

New Jersey Register
VOLUME 34, NUMBER 6
MONDAY, MARCH 18, 2002

RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF MORTUARY SCIENCE
RECORDKEEPING BY PRACTITIONER OF MORTUARY SCIENCE;
PRACTICAL EXAMINATION REQUIREMENTS; DISPLAY OF "MANAGER" SIGN;
EQUIPMENT REQUIREMENTS; ADVERTISING; DIVULGING SECRETS;
BUSINESS CARDS; PRESENCE OF LICENSEE FOR THE DISPOSITION OF
DEAD HUMAN BODY; MULTIPLE BURIALS; PUBLIC ACCOMMODATIONS;
REFERRAL FEES; GENERAL PRICE LIST

Adopted Amendments: N.J.A.C. 13:36-1.8, 3.7, 5.1, 5.6, 5.12, 8.2, 8.10, 8.11 and 9.7

Adopted Repeals: N.J.A.C. 13:36-5.19 and 5.20

Adopted New Rules: N.J.A.C. 13:36-8.6, 8.12 and 8.13

Proposed: August 6, 2001 at 33 N.J.R. 2597(a).

Adopted: October 2, 2001 by the New Jersey State Board of Mortuary Science, Gerald P. Scala, Esq., President.

Filed: February 13, 2002 as R.2002 d.76, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:7-38 and 45:1-15.

Effective Date: March 18, 2002.

Expiration Date: September 17, 2004.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rules are governed by N.J.S.A. 45:7-32 et seq., and, therefore, are not subject to any Federal standards or requirements.

Full text of the adoption follows:

<< **NJ ADC 13:36-1.8** >>

13:36-1.8 Recordkeeping by practitioner of mortuary science

(a) The registered mortuary shall maintain full, accurate records of all funerals which it conducts or in which it participates in any manner.

(b) (No change.)

(c) Such records are to include the following, if applicable:

1.-3. (No change.)

4. The name and license number of the practitioner or intern who provided embalming and/or sanitary care services;

Recodify existing 4. and 5. as 5. and 6. (No change in text.)

<< NJ ADC 13:36-3.7 >>

13:36-3.7 Practical examination requirements

(a) No candidate shall be given the practical examination until after he or she has successfully completed the written examinations prescribed under N.J.S.A. 45:7-49 and the candidate is within 90 days of completing the prescribed period of internship.

(b) (No change.)

<< NJ ADC 13:36-5.1 >>

13:36-5.1 Display of "Manager" sign

(a) (No change.)

(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.

<< NJ ADC 13:36-5.6 >>

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.-5. (No change.)

6. Hydro-aspirator with approved vacuum breaker, electric aspirator, or other approved aspirator;

7. Waste sink with a minimum two inch drain;

8.-9. (No change.)

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.-13. (No change.)

14. One aneurism <<+needle or aneurism+>> hook;

Recodify existing 16.-25. as 15.-24. (No change in text.)

(b) (No change.)

<< NJ ADC 13:36-5.12 >>

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.

"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.

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

"Prior 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.

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

(b) (No change.)

(c) Advertisements shall contain the true firm name, address, and telephone number of the facility as registered with the Board. Advertisements shall also contain the name of the manager or licensee in charge, and, <<-within 12 months following the effective date of this section->> <<+by March 18,2003+>>, the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(d)-(l) (No change.)

<< NJ ADC 13:36-5.19 >>

<< NJ ADC 13:36-5.20 >>

13:36-5.19 and 5.20 (Reserved)

<< NJ ADC 13:36-8.2 >>

13:36-8.2 Divulging secrets

(a) 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.

(b) This section shall not be invoked to circumvent the Board's legal authority 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, nor any State or Federal law or rule that requires disclosure of such information.

<< NJ ADC 13:36-8.6 >>

13:36-8.6 Business cards

(a) Business cards may be used by licensed practitioners of mortuary science and unlicensed persons associated with a

registered mortuary, for identification purposes only, as set forth in (b) and (c) below. Business cards which are used as copy for an advertisement or which are published, disseminated, circulated or broadcast in the public media shall be subject to the requirements set forth in N.J.A.C. 13:36-5.12.

(b) A licensed practitioner of mortuary science shall include on all business cards, at a minimum, the licensee's name, the licensee's title or position, such as "Manager," or "Funeral Director," and <<-within 12 months following the effective date of this section->> <<+by March 18, 2003+>>, the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(c) A registered mortuary shall not permit an unlicensed person associated with the registered mortuary to use a business card for identification purposes unless the name and title or position of the unlicensed person appears on the card. An unlicensed person's business card shall not in any way connote that the person is licensed by the Board.

<< NJ ADC 13:36-8.10 >>

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

Except for the transfer of remains from a place of temporary storage to a place of final entombment or interment within a single cemetery as provided in N.J.A.C. 13:44J-<<-7.4->><<+8.4+>>, no interment, cremation or other disposition of a dead human body, or any disinterment thereof, shall be made by any person 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.

<< NJ ADC 13:36-8.11 >>

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, as set forth in (b) below, for each decedent, or by a court of competent jurisdiction.

(b)-(d) (No change.)

<< NJ ADC 13:36-8.12 >>

13:36-8.12 Public accommodations

All funeral establishments shall be considered places of public accommodation and shall be subject to public accommodation laws including the Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

<< NJ ADC 13:36-8.13 >>

13:36-8.13 Referral fees

(a) 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.

(b) The prohibition of referral fees 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.

<< NJ ADC 13:36-9.7 >>

13:36-9.7 General price list

(a) Funeral providers shall give a printed or typewritten price list for retention to persons who inquire in person about funeral arrangements or the prices of funeral goods or funeral services. When people inquire in person about funeral arrangements or the prices of funeral goods or funeral services, the funeral provider shall offer them the list upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services. This list shall contain at least the following information:

1. The name, address, and telephone number of the registered mortuary and the name of the manager or of the licensee in charge;

2.-4. (No change.)

(b)-(c) (No change.)