

NEW JERSEY REGISTER
VOLUME 37, NUMBER 7
MONDAY, APRIL 4, 2005
RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MORTUARY SCIENCE OF NEW JERSEY

Readoption with Amendments: N.J.A.C. 13:36

Adopted Repeals: N.J.A.C. 13:36-4.10 and 5.13

Adopted New Rules: N.J.A.C. 13:36-1.2, 2.15, 3.8 and 4.16, and 13.36 Appendix

Adopted Repeal and New Rule: N.J.A.C. 13:36-4.1

Proposed: October 18, 2004 at 36 N.J.R. 4651(a).

Adopted: January 11, 2005 by the State Board of Mortuary Science of New Jersey, Marius R. Lombardi, President.

Filed: March 2, 2005 as R.2005 d.100, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30- 6.3).

Authority: N.J.S.A. 45:7-32 et seq. and 45:1-15.1.

Effective Dates: March 2, 2005, Readoption;
April 4, 2005, Amendments.

Operative Date: Amendments to N.J.A.C. 13:36-1.9, 5.1(a) and (b) and 5.12(b): October 31, 2005.

Expiration Date: March 2, 2010.

Summary of Agency-Initiated Changes:

On proposal, the proposed Appendix had the language, "I have prepared the above Statement of Funeral Goods and Services Selected" before the boxed language containing "IF ANY LAW, . . . Other." This is incorrect and the boxed language should appear before the "I have prepared . . . Selected" language.

In addition, N.J.A.C. 13:36-1.9(c) and the Appendix, Category IV- Merchandise, incorrectly use the term "Enclosure" and should read:

2. Vault/Outer Burial Container.

N.J.A.C. 13:36-1.9(a)4ii does not mirror the FTC's language for embalming, so on adoption, the Board has amended this section to reflect the FTC's language.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and adopted new rules are governed by N.J.S.A. 45:7-31 et seq., and are not subject to any Federal standards or requirements. Although the rules in N.J.A.C. 13:36 are not subject to any Federal requirements or standards, where deemed appropriate, the Board has incorporated Federal standards. Specifically, N.J.A.C. 13:36-6.2 requires all persons engaged in the embalming of a dead human body to be outfitted in protective apparel in compliance with OSHA requirements as outlined in 29 C.F.R. 1910.1030. Similarly, N.J.A.C. 13:36-6.4 requires all practitioners to dispose of blood and excretions of a dead human body pursuant to OSHA requirements outlined in 29 C.F.R. 1910.1030. N.J.A.C. 13:36-6.5 provides that all receptacles containing embalming fluid, formaldehyde or other poisonous or dangerous substances be plainly marked in compliance with 29 C.F.R. 1910.1048. N.J.A.C. 13:36-7.1, which concerns the handling and embalming of bodies

dead as a result of an infectious or contagious disease, provides that all personnel must comply with OSHA regulations set forth at 29 C.F.R. 1910.1030 and that all fluids or other matters removed from such a body during the embalming process must be disposed of in accordance with all applicable Federal laws governing medical and infectious waste.

The rules of Subchapter 9 also incorporate many of the requirements of the Federal Trade Commission's rules on funeral practice set forth at 16 C.F.R. 453.1 through 453.5, governing disclosures required on the Statement of Funeral Goods and Services Selected, general price list, outer burial container price list, and casket price list.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:36.

Full text of the adopted amendments and new rules follows :

<< NJ ADC 13:36-1.2 >>

13:36-1.2 Definitions

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

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

"Licensee" means a person licensed to engage in the practice of mortuary science in the State of New Jersey and includes embalmers, funeral directors, practitioners, and practitioners of mortuary science.

"Registered mortuary" means any individual, partnership, limited liability partnership, limited liability company, corporation or other business entity issued a certificate of registration for a place or premises to be used in the care and preparation for burial, disposition, or transportation of dead human bodies in the State of New Jersey and includes funeral establishments, funeral homes and mortuaries.

"Intern" means a person registered with the Board who is engaged in learning to practice as a practitioner of mortuary science under the supervision of a Board licensee, and includes registered trainees.

"Manager" means a licensee responsible for the direction, management and control of all work emanating from a funeral establishment.

"Owner" means any individual, partnership, limited liability partnership, limited liability company, corporation or other business entity that sells or offers to sell funeral goods and funeral services to the public and holds a certificate of registration to operate a registered mortuary in the State.

<< NJ ADC 13:36-1.5 >>

13:36-1.5 Inspector's duties

(a) The inspector shall:

1. Inspect mortuaries to ensure compliance with the provisions of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq., and the rules governing the practice of mortuary science in the State set forth in this chapter;

2.-4. (No change.)

5. Visit any place where the practice of embalming is being conducted or where a funeral is in the process of being directed; provided, however, that such visitation shall be made in a respectful and decorous manner, as may be fitting the presence of the dead;

6. (No change.)

(b) (No change.)

<< NJ ADC 13:36-1.6 >>

13:36-1.6 Fees and charges

(a) The Board shall charge the following fees:

1.-8. (No change.)

9. Biennial license renewal fees:

i.-ii. (No change.)

iii. Late renewal fee \$100.00

iv. Inactive paid license renewal \$125.00

10.-13. (No change.)

14. Reinstatement fee \$150.00

15. (No change.)

<< NJ ADC 13:36-1.8 >>

13:36-1.8 Recordkeeping

(a) The registered mortuary shall maintain full, accurate records of all funerals which it conducts or in which it participates in any manner, except as provided in N.J.A.C. 13:36-4.13.

(b) Funeral records shall be kept, electronically or otherwise, on an annualized basis for seven years and each funeral shall be designated by a number assigned consecutively at the time funeral arrangements are made. The information on such records shall be recorded after the completion of each funeral. The oldest six years of information shall be maintained in such a manner so as to be retrievable and readable within two weeks. The most recent one year of information shall be immediately retrievable and readable.

(c) Such records shall include the following if applicable:

1. (No change.)

2. The name and location of the cemetery in which burial was made or the name and location of the crematorium where appropriate, and the charges made by the cemetery or crematorium;

3.-4. (No change.)

5. Date of disposition;

6. The final bill;

7. A copy of the completed New Jersey Death Certificate, if the death occurred in the State, or if the death occurred outside of the State, a copy of the burial or transit papers or other final disposition documents; and

8. A copy of the disinterment permit.

<< NJ ADC 13:36-1.9 >>

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

(a) When making preneed and/or at need funeral arrangements, as defined in N.J.A.C. 13:36-11.1, the practitioner shall compile a Statement of Funeral Goods and Services Selected. The statement shall be on a pre-printed, single-sided sheet of paper that is at least 8 1/2 inches by 11 inches, but no more than 8 1/2 inches by 14 inches, and shall include at

least the following information:

1. The full name of the funeral home, address, telephone number, manager's name, title and license number, and funeral file number, and whether the statement is being completed for an at need arrangement or a preneed arrangement, as defined in N.J.A.C. 13:36-11.1, or for a price quotation only;
2. The full name, legal address, date of birth, date and place of death, and sex of the deceased;
3. The name and address of the consumer making the funeral arrangements;
4. The following disclosures:
 - i. "Charges are only for those items that <<-are used->> <<+you selected or that are required+>>. If we are required by law <<+or by a cemetery or crematory+>> to use any items, we will explain the reasons in writing below." and
 - ii. "If you selected a funeral <<-which requires->> <<+that may require+>> embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as <<+a+>> direct cremation or immediate burial. If we charged for embalming, we will explain why below."
5. (No change in text.)
6. All charges relative to the funeral, broken down into at least the five general categories set forth in (c) below, with subtotals and grand totals as indicated;

Recodify existing 6.-7. as 7.-8. (No change in text.)

(b) Promissory notes, contracts, payment terms, and other non-related items shall not be included on the Statement of Funeral Goods and Services Selected.

(c) All charges relative to the funeral shall be categorized as follows and the Statement of Funeral Goods and Services Selected shall contain the following information:

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

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

CATEGORY I--PROFESSIONAL SERVICES

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

CATEGORY II--OTHER STAFF AND RELATED FACILITIES

1. Use of Facilities and Staff for Viewing \$
2. Use of Facilities and Staff for Funeral Ceremony \$
3. Use of Facilities and Staff for Memorial Service \$

4. Use of Equipment and Staff for Graveside Service \$
 5. Use of Equipment and Staff for Funeral Service Off Premise \$
 6. Other (Specify) \$
- Category II TOTAL \$

CATEGORY III--TRANSPORTATION

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

OPTIONAL PACKAGED SERVICES

1. Direct Cremation \$
2. Immediate Burial \$
3. Forwarding or Receiving Remains \$

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

Optional Packaged Services TOTAL \$

CATEGORY IV--MERCHANDISE

\$

1. Casket or Alternative Container \$

Manufacturer

Model name/number

Type of material

Interior material \$

2. Vault/Outer Burial Container

Manufacturer

Model name/number

Type of material \$

3. Clothing \$

4. Urn \$

5. Prayer Cards \$

6. Acknowledgment Cards \$

7. Register Book \$

8. Other (Specify--Items may be packaged for individual items less \$ than \$100.00 each)

Category IV TOTAL \$

CATEGORY V--CASH DISBURSEMENTS (Estimated)

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

TOTAL OF ESTIMATED CHARGES

(Category I-V & Packaged Services) \$
PACKAGE REDUCTION (If Applicable) \$
GRAND TOTAL OF ESTIMATED CHARGES \$

IF ANY LAW, cemetery or crematory requirements have required the purchase of any of the items listed above, the law or requirement is described below:

- 1. Crematory requires container to surround the remains;
- 2. Your cemetery requires an outer burial container; or
- 3. Other: _____

REASONS FOR EMBALMING:

- Family authorized; or
- Other: _____

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

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

Print Name
of
Practitioner

Print Name of Consumer Making Arrangements

Signature of Consumer Making Arrangements and
Date
Relationship to Deceased
Street Address
City, State, Zip Code

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

(e) Immediately upon completing the Statement of Funeral Goods and Services Selected the practitioner and the consumer shall sign and date the Statement where indicated. If the consumer refuses to sign the Statement, the practitioner shall note on the signature line of the Statement that the consumer refused to sign. The practitioner shall immediately provide a copy to the person for whom the Statement was prepared.

(f) Any change, addition or deletion authorized by the purchaser after the completion of the Statement of Funeral Goods and Services Selected shall be included on the final bill.

(g) A practitioner may utilize a photocopy of the Statement of Funeral Goods and Services Selected contained in Appendix A, incorporated herein by reference, to satisfy the requirements of this section.

13:36-1.10 Limited exemption for anatomical associations of a medical school established and operated by the State of New Jersey for the acceptance and disposition of human remains donated pursuant to the Uniform Anatomical Gift Act

(a) The provisions of this section shall apply to the operation, maintenance and use of mortuaries by licensed practitioners of mortuary science for the benefit of anatomical associations of medical schools established and operated by the State of New Jersey, which association is the vehicle for the acceptance and disposition of human remains donated pursuant to the Uniform Anatomical Gift Act, N.J.S.A. 26:6-57 et seq., for the purpose of medical research and education.

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

(d) The exemptions, if granted by the Board, shall be specifically identified on the certificate of registration and shall apply only to licensees of the Board who are employed by such association as described in (a) above. Unless otherwise provided by the Board, upon expiration of the certificate of registration, any exemptions granted pursuant to this section shall be invalid unless renewed by the Board upon application by said association.

(e) (No change.)

13:36-2.1 Qualification for intern registration

(a)-(b) (No change.)

(c) An intern who is registered while concurrently attending college to complete the two-year or three-year academic educational licensure requirement shall:

1. (No change.)

2. Achieve a minimum of eight degree program credits per semester with a minimum cumulative average of 2.0 or its academic equivalent throughout the concurrent registration program. A person who receives less than a 2.0 cumulative average, carries less than the minimum of eight degree program credits at any time during the semester, or who takes more than one remedial or basic course per semester shall have his or her internship terminated unless good cause is established for the continuation of the internship. The intern shall submit a written request to the Board which shall establish good cause for extension of his or her internship.

3.-4. (No change.)

(d)-(e) (No change.)

(f) Any credit granted to a student by a college or university for completion of any remedial or basic course shall not be recognized by the Board in any transcript evaluation made by the Commission on Higher Education for an academic qualifying certificate.

13:36-2.3 Availability of interns

Interns shall be available for funerals, embalmings, removals and other training instruction in accordance with N.J.A.C. 13:36-2.14 and shall assist in the embalmings of at least 75 bodies, the conduct of at least 75 funerals and the arranging of at least 25 funerals (whether preneed or at need)

during the practical training period which shall not exceed three years pursuant to N.J.A.C. 13:36-2.12.

<< NJ ADC 13:36-2.4 >>

13:36-2.4 Intern identification card

During the course of his or her training, every intern shall at all times carry on his or her person the intern identification card issued by the Board.

<< NJ ADC 13:36-2.5 >>

13:36-2.5 Reporting embalmings, funeral attendance and funeral arrangements; form

(a) The Board shall furnish monthly report forms to the intern for reporting embalmings, funerals attended and funerals arranged, which shall be signed by the intern and preceptor and dated and filed with the Board no later than the 15th day of each month of the training period. The intern shall complete such monthly reports setting forth all information required therein and shall file the forms with the Board. Such reporting shall continue until the intern becomes licensed.

(b) No internship credit shall be granted for embalmings performed, funerals attended and funeral arranged during the month when a report is received after the prescribed monthly filing date except upon presentation of proof that good cause exists for failing to timely file the report.

<< NJ ADC 13:36-2.6 >>

13:36-2.6 Credit for embalming body

No more than one intern shall receive credit for the embalming of any one body.

<< NJ ADC 13:36-2.7 >>

13:36-2.7 Practitioner qualifications for employment of interns

No licensed practitioner of mortuary science shall engage an intern unless, prior to such engagement, the practitioner's case volume during the previous calendar year is a minimum of 25 cases which shall not include stillbirths.

<< NJ ADC 13:36-2.9 >>

13:36-2.9 Termination or completion of training

Upon termination or completion of any internship, the preceptor shall immediately request of the Board a notice of termination form which shall be completed by the preceptor and the intern and filed with the Board within five days of its receipt.

<< NJ ADC 13:36-2.10 >>

13:36-2.10 Return of intern identification card

Upon completion or termination of an internship for any reason, the intern shall return his or her intern identification card immediately to the Board.

<< NJ ADC 13:36-2.11 >>

13:36-2.11 Affidavit recommendation form

(a) Upon termination or completion of an internship, or change in registered mortuaries by an intern, an affidavit recommendation form shall be filed with the Board. Any preceptor who refuses to certify any intern for the internship served under his or her supervision shall furnish the Board with a statement under oath setting forth the reasons for such refusal. If not satisfied with such statement, the Board may take such action as it may deem proper.

(b) (No change.)

<< NJ ADC 13:36-2.12 >>

13:36-2.12 Extension of internship

No intern shall be permitted to continue his or her period of practical training as an intern for more than three years without prior Board approval, which shall only be granted for reasons of hardship, such as illness, disability, active service in the military or other good cause demonstrated by the intern.

<< NJ ADC 13:36-2.14 >>

13:36-2.14 Preceptors' responsibility for training

(a) The preceptor shall ensure that interns are thoroughly trained in the theory and practice of mortuary science, and the laws, rules and regulations pertaining thereto, and are proficient in the following areas:

1. (No change.)

2. Making funeral arrangements with families, which includes attending funeral arrangement conferences, selling of merchandise, taking statistical information from families, filing death certificates, preparing obituary notices and placing such notices with newspapers, and attending viewings;

3.-4. (No change.)

<< NJ ADC 13:36-2.15 >>

13:36-2.15 Failure to file reports

Failure on the part of a preceptor to file any reports required by this subchapter shall be deemed professional misconduct and shall subject the licensee to the penalties set forth at N.J.S.A. 45:1-25.

SUBCHAPTER 3. EXAMINATIONS AND CANDIDATE QUALIFICATIONS

<< NJ ADC 13:36-3.1 >>

13:36-3.1 Qualifications for licensure

(a) In order to be eligible for licensure, a candidate first shall submit to the Board the following:

1. A completed application form which shall contain the name and address of the candidate and the name and address of the candidate's employer;

2.-3. (No change.)

4. A certificate from a preceptor in this State which shows that the candidate has served a one-year or two-year period of practical training as an intern under the preceptor, pursuant to the provisions of

N.J.S.A. 45:7- 49(a)(2);

5.-8. (No change.)

<< NJ ADC 13:36-3.2 >>

13:36-3.2 Application for Mortuary Jurisprudence examination

(a) Upon request, an application for the Mortuary Jurisprudence examination shall be forwarded to a candidate who has completed a minimum of two years of academic instruction in a college or university approved by the Commission on Higher Education and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education or who has completed a minimum of three years of academic instruction in a college or university approved by the Commission on Higher Education and one year of academic instruction in a school of mortuary science approved by the American Board of Funeral Service Education. The form shall be signed by the candidate and certified, unless notified otherwise. All applications shall be filed with the Board on or before the first day of the month in which the examination is to be held.

(b) The statements contained in the application for the Mortuary Jurisprudence examination shall be complete and accurate before the application is processed or accepted by the Board.

(c)-(e) (No change.)

<< 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. The practical examination shall be taken no sooner than 90 days before, or no later than 90 days after, completion of the prescribed period of internship.

(b) A candidate wishing to take the practical examination more than 90 days after the completion of the internship period at the same funeral establishment where the candidate completed his or her internship shall apply to the Board for an extension of the internship prior to taking the practical examination.

(c) A candidate wishing to take the practical examination more than 90 days after the completion of the internship period at a funeral establishment other than the one where the candidate completed his or her internship shall re-register as an intern and shall pay the intern registration fee set forth at N.J.A.C. 13:36-1.6.

(d) Such practical examination shall be held at a place determined by the Board and the examination shall be conducted by one or more Board members. A candidate who has failed the practical examination shall wait 30 days before being scheduled for re-examination.

<< NJ ADC 13:36-3.8 >>

13:36-3.8 Expiration of mortuary jurisprudence and practical examination results

Results from the Mortuary Jurisprudence examination, required pursuant to N.J.A.C. 13:36-3.1(a)6, and the practical examination, required pursuant to N.J.A.C. 13:36-3.1(a)7, shall be valid for three years from the date of successful completion of the respective examinations. A candidate who does not obtain a license to engage in the practice of mortuary science within three years of passing the respective examinations shall retake and pass the examination for which the results have expired in

order to be eligible for licensure pursuant to N.J.A.C. 13:36-3.1.

<< NJ ADC 13:36-4.1 >>

13:36-4.1 License and certificate of registration renewals; suspension; reinstatement

(a) A licensee or owner shall renew his or her license or certificate of registration for a period of two years from the last expiration date. The licensee or owner shall remit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:36-1.6, prior to the date of expiration. A licensee or owner who submits a renewal application within 30 days following the date of expiration shall submit the renewal fee, as well as the late fee set forth in N.J.A.C. 13:36-1.6. A licensee or owner who fails to submit a renewal application within 30 days of expiration shall have his or her license or certificate of registration suspended without a hearing.

(b) A licensee or owner who continues to engage in the practice of mortuary science or continues to offer mortuary services with a suspended license or certificate of registration shall be deemed to be engaging in the unauthorized practice of mortuary science and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

(c) The Board shall send a notice of renewal to the licensee and/or owner at least 60 days prior to the expiration of the license and/or certificate of registration. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall be imposed upon the licensee and/or owner for failure to renew.

(d) A licensee seeking reinstatement within five years following the suspension of a license pursuant to (a) above shall submit the following to the Board:

1. A completed licensure application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers of each employer; and the application fee set forth at N.J.A.C. 13:36-1.6;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:36-1.6; and
4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:36-10 for each biennial renewal period in which the license was suspended, to a maximum of 25 credits.

(e) A licensee seeking reinstatement more than five years following the suspension of a license pursuant to (a) above shall:

1. Successfully complete an internship under the supervision of a licensed practitioner of mortuary science. The internship, which shall be completed before application to take the practical examination, shall consist of a minimum of 25 embalmings, 25 funerals and 25 arrangements, consistent with the requirements set forth in N.J.A.C. 13:36-2. The internship shall be at least three months in length, but no longer than one year. Request to extend the period of internship beyond one year shall be made to the Board in writing;
2. Successfully complete the practical examination set forth in N.J.A.C. 13:36-3.7;
3. Successfully complete the Mortuary Jurisprudence examination as set forth in N.J.A.C. 13:36-3.2;
4. Submit a completed licensure application, including an affidavit of employment listing each job held during the period of license suspension, including the names, addresses, and telephone numbers

of each employer; and the application fee set forth at N.J.A.C. 13:36-1.6;

5. Submit payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6;

6. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36- 1.6; and

7. Submit a certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:36-10 for each biennial renewal period in which the license was suspended to a maximum of 25 credits.

(f) An owner seeking reinstatement following the suspension of a certificate of registration pursuant to (a) above shall:

1. Submit a completed application and the application fee set forth at N.J.A.C. 13:36-1.6;

2. Submit payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:36-1.6; and

3. Submit payment of a reinstatement fee as set forth in N.J.A.C. 13:36- 1.6.

<< NJ ADC 13:36-4.2 >>

13:36-4.2 Notice of address change; service of process

(a) Every licensee shall give notice in writing to the Board of any change of his or her address of record within 10 days after such change of address. For purposes of this section, "address of record" means an address designated by a licensee which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee's home, business or mailing address, but shall not be a post office box unless the licensee also provides another address which includes a street, city, state and zip code.

(b) Failure to notify the Board of any change in a licensee's address of record pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h) and the imposition of penalties set forth in N.J.S.A. 45:1-25.

(c) Service of any administrative complaint or other Board-initiated process at a licensee's address of record shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

<< NJ ADC 13:36-4.3 >>

13:36-4.3 Legal name change

(a) If a licensee changes his or her name, the change shall 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 shall be returned for cancellation, if possible.

<< NJ ADC 13:36-4.4 >>

13:36-4.4 New installations

(a) Except as provided in N.J.A.C. 13:36-4.13, any person, corporation, partnership, limited liability partnership, limited liability company or other business entity desiring to operate, maintain, or use a mortuary shall first apply to the Board and remit payment of the fee provided in N.J.A.C. 13:36- 1.6 for a new installation inspection and an application for certificate of registration.

(b) (No change.)

(c) When the new installation inspection is made, temporary approval may be granted to operate until a certificate of registration is issued provided the mortuary satisfies all applicable requirements set forth in this chapter and the provisions of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq.

<< NJ ADC 13:36-4.6 >>

13:36-4.6 Registration of mortuary

(a) Applications for registration of a funeral establishment to be operated by a corporation, a partnership, a limited liability partnership, a limited liability company or other business entity shall be accompanied by the fee provided in N.J.A.C. 13:36-1.6 and by:

1. (No change.)

2. The name, residence addresses and residence telephone numbers of the following:

i. (No change.)

ii. The general partner(s) of a partnership or limited partnership (and, if a general partner is a corporation, limited liability partnership, limited liability company, or other business entity, the officers of the corporation or the members of the limited liability partnership, limited liability company, or other business entity); and/or

iii. (No change.)

3. A copy of the corporate resolution (certified by the secretary of the corporation and impressed with the corporate seal), the partnership agreement, or limited liability partnership or limited liability company operating agreement (certified by the general partner of the limited liability partnership or the managing or operating member of the limited liability company) designating the licensed practitioner of mortuary science;

4. In the case of corporations, the original certificate of good standing from the State of New Jersey;

5. In the case of partnerships, an application for registration signed by all partners, a certified copy of the partnership agreement, and the certificate of assumed name, if any, filed in the office of the county clerk; and

6. (No change in text.)

(b) Any limited partnership seeking a certificate of registration shall conform to the requirements of the Limited Partnership Associations Act, set forth at N.J.S.A. 42:3-1 et seq.

<< NJ ADC 13:36-4.7 >>

13:36-4.7 Corporate charter, partnership agreement, operating agreement

(a) All corporate charters, partnership agreements or operating agreements submitted to the Board shall 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) (No change.)

<< NJ ADC 13:36-4.8 >>

13:36-4.8 Full-time licensed manager; termination; licensee in charge

(a) Every establishment authorized to carry on the practice of mortuary science, shall be under the direct supervision of a full-time licensed manager.

(b) (No change.)

(c) Whenever the manager's services are terminated, the owner of the registered mortuary shall retain the services of a licensed practitioner of mortuary science who shall be responsible for directing, managing and controlling all work performed by the establishment until such time as the manager is permanently replaced by another manager. That licensee shall be known as the licensee in charge. The owner of the mortuary shall notify the Board, in writing, within five business days of the termination of the name and license number of the licensee in charge.

(d) Whenever the manager's services are terminated, the owner, and the manager or licensee in charge shall provide the new manager with the records of prepaid funeral agreements required to be maintained pursuant to N.J.A.C. 13:36- 11.16 no later than 10 days prior to such change, or as soon thereafter as mutually agreed upon by the parties. The owner, and the manager or the licensee in charge shall notify the Board of compliance with this subsection at the same time that he or she files the notice of change in manager with the Board.

(e) Except as set forth in (f) below, the licensee in charge shall within 30 days of termination of the previous manager's services give notice to the Board of the name of the newly designated manager and, at that time, the newly designated manager shall submit to the Board the following:

1.-3. (No change.)

(f) The licensee in charge may within 30 days of termination of the previous manager's services submit to the Board documented evidence of hardship or extenuating circumstance. The Board, if it deems such evidence acceptable, may grant the registered mortuary 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.

<< NJ ADC 13:36-4.9 >>

13:36-4.9 Participation of unlicensed persons

(a) No unlicensed person shall actively participate in any capacity in the actual funeral arrangements, preservation or disposal of dead human bodies, except that interns may participate in such activities pursuant to the provisions of N.J.S.A. 45:7-47.

(b) No unlicensed person shall actively participate in any capacity in the actual preparation of dead human bodies except for the following:

1. Interns;

2.-3. (No change.)

(c) (No change.)

<< NJ ADC 13:36-4.10 >>

13:36-4.10 (Reserved)

<< NJ ADC 13:36-4.11 >>

13:36-4.11 Trade names

(a)-(c) (No change.)

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

<< NJ ADC 13:36-4.12 >>

13:36-4.12 Death of sole proprietor

(a) The practice of a mortuary establishment shall cease and the certificate of registration shall become void upon the death of a sole proprietor 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 new certificate of registration. Such notice shall be in writing and conform with the following requirements:

1. It shall state the practice shall be under the direct supervision of a licensed practitioner of mortuary science who shall serve as the manager or the licensee in charge as provided in N.J.A.C. 13:36-4.8(c), whichever is applicable, and shall contain the name of the licensee selected.

2. The firm may operate under the supervision of a licensee in charge 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 licensee in charge may serve.

3.-4. (No change.)

(b) (No change.)

<< NJ ADC 13:36-4.14 >>

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

(a) A licensee may, upon application to the Board, renew his or her license by choosing inactive status. A licensee choosing inactive status shall be provided with the option of choosing either inactive paid or inactive unpaid status. A licensee choosing inactive paid status shall remit to the Board the inactive fee set forth at N.J.A.C. 13:36-1.6 which shall entitle the licensee to obtain all printed information disseminated by the Board to all active licensees. A licensee choosing inactive unpaid status shall not be required to remit a fee to the Board and shall not be entitled to obtain any printed information disseminated by the Board to active licensees.

(b) A licensee electing to renew his or her license as inactive shall not engage in the practice of mortuary science for the entire biennial registration period.

(c) A licensee who elects inactive paid or inactive unpaid status shall remain inactive for the entire biennial period unless the Board permits the inactive licensee to return to active status upon submission of evidence to the Board of having completed the continuing education requirements set forth at N.J.A.C. 13:36-10.11(b) and upon submission of a renewal application and the renewal fee for the current biennial registration period as set forth in N.J.A.C. 13:36- 1.6.

(d)-(e) (No change.)

<< NJ ADC 13:36-4.16 >>

13:36-4.16 Responsibilities of licensee and owner

(a) All licensees and owners shall be responsible for compliance with all laws and regulations governing the practice of mortuary science in the State.

(b) Violations of the Mortuary Science Act, N.J.S.A. 45:7-32 et seq. or the rules of this chapter by a licensee or owner may subject the licensee or owner to disciplinary action.

<< NJ ADC 13:36-5.1 >>

13:36-5.1 Disclosure of manager name; posting of manager license

(a) The name of the manager shall be conspicuously displayed with the title "manager" on a sign at or about the main entrance of the funeral 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 1 1/2 inches in height.

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

(c) The license of the manager shall be conspicuously displayed in the registered mortuary as required pursuant to N.J.S.A. 45:7-61. If a licensee is retained as the manager of more than one registered mortuary, the licensee shall obtain a duplicate license for posting in such other establishments from the Board upon payment of the duplicate license fee provided in N.J.A.C. 13:36-1.6.

<< NJ ADC 13:36-5.3 >>

13:36-5.3 Transferability of registration certificates; new location

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

(b) Whenever a registered mortuary is to be moved to a new location, the owner shall apply for a new certificate of registration and notify the Board, in writing, at least 15 business days in advance of the proposed date of opening at the new location. The new certificate of registration shall not be issued until all applicable requirements in this chapter and all relevant statutes, regulations and ordinances are satisfied. The registered mortuary shall not begin operation at the new location until approval is granted by the Board.

<< NJ ADC 13:36-5.4 >>

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

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

(b) All registered mortuaries shall be maintained on floor levels which are separate and distinct from living quarters, kitchens or other rooms that are ordinarily a part of the domestic household unit. If the registered mortuary maintains a break room, the room shall be separate and distinct from the preparation room and shall be inaccessible to the public.

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

(d) All areas in a registered mortuary that are not used exclusively as living quarters may be subject to Board inspection.

<< NJ ADC 13:36-5.5 >>

13:36-5.5 Preparation room requirements

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

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

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

3.-4. (No change.)

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

<< 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.-18. (No change.)

19. Two hemostats;

20.-22. (No change.)

23. Suture needles;

24. Suture thread; and

25. An electrically-powered embalming machine.

(b) (No change.)

<< NJ ADC 13:36-5.7 >>

13:36-5.7 Potable water supply

(a) All owners and managers shall ensure that the potable water supply is not open to the danger of contamination from any source.

(b) The requirement in (a) above may be satisfied by the installation of any approved hydro-aspirator and such other devices as may be necessary to accomplish the purpose of this rule.

(c) (No change.)

<< NJ ADC 13:36-5.9 >>

13:36-5.9 Multiple funeral establishments in same location

(a) Any individual, partnership, limited liability partnership, corporation, limited liability company or other business entity that applies to register any additional funeral establishment(s) in a location already registered as a funeral establishment by the State of New Jersey shall comply with the registration requirements set forth in N.J.A.C. 13:36-4 and all applicable rules in this subchapter.

(b) In the event a funeral establishment has the same or similar ownership of individuals, partnerships, limited liability partnerships, corporations, limited liability companies, or other business entities as the primary funeral establishment, prices quoted and charged to consumers shall be the same for all funeral establishments in that location.

(c) (No 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: ...

"Price reduction statement" means a statement, suggestion or implication, direct or indirect, that a service or merchandise is being offered or made available for sale at a price less than the advertiser's routine price. The following words, terms and phrases or their substantial equivalent shall be deemed to indicate a price reduction statement: sale, discount, savings, price cut, bargain, reduced, prices slashed, clearance, regularly, usually, cut rate, originally, formerly, at cost, below cost, wholesale. ...

(b) All stationery shall indicate the true firm name of the mortuary as registered with the Board, the address and telephone number of the mortuary, and the name of the manager, and his or her title and license number preceded by the phrase "N.J. Lic. No. _____."

(c) Advertisements shall contain the true firm name, address, and telephone number of the mortuary as registered with the Board. Advertisements shall also contain the name of the manager and the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(d) An advertisement that makes reference to more than one registered mortuary shall comply with (c) above regarding one mortuary provided that only the municipality where the mortuary is located and the true firm name as it is registered with the Board is disclosed for any additional mortuaries listed. If an advertisement for any additional mortuary discloses any further information than the municipality where the mortuary is located and the true firm name as it is registered with the Board, the advertisement shall satisfy the requirements of (c) above.

(e) Telephone book listings of two lines or less or small novelty items where the space of advertising is limited shall disclose the municipality where the registered mortuary is located and the true firm name as it is registered with the Board.

(f)-(j) (No change.)

(k) An advertisement may include the name of an inactive licensee as defined in N.J.A.C. 13:36-4.14 provided that the inactive licensee is not held out as the manager.

(l) (No change.)

<< NJ ADC 13:36-5.14 >>

13:36-5.13 (Reserved)

13:36-5.14 Discontinuation of business or bankruptcy

(a) When a mortuary is permanently closed for business, the manager shall immediately:

1.-2. (No change.)

3. Discontinue all advertising and notify the Board as to the disposition of the mortuary's telephone service;

4. Furnish the Board with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36-11.16(a); and

5. Submit to the Board a copy of the notice sent to all preneed purchasers regarding the discontinuation as required pursuant to N.J.A.C. 13:36-11.19, and proof of service of such notice to consumers.

(b) When a mortuary files for any form of bankruptcy, the manager shall, within 10 days of such filing, furnish the Board and the trustee in bankruptcy with a copy of the preneed ledger required pursuant to N.J.A.C. 13:36- 11.16(a), and upon request, with all other records required pursuant to N.J.A.C. 13:36-11.16.

Signature
of
Practitioner,
License #,
and Date

<< NJ ADC 13:36-5.15 >>

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

A licensed practitioner of mortuary science shall not permit any unlicensed person to engage in or take charge of the activities for which a license to engage in the practice of mortuary science is required by the provisions of the Mortuary Science Act, set forth at N.J.S.A. 45:7-32 et seq.

<< NJ ADC 13:36-5.18 >>

13:36-5.18 Disposition of human remains

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

(b) Viscera shall be treated in the same manner as the remains and shall be disposed of with the remains.

<< NJ ADC 13:36-6.1 >>

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.-2. (No change.)

3. Interns;

4.-7. (No change.)

<< NJ ADC 13:36-6.2 >>

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 set forth at 29 CFR 1910.1030, incorporated herein by reference.

(b) (No change.)

<< NJ ADC 13:36-6.4 >>

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 OSHA regulations set forth at 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 set forth in Morbidity and Mortality Weekly Reports, Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333 or at www.cdc.gov, incorporated herein by reference. These precautions shall include taking due care to prevent any spread of infection in the handling of a 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.

<< NJ ADC 13:36-6.7 >>

13:36-6.7 Participation of interns in embalming

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

<< NJ ADC 13:36-7.1 >>

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

(a) Except as otherwise provided by law, no person in the conduct of the practice of mortuary science shall:

1.-3. (No change.)

(b) In the preparation for burial or transportation of a dead body, the funeral director, the embalmer, intern, and assistants shall comply with OSHA regulations set forth at 29 CFR 1910.1030 and shall use universal precautions according to Centers for Disease Control recommendations set forth in Morbidity and Mortality Weekly Reports, Volume 38, S-6, June 23, 1989, and subsequent volumes available from the Centers for Disease Control, Atlanta, Georgia 30333 or at www.cdc.gov, 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.

<< NJ ADC 13:36-8.1 >>

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 issued by the Board.

<< NJ ADC 13:36-8.4 >>

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 intern or interns or another licensed practitioner of mortuary science in the embalming of human remains or in the practice of mortuary science or funeral directing pursuant to N.J.S.A. 45:7-47.

<< NJ ADC 13:36-8.5 >>

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 a licensee from embalming human remains or supervising funerals and burials on behalf of out-of-State practitioners of mortuary science, funeral directors, or embalmers.

<< NJ ADC 13:36-8.6 >>

13:36-8.6 Business cards

(a) (No change.)

(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 the license number of the practitioner preceded by the phrase "N.J. Lic. No. _____."

(c) (No change.)

<< NJ ADC 13:36-8.7 >>

13:36-8.7 Authorized surrender of human remains

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

<< NJ ADC 13:36-8.8 >>

13:36-8.8 Authorization to embalm human remains

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

<< NJ ADC 13:36-8.9 >>

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 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 or an intern 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.

<< NJ ADC 13:36-8.11 >>

13:36-8.11 Multiple burials

(a)-(c) (No change.)

(d) Each written authorization shall bear a number corresponding to the funeral record number and a signed copy shall be retained for at least seven years thereafter, as required pursuant to N.J.A.C. 13:36-1.8.

<< NJ ADC 13:36-8.13 >>

13:36-8.13 Referral fees

(a) It shall be professional 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 or other business relationship for the delivery of professional services.

SUBCHAPTER 9. PREVENTION OF UNFAIR OR DECEPTIVE ACTS AND PRACTICES

<< NJ ADC 13:36-9.1 >>

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. ...

"Funeral goods" means goods which are sold or offered for sale directly to the public for use in connection with funeral services including, but not limited to, merchandise such as casket, vault or other enclosure, urns, clothing, prayer cards, register book, religious artifacts and any other items purchased by the licensed practitioner of mortuary science for resale without substantial alteration.

"Funeral provider" means any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public and holds a certificate of registration to operate a mortuary in the State of New Jersey or is a licensed practitioner of mortuary science in the State of New Jersey. ...

<< NJ ADC 13:36-9.3 >>

13:36-9.3 Failure to disclose required price information: an unfair or deceptive practice

(a) (No change.)

(b) To prevent the unfair or deceptive acts and practices mentioned in (a) above as well as those defined in N.J.A.C. 13:36-9.15(a), funeral providers shall comply with the provisions of N.J.A.C. 13:36-9.4, 9.5, 9.6, 9.7 and 9.8.

<< NJ ADC 13:36-9.5 >>

13:36-9.5 Casket price list

(a) Funeral providers shall give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider shall offer the list upon beginning discussion of, but in any event before showing, caskets. The list shall contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list.

1. In lieu of a printed or typewritten list, other formats, such as notebooks, brochures, or charts, may be used if they contain the same information as would the printed or typewritten list, displayed in a clear and conspicuous manner. The price list shall not contain any handwritten information.

2. Funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in N.J.A.C. 13:36-9.7, the information which is required by this section.

(b) Funeral providers shall place on the casket price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

1. The name, address and telephone number of the registered mortuary and the name, license number and title of the manager;

2.-3. (No change.)

<< NJ ADC 13:36-9.6 >>

13:36-9.6 Outer burial container price list

(a) Funeral providers shall give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider shall offer the list upon beginning discussion of, but in any event before showing, the containers. The list shall contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the price listed.

1. In lieu of a printed or typewritten list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, displayed in a clear and conspicuous manner. The price list shall not contain any handwritten information.

2. Funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in N.J.A.C. 13:36-9.7, the information which is required by this section.

(b) Funeral providers shall place on the outer burial container price list, regardless of whether it is printed or typewritten, or on any other format, the following information:

1. The name, address and telephone number of the registered mortuary and the name, license number and title of the manager;

2.-3. (No change.)

<< 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. The price list shall not contain any handwritten information. 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. The general price list shall contain at least the following information:

1. The name, address, and telephone number of the registered mortuary and the name, license number and title of the manager;
2. (No change.)
3. The effective date of the price list; and
4. If applicable, a statement disclosing the ownership of other registered mortuaries, as required pursuant to N.J.A.C. 13:36-5.21.

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

(d) Funeral providers shall include on the general price list the following disclosure statements:

1. In immediate conjunction with the price disclosures required by required by (b) above, "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected." Provided, however, that if the charge for "services of funeral director and staff" cannot be declined by the purchaser, the statement shall include the sentence: "However, any funeral arrangements you select will include a charge for our services" between the second and third sentences of the statement specified above herein.

<<-2. In immediate conjunction with the price disclosures required by (b) above, "This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for those items will be shown on your bill or the statement describing the funeral goods and services you selected."->>

<<-3.->><<+2.+>> In immediate conjunction with the price shown for embalming, "Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as <<+a+>> funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement <<- which->> <<+that+>> does not require you to pay for it, such as direct cremation or immediate burial;" and "If you choose to have an embalming performed, the decedent may be embalmed at a location other than this registered mortuary."

<<-4.->><<+3.+>> In immediate conjunction with the price range shown for direct cremations, "If you want to arrange a direct cremation, you can use <<-an unfinished wood box or->> an alternative container. Alternative containers <<+encase the body and+>> can be made of materials like <<- heavy cardboard->> <<+fiberboard+>> or composition materials (with or without an outside covering)<<-, or pouches of canvas."->><<+. The containers we provide are (specify containers)." +>> This disclosure shall only be placed on the general price list if the licensed practitioner of mortuary science arranges direct cremations.

<<-5.->><<+4.+>> In immediate conjunction with the prices shown for outer burial containers if such prices are included on the general price list, "In most areas of the country, <<-no->> state or local law <<- makes->> <<+does not require that+>> you buy a container to surround the casket in the grave. However, many cemeteries <<-ask->> <<+require+>> that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner will satisfy these requirements."

<< NJ ADC 13:36-9.8 >>

13:36-9.8 Provision of Statement of Funeral Goods and Services Selected

(a) Funeral providers shall provide a Statement of Funeral Goods and Services Selected for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The Statement of Funeral Goods and Services Selected shall conform to the requirements of N.J.A.C. 13:36-1.9.

(b) (No change.)

(c) Funeral providers may give persons any other price information in any other format, in addition to that required by N.J.A.C. 13:36-9.5, 9.6 and 9.7 provided that the Statement of Funeral Goods and Services Selected required by this section is given when required.

<< NJ ADC 13:36-9.9 >>

13:36-9.9 Embalming provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the unfair or deceptive acts or practices defined in N.J.A.C. 13:36-9.16 and 9.17(a), funeral providers shall:

1. (No change.)

2. Provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)3.

<< NJ ADC 13:36-9.10 >>

13:36-9.10 Casket for cremation provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, as well as the unfair or deceptive acts or practices defined in N.J.A.C. 13:36-9.15(a), funeral providers shall provide on the general price list the disclosure statement required pursuant to N.J.A.C. 13:36-9.7(d)4.

<< NJ ADC 13:36-9.11 >>

13:36-9.11 Outer burial container provisions

(a) (No change.)

(b) To prevent the deceptive acts or practices mentioned in (a) above, funeral providers shall provide on the outer burial container price list, and if applicable, on the general price list, the disclosure statement required by N.J.A.C. 13:36-9.7(d)5.

<< NJ ADC 13:36-9.16 >>

13:36-9.16 Other required purchases

(a) (No change.)

(b) To prevent the unfair or deceptive act or practice mentioned in (a) above, funeral providers shall:

1. Provide the disclosure statement on the general price list required pursuant to N.J.A.C. 13:36-9.7(d)1; and
2. Provide the disclosure statement on the Statement of Funeral Goods and Services Selected, required by N.J.A.C. 13:36-1.9.

(c) (No change.)

<< NJ ADC 13:36-9.17 >>

13:36-9.17 Services provided without prior approval

(a) (No change.)

(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 disclosure statements required pursuant to N.J.A.C. 13:36-1.9(a).

<< NJ ADC 13:36-9.18 >>

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 three years 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. 13:36-1.9 for at least seven years from the date on which the statement was signed, in conformity with N.J.A.C. 13:36-1.9.

SUBCHAPTER 10. CONTINUING EDUCATION

<< NJ ADC 13:36-10.2 >>

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. ...

<< NJ ADC 13:36-10.3 >>

13:36-10.3 Minimum credit hours for biennial license renewal

(a) Each applicant for biennial license renewal shall complete a minimum of 10 credit hours of continuing education during the preceding biennial period, consistent with the requirements of (b) and (c) below.

(b) A licensee shall obtain 10 credit hours of continuing education in courses or seminars accredited by the Board. No more than three credit hours may be obtained, during each biennial license period, in

courses or seminars dealing with funeral merchandise, such as caskets, outer burial containers and clothing.

(c) (No change.)

<< NJ ADC 13:36-10.4 >>

13:36-10.4 Exemptions

(a) (No change.)

(b) (No change in text.)

<< NJ ADC 13:36-10.5 >>

13:36-10.5 Waiver of continuing competency requirement

(a) The Board may, in its discretion, waive continuing education 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 education 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 education 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 education requirements waived for that biennial period.

<< NJ ADC 13:36-10.6 >>

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.

(b) (No change.)

<< NJ ADC 13:36-10.9 >>

13:36-10.9 Approval of course offerings

(a) A continuing education provider may receive approval for a continuing education course or program pursuant to the provisions of N.J.A.C. 13:36- 10.7. The provider may apply for approval either prior to or up to six months following the offering of a course or program.

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

<< NJ ADC 13:36-10.10 >>

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.

(b) (No change.)

(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 to be heard, the assessment of penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 et seq.

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

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

1.-4. (No change.)

<< NJ ADC 13:36-10.11 >>

13:36-10.11 License reinstatement; 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 reinstatement pursuant to N.J.A.C. 13:36-4.1, 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) (No change.)

SUBCHAPTER 11. PREPAID FUNERAL AGREEMENTS AND ARRANGEMENTS

<< NJ ADC 13:36-11.1 >>

13:36-11.1 Definitions

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

"Statement of Funeral Goods and Services Selected" means the itemized written statement required to be given to each person making funeral arrangements in accordance with the regulations of the Federal Trade Commission (16 C.F.R. 453.2) and the Board (N.J.A.C. 13:36-1.8 and 9.8).

<< NJ ADC 13:36-11.2 >>

13:36-11.2 License and registration required; Statement of Funeral Goods and Services Selected and preneed arrangement required; price lists; compliance with at need laws

(a)-(c) (No change.)

(d) No provider shall offer, enter into, or offer to enter into a prepaid funeral arrangement, whether funded by a funeral trust or funeral insurance policy, unless at the time of said transaction the provider furnishes the purchaser with:

1. (No change.)

2. A separate Statement of Funeral Goods and Services Selected for the intended funeral recipient describing and itemizing the prepaid funeral goods and services agreed upon, completed and signed in accordance with N.J.A.C. 13:36-1.9, whether or not the prepaid funeral agreement itself itemizes the funeral goods and services to be furnished at the time of need. A separate Statement of Funeral Goods and Services Selected shall also be completed and signed in accordance with N.J.A.C. 13:36-1.9 when at need funeral arrangements are made for the intended funeral recipient of the preneed funeral arrangement; and

3. (No change.)

(e)-(f) (No change.)

<< NJ ADC 13:36-11.3 >>

13:36-11.3 Contents of a prepaid funeral agreement

(a) Every prepaid funeral agreement shall be signed by the provider, the purchaser or the intended funeral recipient or the intended funeral recipient's guardian, agent or next of kin, shall be in writing and, together with the requisite separate Statement of Funeral Goods and Services Selected required pursuant to N.J.A.C. 13:36-11.2, shall be provided to the purchaser at the time of entering into a prepaid funeral agreement. Every written prepaid funeral agreement shall, at a minimum, include the following information:

1. The name, title and license number of the provider<<-, and the name, title and license number of the manager if different from the provider making the arrangements->>;

2.-7. (No change.)

8. Notice that a prepaid funeral agreement may be funded by an irrevocable trust or irrevocable funeral insurance policy when the intended funeral recipient is an aged, blind or disabled applicant for, or recipient of, the public assistance programs provided for by N.J.S.A. 44:7-85 et seq., or is a similarly situated individual who reasonably anticipates applying for such assistance within six months from the execution of the prepaid funeral agreement;

9.-15. (No change.)

<< NJ ADC 13:36-11.12 >>

13:36-11.12 Deposit of preneed funds; commingling of funds prohibited; proof of establishment of trust

(a) Providers shall deposit all moneys received in connection with the establishment of a prepaid funeral agreement in a funeral trust or with the appropriate insurance company within 30 days of the receipt of such moneys by the provider.

(b) (No change.)

(c) No provider shall commingle any funds received in payment for a prepaid funeral agreement or preneed arrangement in any business or personal checking or banking account, or in any other place other than where authorized by (a) and (b) above.

(d) (No change.)

(e) No provider shall apply any funds, whether principal or interest, from a prepaid funeral trust or funeral insurance policy to pay for any funeral goods or services or for any other expenses or use until

the death of the intended funeral recipient except as provided by N.J.S.A. 3B:11-16 and N.J.A.C. 13:36-11.7.

<< NJ ADC 13:36-11.14 >>

13:36-11.14 Other prohibited acts

(a) No provider or person, firm, or corporation acting on behalf of a provider, including solicitors, agents, canvassers, employees or other persons acting on behalf of such person, firm or corporation, for the purpose of selling, contracting or offering to sell prepaid funeral agreements or preneed funeral arrangements on behalf of said provider shall:

1.-6. (No change.)

(b)-(i) (No change.)

<< NJ ADC 13:36-11.15 >>

13:36-11.15 Presumption; aiding and abetting; vicarious liability; duty to report violations

(a) Any provider shall be conclusively presumed to know his, her or its obligations relevant to the deposit, maintenance, application and refund of funeral trust funds and funeral insurance policies.

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

(d) Any provider or licensee who has knowledge of any violation of this subchapter or of the preneed statutes by any licensee, person, firm or corporation, shall immediately report such violation to the Board and shall provide to the Board all evidence and knowledge of said violation.

<< NJ ADC 13:36-11.16 >>

13:36-11.16 Preneed ledgers of active prepaid funeral agreements and preneed funeral arrangements; maintenance of records of prepaid agreements and preneed arrangements; compilation of preneed ledger; biennial registration

(a)-(d) (No change.)

(e) The records of prepaid funeral agreements referred to in (d) above shall accurately reflect:

1.-2. (No change.)

3. The death of an intended funeral recipient, including:

i.-ii. (No change.)

iii. The original and any revised preneed Statement of Funeral Goods and Services Selected, and the at need Statement of Funeral Goods and Services Selected;

iv.-v. (No change.)

(f) (No change.)

(g) All other records made and maintained pursuant to (d) above shall be retained for a period of seven years from the date of death of the intended funeral recipient, or the transfer, assignment, or refund of the prepaid funds, or the revocation of the preneed funeral arrangement.

(h)-(i) (No change.)

(j) The provider shall certify in the biennial renewal application of all registered mortuaries that all records maintained pursuant to this section are in existence and are available for inspection.

<< NJ ADC 13:36-11.17 >>

13:36-11.17 Records provided to the Board and to successors in interest

(a) A copy of the Preneed Ledger required to be maintained by N.J.A.C. 13:36-11.16(a) shall be provided to the Executive Director of the Board by the manager or owner of the registered mortuary immediately upon:

1.-2. (No change.)

3. The filing of any form of bankruptcy by the provider or the owner of the registered mortuary.

(b) Upon request, any records required to be maintained by N.J.A.C. 13:36- 11.16 shall be made available to the Board and its Executive Director upon:

1. Any change in ownership of a registered mortuary as defined by N.J.A.C. 13:36-4.5;

2. (No change.)

3. The transfer of a funeral establishment to a new location as defined by N.J.A.C. 13:36-5.3(b); or

4. (No change.)

(c) Whenever the records required to be maintained by N.J.A.C. 13:36-11.16 are moved from a provider's existing registered mortuary, the provider shall notify the Board immediately of the new location of the records and of the identity of the person responsible for their safekeeping.

(d) The records required to be maintained by N.J.A.C. 13:36-11.16 shall be made available by the manager, provider, or owner of the registered mortuary to any person or entity assuming a new ownership interest, or a part thereof, or any person newly assuming the position of manager, at least 10 days prior to such change in ownership or manager, unless otherwise mutually agreed upon by the parties.

(e) When a provider or owner of the registered mortuary files for any form of bankruptcy the manager shall immediately furnish the records required to be maintained pursuant to N.J.A.C. 13:36-11.16 to the trustee in bankruptcy, together with a notification that the Preneed Ledger has been provided to the Board as required by (a) above.

<< NJ ADC 13:36-11.18 >>

13:36-11.18 Notification of purchaser of transfer of ownership

(a) Whenever a provider or owner of the registered mortuary is required to obtain a new certificate of registration pursuant to N.J.A.C. 13:36-4.5, the new manager or owner of the registered mortuary shall notify in writing the owners of all prepaid funeral agreements then in effect of their options to elect to maintain their prepaid funeral agreements at the present location or to transfer or assign their prepaid funeral agreements and preneed funeral arrangements to a different mortuary within 30 days of the change of ownership, or death of a licensee or owner.

(b) (No change.)

(c) Proof that the notice required by (a) above was delivered to the purchasers of prepaid funeral agreements shall be furnished to the Board by the new manager or owner of the registered mortuary within 10 days of said delivery and shall be maintained by the registered mortuary consistent with the recordkeeping requirements set forth at N.J.A.C. 13:36-1.8.

<< NJ ADC 13:36-11.19 >>

13:36-11.19 Notification of dissolution or bankruptcy

(a) Whenever a provider or owner of a registered mortuary discontinues business or files for bankruptcy, the manager or owner shall provide written notice of said discontinuation or bankruptcy to all purchasers of active prepaid funeral agreements.

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

(d) Proof that the required notice was delivered to the purchasers of prepaid funeral agreements shall be immediately furnished to the Board by the manager or owner of the registered mortuary and shall be maintained by the registered mortuary consistent with the recordkeeping requirements set forth at N.J.A.C. 13:36-1.8.

<< NJ ADC 13:36 App. >>

APPENDIX TABULAR OR GRAPHIC MATERIAL SET AT THIS POINT IS NOT DISPLAYABLE