

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

Old text deleted, new text substituted.

Amended by R.1987 d.243, effective June 15, 1987.

See: 18 N.J.R. 2186(a), 19 N.J.R. 1100(b).

Added text to (b): "except that a . . . the itemization form:" and added new (b)1.-3.

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

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

Section was "Itemization of funeral expenses".

Case Notes

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

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 chapter 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. 13:36-19, 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 of Mortuary Science 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 exemp-

tions granted pursuant to this paragraph 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 cremains.

New Rule, R.1997 d.16, effective January 6, 1997.

See: 28 N.J.R. 4723(a), 29 N.J.R. 149(a).

SUBCHAPTER 2. INTERNS

13:36-2.1 Qualification for intern registration

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

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

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

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

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

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

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

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

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

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

(a) substantially amended.
Administrative corrections to (b), (c), (d), (e) and added new (f).
See: 21 N.J.R. 1830(a).
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.2 Request for application

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

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

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

13:36-2.3 Availability of interns

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

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

13:36-2.4 Intern identification card

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

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

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

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

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

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

13:36-2.6 Credit for embalming body

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

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

13:36-2.7 Intern qualifications for employment

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

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

13:36-2.8 Absence from training

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

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

13:36-2.9 Termination of training

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

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

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

13:36-2.10 Return of intern identification card

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

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

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

Text "When an internship . . . internship is completed" is deleted.
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

13:36-2.11 Affidavit recommendation form

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

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

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

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

13:36-2.12 Extension of internship

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

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

Section was "Recognition of traineeship".
New Rule, R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

13:36-2.13 (Reserved)

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

Section was "Concurrence of traineeship and school attendance".

13:36-2.14 Preceptors' responsibility for training

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

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

13:36-3.8 (Reserved)

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

SUBCHAPTER 4. LICENSE AND REGISTRATION GENERALLY

13:36-4.1 License renewals

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

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

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).

13:36-4.2 Notice of residence address change

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

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

13:36-4.3 Legal name change

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

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

Amended by R.1984 d.341, effective August 6, 1984.
See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).
Substituted new text for (a) and deleted old text.

13:36-4.4 New installations

(a) Except as provided in N.J.A.C. 13:44-4.13, any person desiring to operate, maintain or use a mortuary after adoption of these rules and regulations, shall first apply to the Board 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 an application is granted.

(c) When the new installation inspection is made, temporary approval may be granted to operate until a certificate of registration is issued.

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.

13:36-4.5 Change of ownership

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.

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).

13:36-4.6 Corporation's application for registration of funeral establishment

(a) Applications for registration of a funeral establishment to be operated by a corporation, a limited partnership and/or a limited liability company shall be accompanied 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 limited partnership (and, if a general partner is a corporation, the officers of the corporation); 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 offices of the corporation);
3. A copy of the corporate resolution (certified by the secretary of the corporation and impressed with the corporate seal) or limited partnership or limited liability company statement (certified by the general partner of

the limited partnership or the managing or operating member of the limited liability company) designating the licensed practitioner of mortuary science; and

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

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

13:36-4.7 Corporate applicant's charter

(a) All corporate charters are required to 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.

(c) It is the sense of this Section that a corporate funeral establishment shall at no time be operated by persons other than those duly licensed by the State Board of Mortuary Science.

(d) No corporate applicant will be denied a certificate of registration where the objects of the charter comply substantially with the subsection (c) of this Section, in addition to the other requisites set forth in the rules.

13:36-4.8 Full-time licensed manager

(a) Every establishment operating under corporate, limited partnership or limited liability company ownership, 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 manager and the licensee in charge of the establishment shall notify the Board, in writing, within 30 days of the termination.

(d) Except as set forth in (e) below, the licensee in charge of the establishment shall within 30 days of such termination give notice to the Board of the name of the newly designated manager, whether permanent or temporary. Within 30 days of accepting the manager's position, 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.

(e) The licensee in charge of the establishment may within 30 days of such termination submit to the Board documented evidence of hardship or extenuating circumstance. The Board, if it deems such evidence acceptable, may grant the establishment 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).

13:36-4.9 Participation of unlicensed persons

(a) No unlicensed person shall actively participate in any capacity in the actual funeral arrangements, preservation, preparation or disposal of dead human bodies.

(b) The use by an unlicensed person of the words "mortician," "funeral director," "undertaker" or any other words or title of like import or signification, including, but not limited to, "consultant," "counselor" or "provider" in connection with the offering of any funeral service or merchandise, shall constitute a deceptive 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).

13:36-4.10 Partnership's application for registration of funeral establishment

(a) A new application for registration of a funeral establishment operated by a new partnership must be signed by all partners and must be accompanied by a certified copy of the partnership agreement and the certificate of assumed name, if any, filed in the office of the county clerk.

(b) Any limited partnership seeking a certificate of registration shall conform to the requirements of N.J.S.A. 42:3-1 and not N.J.S.A. 42:2-1.

13:36-4.11 Trade names

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

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

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

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

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

13:36-4.12 Death of licensee or owner

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

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

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

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

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

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

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

(a) A person who owns a registered mortuary may use another registered mortuary without obtaining a certificate of registration or complying with new funeral home installation requirements up to but not exceeding three times a year. The owner of a registered mortuary may permit the owner of another registered mortuary to use his or her mortuary up to but not exceeding three times a year. The Board may waive such limits of three times a year upon receipt of a special 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).

SUBCHAPTER 5. MORTUARIES

13:36-5.1 Display of "Manager" sign

(a) Whenever a firm is required to be operated under the supervision, management and control of a licensed manager, the name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the establishment or on the firm sign, provided, however, that at the option of the firm the term, "senior director" or "executive director" may be substituted for "manager." This sign shall contain legible letters that are no less than 1½ inches in height.

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

Amended by R.1985 d.293, effective June 17, 1985.
See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).
Substantially amended.
Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

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

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

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

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

13:36-5.3 Transferability of registration certificates

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

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

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

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

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

13:36-5.5 Preparation room requirements

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

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

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

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

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

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

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

13:36-5.6 Equipment requirements

(a) Every funeral establishment in the State shall have in its preparation or embalming room and shall be equipped with, but not limited to the following:

1. Sterilizer;
2. Leakproof trash can;
3. Instrument cabinet;
4. Sterilizing agents;
5. Drainage or viscera bucket;
6. Embalming table, porcelain or metal with a drainage opening in the lower end;
7. Hydro-aspirator with approved vacuum breaker or other approved aspirator;
8. Slop sink with a three inch drain with hot and cold water attachments and sewer connections;
9. Wash basin with hot and cold running potable water;
10. One leakproof container for storing dirty linens;
11. 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).
12. One container of hardening compound;
13. One set metal or rubber drain tubes (large, medium, small);

14. One set metal injection tubes (large, medium, small);
15. One grooved director equal;
16. One aneurism needle;
17. One large trocar;
18. One small trocar;
19. One scalpel;
20. One pair scissors;
21. At least two hemostats;
22. Two forceps;
23. One hypodermic syringe;
24. Hypodermic needles (assorted);
25. Suture needles;
26. Suture thread;
27. Disinfectant.

(b) All instruments and appliances used in embalming shall be thoroughly cleansed and sterilized 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).

Case Notes

Bankruptcy court order approving sale of Chapter 11 debtor's funeral home's assets was clear and unambiguous with respect to items of personal property included in sale, as required to hold former operator of funeral home in contempt. In re Baker, Bkrcty.D.N.J. 1996, 195 B.R. 309.

13:36-5.7 Potable water supply

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

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

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

13:36-5.8 (Reserved)

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

Section was "Employment of licensed embalmer".

13:36-5.9 Multiple funeral establishments in same location

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

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

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

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

Section was "Branch mortuaries".

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

13:36-5.10 Display of establishment sign

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

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

13:36-5.11 Burial preparation performed in separate room

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

13:36-5.12 Advertising

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

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

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

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

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

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

(b) All stationery and advertisements must indicate the true firm name as registered with the Board of Mortuary Science; however, this shall not apply to small novelty items where the space of advertising is limited.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) All advertisements shall contain the name, address, and telephone number of a licensee who is responsible for the fulfillment of the advertised terms and conditions.

(i) 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).