. That cancellation of the prepaid funeral agreement shall not cancel or otherwise invalidate the newly issued funeral insurance policy, although cancellation may not result in a refund of all premiums paid; and

6. That cancellation or lapse of the newly issued insurance policy, or withdrawals from, or loans against the proceeds or the cash value of the policy, may render the available funds inadequate to pay for the arrangements as originally intended and shall void any price guarantees.

(b) The provider who funds a prepaid funeral agreement by selling a newly issued funeral insurance policy shall sign all documentation pertaining to the funeral insurance policy application and goods and services in the presence of the purchaser.

(c) No provider, while acting in the capacity of a provider or licensee of the Board, shall be named as a beneficiary of a funeral insurance policy, except that nothing in this section shall be construed to prohibit the assignment of the proceeds of the policy to a provider as final payment for a funeral bill, or any other mechanism that provides payment to a provider for the goods or services rendered; in the case of such assignment or mechanism, any excess proceeds shall be paid to the named beneficiary.

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)5, substituted a reference to agreements for a reference to arrangements.

13:36-11.5 Funeral trust converted to funeral insurance policy

(a) A provider shall not replace a funeral trust with a newly issued funeral insurance policy unless and until the provider obtains the written consent of the purchaser. The written consent shall be signed by the purchaser and shall thoroughly advise the purchaser in plain language of the material differences between the original funeral trust and newly issued funeral insurance policy. The written consent shall conspicuously disclose in boldface the provider's earning of a commission based upon the transaction.

(b) The provider shall maintain the documentation required by (a) above pursuant to N.J.A.C. 13:36-11.16.

13:36-11.6 Irrevocable funeral agreements

(a) Notwithstanding the provisions of N.J.A.C. 13:36-11.3(a)8, and in accordance with N.J.S.A. 2A:102-16.1, a prepaid funeral agreement may provide that its funding, whether in the form of a funeral trust or a funeral insurance policy, is irrevocable during the lifetime of the intended funeral recipient, provided that the intended funeral recipient is:

1. An aged, blind or disabled applicant for, or recipient of, benefits pursuant to the Supplemental Security Income program (SSI) (N.J.S.A. 44:7-85 et seq.), a Medicaid program (N.J.S.A. 30:4D-1 et seq.), or General Assistance (N.J.A.C. 10:85); or

2. An aged, blind or disabled person who reasonably anticipates applying for, or receiving, the benefits provided by SSI, Medicaid or General Assistance within six months of the date of the signing of the prepaid funeral agreement.

(b) No provider shall establish an irrevocable prepaid funeral agreement knowing that the intended funeral recipient:

1. Is not, or shall not, become eligible to receive the public assistance referred to in (a) above; or
2. Does not intend to apply for such public assistance.

(c) No provider shall establish an irrevocable prepaid funeral agreement knowing or intending that the personal representative, estate or beneficiary of an intended funeral recipient shall receive a refund at the time of need, except that this prohibition does not include the expectation of an accumulation of interest or earnings on the corpus of the trust or insurance policy.

(d) No provider shall knowingly solicit or induce any person to execute an irrevocable prepaid funeral agreement pursuant to this section with the intent to collect or charge more than the fair market value of the funeral goods or services solicited.

(e) A provider shall immediately notify in writing the appropriate social services agency or agencies if at, or subsequent to, the time of need the personal representative or estate of a funeral recipient, or if known by the provider the beneficiary, in the case of a funeral insurance policy, receives a refund from an irrevocable prepaid funeral agreement in excess of \$500.00.

13:36-11.7 Pooled trusts

(a) Moneys used to fund prepaid funeral agreements may be deposited into a pooled trust account in a Federally insured State or Federally chartered bank, savings bank or savings and loan association pursuant to a written trust agreement, the beneficiaries of which shall be the purchasers, or intended funeral recipients, if different persons. Any such trust agreement shall conspicuously disclose in writing to the purchaser or intended funeral recipient, prior to the acceptance of any moneys by the trustees:

1. The right to immediately withdraw on demand any moneys placed in such trust, plus accrued interest;
2. That the purchaser or the intended funeral recipient shall receive periodic statements not less than once per year reflecting the amount of principal and accrued interest, if any, in the trust;
3. The amount or rate of any commissions to be lawfully taken; and