

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 Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985.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Repealed by R.1984 d.341, effective August 6, 1984.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

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

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

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

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

13:36-4.11 Trade names

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

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

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

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

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

13:36-4.12 Death of licensee or owner

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

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

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

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

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

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

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

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

(b) All parties involved in such a special use agreement shall immediately forward written notice to the Board before each use of the establishment. This notice shall include the following information:

1. Title and address of the firm being used and the name of the manager;
2. The name and address of the firm using the establishment and the name of the licensee in charge;
3. Name of decedent; and
4. The exact date(s) the establishment is to be used.

(c) The name of the establishment using the facility is not to be inserted in obituary and death notices unless the name of the firm registered at that location is also inserted.

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

SUBCHAPTER 5. MORTUARIES

13:36-5.1 Display of "Manager" sign

(a) Whenever a firm is required to be operated under the supervision, management and control of a licensed manager, the name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the establishment or on the firm sign, provided, however, that at the option of the firm the term, "senior director" or "executive director" may be substituted for

"manager." This sign shall contain legible letters that are no less than 1½ inches in height.

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

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

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

Substantially amended.

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

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

Cross References

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

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

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

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

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

13:36-5.3 Transferability of registration certificates

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

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

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

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

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

Cross References

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

13:36-5.5 Preparation room requirements

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

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

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

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

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

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

Amended by R.1973 d.181, effective July 3, 1973.

See: 5 N.J.R. 52(a), 5 N.J.R. 290(c).

13:36-5.6 Equipment requirements

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

1. Sterilizer;
2. Leakproof trash can;
3. Instrument cabinet;

1. State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or

2. Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

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

(b) To prevent the unfair or deceptive acts or practices mentioned in (a) above, funeral providers shall include on the contract, final bill, or other written evidence of the agreement or obligation given to the customer, the statement: "If you selected a funeral which requires 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 direct cremation or immediate burial. If we charged for embalming, we will explain why below."

13:36-9.18 Retention of documents

To prevent the unfair or deceptive acts or practices specified in this subchapter, funeral providers shall retain and make available for inspection by Board officials true and accurate copies of the price lists specified in N.J.A.C. 13:36-9.5, 9.6 and 9.7, as applicable, for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, as required by N.J.A.C. 13:36-9.8 for at least six years from the date on which the statement was signed, in conformity with N.J.A.C. 13:36-1.9.

13:36-9.19 Comprehension of disclosures

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

SUBCHAPTER 10. CONTINUING EDUCATION

Authority

N.J.S.A. 45:7-72.1, and 72.2 (P.L. 1995, c.192).

Source and Effective Date

R.1997 d.162, effective April 7, 1997.
See: 29 N.J.R. 408(a), 29 N.J.R. 1340(b).

13:36-10.1 Purpose and scope

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

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

13:36-10.2 Definitions

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

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

"Committee" means the Credentials Committee established by the Board pursuant to N.J.A.C. 13:36-10.5.

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

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

13:36-10.3 Minimum credit hours for biennial license

(a) The Board shall not renew a mortuary science license for the biennial renewal period commencing March 1, 1999, or any following year, unless the licensee submits with the renewal application proof that he or she has completed courses of continuing professional competency of the types and number of credits specified in this subchapter. Proof of completion of the required number of professional development hours shall be in the form outlined in N.J.A.C. 13:36-10.10.

(b) By the end of each biennial licensing period, every licensee shall, as a condition of license renewal, have successfully completed 10 credit hours of continuing education courses or seminars, accredited by the Board.

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

13:36-10.4 Exemption

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

13:36-10.5 Waiver of continuing competency requirement

(a) The Board may, in its discretion, waive continuing competency requirements on an individual basis for reasons

of hardship, such as illness or disability, or other good cause shown.

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

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

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

13:36-10.6 Credentials Committee

(a) The Board shall appoint a Credentials Committee to assist it in establishing guidelines and criteria for the approval of continuing education courses and seminars. The Committee shall consist of three members of the Board. Members of the Committee shall serve for one year from the date of appointment, unless they are serving the unexpired term of a former member, in which event they shall serve for the remainder of the unexpired term.

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

1. Making recommendations to the Board regarding the approval of continuing education courses and seminars and the number of credit hours to be assigned to courses or seminars in satisfaction of the requirements of N.J.A.C. 13:36-10.3;
2. Developing procedures for the internal operation of the Committee; and
3. Maintaining substantive criteria for continuing education courses or seminars, which courses or seminars may include topics which:
 - i. Concern professional competency, ethics and legal developments relating to the practice of mortuary science;
 - ii. Examine and train licensees in the utilization and application of new techniques and scientific and clinical advances relating to mortuary science; and
 - iii. Deal with business management concepts as they relate to the delivery of efficient professional services to consumers.

13:36-10.7 Criteria for continuing competency programs

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

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

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

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

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

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

1. College courses;
2. Continuing education courses;
3. Correspondence, televised, videotaped and other short courses/tutorials;
4. Seminars, in-house courses, workshops and technical programs at professional meetings and conferences;
5. Teaching or instruction in (a)1, 2 and 4 above; and
6. Published papers, articles or books authored by the licensee.

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

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

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

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.