

CHAPTER 36

STATE BOARD OF MORTUARY SCIENCE

Authority

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

Source and Effective Date

R.1999 d.355, effective September 17, 1999.
See: 31 N.J.R. 2133(a), 31 N.J.R. 3126(a).

Executive Order No. 66(1978) Expiration Date

Chapter 36, State Board of Mortuary Science, expires on September 17, 2004.

Chapter Historical Note

Chapter 36, State Board of Mortuary Science, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 36, State Board of Mortuary Science, was readopted as R.1984 d.341, effective July 23, 1984. See: 16 N.J.R. 505(a), 16 N.J.R. 2143(b).

Subchapter 9, Prevention of Unfair or Deceptive Acts and Practices, was adopted as R.1984 d.525, effective November 19, 1984. See: 16 N.J.R. 1315(a), 16 N.J.R. 3210(a).

Subchapter 7, Embalming Schools, was repealed by R.1985 d.293, effective June 17, 1985. See: 17 N.J.R. 797(a), 17 N.J.R. 1580(a).

Pursuant to Executive Order No. 66(1978), Chapter 36, State Board of Mortuary Science, was readopted as R.1989 d.540, effective September 27, 1989. See: 21 N.J.R. 1971(a), 21 N.J.R. 3474(b).

Subchapter 7, Special Rules of Practice, was adopted as R.1994 d.288, effective June 6, 1994. See: 26 N.J.R. 1302(a), 26 N.J.R. 2293(b).

Pursuant to Executive Order No. 66(1978), Chapter 36, State Board of Mortuary Science, was readopted as R.1994 d.523, effective September 19, 1994. See: 26 N.J.R. 2536(a), 26 N.J.R. 4201(a).

Subchapter 10, Continuing Education, was adopted as R.1997 d.162, effective April 7, 1997. See: 29 N.J.R. 408(a), 29 N.J.R. 1340(b).

Subchapter 11, Prepaid Funeral Agreements and Arrangements, was adopted as R.1998 d.15, effective January 5, 1998. See: 29 N.J.R. 3110(a), 30 N.J.R. 90(a).

Pursuant to Executive Order No. 66(1978), Chapter 36, State Board of Mortuary Science, was readopted as R.1999 d.355, effective September 17, 1999. See: 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Repealed by R.1984 d.341, effective August 6, 1984.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".

13:36-4.11 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 the death of the owner of their intention to continue the mortuary practice and to 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.

(b) Upon request from the Board, the executor or administrator of the estate shall furnish to the Board a copy of the preneed ledger maintained pursuant to N.J.A.C. 13:36-11.16 within 30 days of the owner's death.

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

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

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

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

Inserted (b).

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

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

In (a), inserted "of the death of the owner" following "days" in the introductory paragraph; and in (b), substituted "Upon request from the Board," for "Prior to operating pursuant to (a) above" at the beginning.

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

(a) A person who owns a New Jersey registered mortuary may use another New Jersey registered mortuary without obtaining a certificate of registration or complying with new funeral home installation requirements up to three times per calendar year. The owner of a New Jersey registered mortuary may permit the owner of another New Jersey registered mortuary to use his or her mortuary up to three times per calendar year. The Board may waive these three times per calendar year limitations upon receipt of an application showing good cause for the waiver.

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

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

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

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

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

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

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

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

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

Rewrote (a).

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

(a) 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 licensees 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 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.

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".

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.