

“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Repealed by R.1984 d.341, effective August 6, 1984.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) Such 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 and/or sanitary care services;
5. Date of disposition;
6. The final bill;
7. 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
8. 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.

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

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

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

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

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

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

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

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

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

CATEGORY I—PROFESSIONAL SERVICES

- 1. Basic Services of Funeral Director and Staff \$
 - 2. Embalming (including use of preparation room and sanitary care) \$
- If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain below.
- 3. Sanitary Care, Without Embalming \$
 - 4. Other (Specify) \$
- Category I TOTAL \$

CATEGORY II—OTHER STAFF AND RELATED FACILITIES

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

CATEGORY III—TRANSPORTATION

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

OPTIONAL PACKAGED SERVICES—Direct Cremation, Immediate Burial.

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

CATEGORY IV—MERCHANDISE \$

- 1. Casket (Description to include manufacturer, name or model number, type of material and interior material) \$
 - 2. Vault/Outer Burial Enclosure (Description to include manufacturer, name or model number, and type of material) \$
 - 3. Clothing \$
 - 4. Other (Specify—Items may be packaged for individual items less than \$100.00 each) \$
- Category IV TOTAL \$

CATEGORY V—CASH DISBURSEMENTS (Estimated)

- 1. Cemetery or Crematory \$
 - 2. Clergy (and/or Church) \$
 - 3. Pallbearers \$
 - 4. Certified Copies of Death Certificate and Permit Fee \$
 - 5. Newspaper Notices \$
 - 6. Other (Specify) \$
- Category V TOTAL \$
- GRAND TOTAL** \$

I have prepared the above Statement of Funeral Goods and Services Selected.

I have read and received a copy of the Statement of Funeral Goods and Services Selected.

Signature of Practitioner and License #

Signature of Person Making Arrangements and Date

For Name of Funeral Home

Relationship of Deceased
Street Address
City, State, Zip Code

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.

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

REASONS FOR EMBALMING:

- Family authorized.
- Other: _____

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

(f) Immediately upon completing the "Statement of Funeral Goods and Services Selected" form, the practitioner and the consumer shall sign the form where indicated. The

practitioner shall immediately provide a copy to the person for whom the form was prepared.

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

Amended by R.1973 d.119, effective May 1, 1973.

See: 5 N.J.R. 115(a), 5 N.J.R. 195(a).

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

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

Old text deleted, new text substituted.

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

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

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

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

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

Section was "Itemization of funeral expenses".

Case Notes

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

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.

(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) Whenever a firm is required to be operated under the supervision, management and control of a licensed manager pursuant to the provisions of N.J.A.C. 13:36-4.8, the name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the establishment or on the firm sign, provided, however, that at the option of the firm, the term "senior director" or "executive director" may be substituted for "manager." This sign shall contain legible letters that are no less than 1½ inches in height.

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

(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).

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 must indicate the true firm name as registered with the Board of Mortuary Science.

(c) Advertisements shall contain the true firm name, address, and telephone number of the 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 advertise-ment 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.2003 d.166, effective April 21, 2003 (operative October 21, 2003).

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.

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

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

Amended by R.1994 d.523, effective October 17, 1994.
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).
Amended by R.1999 d.355, effective October 18, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

13:36-5.18 Disposition of human remains

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

(b) Viscera shall be treated 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).

13:36-5.19 (Reserved)

Repealed by R.2002 d.76, effective March 18, 2002.
See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).
Section was "Public accommodations".

Cross References

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

13:36-5.20 (Reserved)

New Rule, R.1993 d.76, effective February 16, 1993.
See: 24 N.J.R. 3016(a), 25 N.J.R. 709(b).
Repealed by R.2002 d.76, effective March 18, 2002.
See: 33 N.J.R. 2597(a), 34 N.J.R. 1267(a).
Section was "Referral fees".

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).