

**CHAPTER 36**

**STATE BOARD OF MORTUARY SCIENCE**

**Authority**

N.J.S.A. 45:7-38.

**Source and Effective Date**

R.1994 d.523, effective September 19, 1994.  
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 36, State Board of Mortuary Science, expires on September 19, 1999.

**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, Subchapters 1 through 8, 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 Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985.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 was readopted as R.1989 d.540, effective September 27, 1989. See: 21 N.J.R. 1971(a), 21 N.J.R. 3474(b). A new 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 was readopted as R.1994 d.523. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. ADMINISTRATION****13:36-1.1 Seal of the Board**

The Seal of the Board shall be the Seal of New Jersey encircled with the words "State Board of Mortuary Science of New Jersey."

**13:36-1.2 (Reserved)**

Repealed by R.1984 d.341, effective August 6, 1984.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

Section was "Office of the Board."

**13:36-1.3 Board meetings**

(a) The Board shall hold an annual meeting in May each year, or at such other time as the President may direct, at which time the President and Secretary of the Board shall be elected for the ensuing year.

(b) Special meetings of the Board may be called by the President upon reasonable notice being given to the members. In the event of unavailability of the President for illness or otherwise, three members of the Board shall have the power to call a special meeting in cases of emergency.

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

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

"July" changed to "May"; "five days" changed to "reasonable".

**13:36-1.4 Duties of Executive Director**

(a) The Executive Director shall be in full charge of office administration. It shall be his or her duty to:

1. Receive complaints and answers;
2. Set and calendar cases for hearings;
3. Issue notices of hearing and statements to respondents;
4. Perform any and all duties which the Board may from time to time impose upon him or her.

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

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

**13:36-1.5 Inspector's duties**

(a) The inspector shall:

1. Inspect mortuaries for cleanliness wherein practitioners of mortuary science are practicing;
2. Where necessary, view dead human bodies which have been placed in the care of any practitioner of mortuary science;
3. Inspect the license and registration of practitioners of mortuary science;
4. Verify employment and check credentials of all interns in training;
5. Visit any place where the practice of embalming is being conducted or where a funeral is in process of being directed; provided, however, that such visitation shall be made in a respectful and decorous manner, as may be fitting the presence of the dead;
6. Visit any cemetery, crematory or public mausoleum for the purpose of determining whether dead human bodies entrusted to the care of a practitioner of mortuary science or funeral director are being properly disposed of according to law.

(b) The inspector shall perform such other duties as may be directed by the Board and shall report to the Board at each regular meeting and at such other times as the Board may direct.

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

**13:36-3.8 (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).

#### Cross References

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

#### 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.

#### 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

(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).

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

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

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

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

3. "Inactive" means a person licensed by the Board and in good standing, but who is not eligible to engage in the

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

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

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

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

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

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

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

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

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

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

## SUBCHAPTER 5. MORTUARIES

### 13:36-5.1 Display of "Manager" sign

(a) Whenever a firm is required to be operated under the supervision, management and control of a licensed manager, 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).

#### Cross References

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

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

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

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

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

### 13:36-5.3 Transferability of registration certificates

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

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

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

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

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

**Cross References**

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

**13:36-5.5 Preparation room requirements**

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

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

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

3. The floor shall be concrete or tile with glazed surface. Wood flooring may be used provided it is cov-

ered 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;

(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).

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

Whenever a funeral establishment is to be moved to a new location, it shall be necessary to apply for certificate of registration and to notify the Board, in writing, at least 15 days in advance of the proposed date of opening at the new location in order to allow time for an inspection and registration. A certificate of registration is not transferable.

Administrative Correction.

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

### 13:36-5.14 Discontinuation of business

Whenever a funeral establishment is closed for business, all signs must be removed from the outside of the discontinued premises, and the certificate of registration must be returned to the Board for cancellation. The telephone service and all advertising must be discontinued.

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

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

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

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

### 13:36-5.16 Notice of absence from practice

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

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

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

### 13:36-5.17 Removal of human bodies; 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).

### 13:36-5.18 Disposition of dead human remains

(a) Whenever dead human remains are entrusted to the care of a licensed practitioner of mortuary science for a disposition, the practitioner shall conform with N.J.A.C. 8:9-1 et seq. and shall not remove any part or dispose of the remains in any manner whatsoever except as permitted by law and as authorized by the person legally entitled to grant said authorization.

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

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

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

Changed cross-reference.

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

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

### 13:36-5.19 Public accommodations

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

#### Cross References

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

### 13:36-5.20 Referral fees

It shall be occupational misconduct for a licensee to pay, offer to pay, or to receive from any person any fee or other form of compensation for the referral of a purchaser of goods and services. The within prohibition shall not prohibit the division of fees among licensees engaged in a bona fide employment, partnership or corporate relationship for the delivery of occupational services.

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

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

## SUBCHAPTER 6. EMBALMING PROCEDURE

### 13:36-6.1 Privacy of burial preparation

(a) The preparation for burial or other disposition of all dead human bodies shall be performed in privacy. No one shall be permitted to be present in the embalming, operating or preparation room while a dead human body is being embalmed, washed or otherwise prepared for burial or other disposition, except the following:

1. Licensed practitioner of mortuary science and their employees;
2. Duly authorized instructors of funeral directing schools;
3. Duly registered funeral director students and trainees;
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.

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.

#### 13:36-6.2 Dress requirement for embalming

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

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

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

#### 13:36-6.3 Use of poisons

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

#### 13:36-6.4 Disposal of blood and excretion

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

#### 13:36-6.5 Marking receptacles

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

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

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

#### 13:36-6.6 Unnatural deaths

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

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

#### 13:36-6.7 Interns

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

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

#### 13:36-6.8 (Reserved)

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

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### SUBCHAPTER 7. SPECIAL RULES OF PRACTICE

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

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

1. Deny funeral services for any deceased person based upon the cause of death;

2. Place any condition upon the provision of funeral services for any deceased person based upon the cause of death; or

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

(b) In the preparation for burial or transportation of a dead body, the funeral director, the embalmer and assistants shall use universal precautions according to the Centers for Disease Control recommendations (see Morbidity and Mortality Weekly Reports, including Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers

for Disease Control, Atlanta, Georgia 30333), incorporated herein by reference, which shall include taking due care to prevent any spread of infection in the handling of such body during transportation, in preparation and during embalming, and after contact with such body, and shall disinfect their hands and remove any soiled clothing. All instruments, gloves, coverings and utensils used in embalming or in handling the body shall be disinfected immediately after being used. All fluids or other matters removed from such body in the process of embalming shall be disposed of in accordance with all applicable State, Federal and local laws and regulations governing medical and infectious waste.

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## SUBCHAPTER 8. GENERAL RULES OF PRACTICE

### 13:36-8.1 Carrying license identification card

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

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

### 13:36-8.2 Divulging secrets

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

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

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

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

### 13:36-8.4 Restrictions on employment

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

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

### 13:36-8.5 Unauthorized license use

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

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

### 13:36-8.6 Funeral arrangements involving cash or negotiable instrument

(a) Every licensed practitioner of mortuary science responsible for pre-need arrangements shall comply with N.J.S.A. 45:7-82 through 45:7-94, 2A:102-13 through 16.1, and 3B:11-16 through 18.

(b) Whenever ownership of a mortuary is being transferred or dissolved, each client shall be notified in writing of the transfer and that the trust funds may be withdrawn if so desired.

(c) The estimated account of funeral service expenses along with copies of any communications written pursuant to this regulation shall be retained on record for a period of not less than six (6) years after the demise of the purchaser.

(d) If the licensed practitioner of mortuary science guarantees the funeral home charges and accepts moneys for cash advance items at the time pre-need arrangements are made, the practitioner shall first apply the interest generated by those moneys paid for cash advance items so as to cover any increased costs of those items, and shall refund any surplus therein to the purchaser and/or his or her legal representative or shall apply the surplus to other use as directed. A practitioner shall not apply any surplus derived from the cash advance portion of a guaranteed price contract to any other part of the contract.

(e) In offering pre-need arrangements on behalf of an establishment, a licensed practitioner of mortuary science shall not impose prices that are greater than those on the price lists utilized by the establishment for its at-need offerings.

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).

### 13:36-8.7 Authorized surrender of cadavers

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

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

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

### 13:36-8.8 Authorization to embalm cadaver

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

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

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

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

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

(b) When funeral arrangements are being made, no one but a duly licensed practitioner of mortuary science shall quote prices to a consumer in connection with any funeral services and/or goods. Nothing contained in this section shall preclude quotation of prices when funeral arrangements are not being made.

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

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

Pursuant to N.J.A.C. 3:41-7.4, no interment, cremation or other disposition of a dead human body, or any disinterment thereof, shall be made in the State of New Jersey unless a New Jersey licensed practitioner of mortuary science is present at the time of disposition, provided, however, that this rule shall not apply to a disinterment resulting from a court order in connection with a criminal investigation.

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

**13:36-8.11 Multiple burials**

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

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

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

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

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

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

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

5. A court of competent jurisdiction.

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

(d) Each written authorization shall bear a number corresponding to the funeral record number required by the funeral record keeping rule of this chapter, and a signed copy shall be retained by the funeral director making such arrangements for at least seven years thereafter.

Amended by R.1979 d.420, effective October 18, 1979.  
See: 11 N.J.R. 454(c), 11 N.J.R. 582(b).  
Amended by R.1994 d.523, effective October 17, 1994.  
See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

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**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.

(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.

### 13:36-10.9 Approval of course offerings

(a) A continuing competency provider may receive approval for a continuing competency course or program pursuant to the provisions of N.J.A.C. 13:36-10.7. Prior to offering the course or program, the provider may apply for approval. However, the provider may also apply after the event to eliminate the need for individual licensees to apply under (b) below.

(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.

### 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. The statement shall include, where applicable, the following:

1. The date of each course or program attended;
2. Continuing education credits claimed;
3. The title of the course and a description of its content;
4. The school, firm, or organization providing the course;
5. The instructor; and
6. The course location.

(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 for a hearing, penalties and/or suspension of the license.

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

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

1. A log showing the type and titles of courses, programs or seminars completed, the sponsoring organizations, locations of the courses, programs or seminars, duration, instructor's or speaker's name and 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.

### 13:36-10.11 License restoration; 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 restoration, 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).