

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS**

**ADMINISTRATIVE ORDER AND NOTICE OF RULE MODIFICATION
PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020);
P.L. 2020, c. 18**

COVID-19 STATE OF EMERGENCY

MODIFICATION OF MORTUARY PRACTITIONER REQUIREMENT

DCA Administrative Order No. 2020-04 and DCA Waiver No. W-2020-07

Administrative Order and Temporary Modification adopted by Paul R. Rodríguez, Acting Director, Division of Consumer Affairs

Date: April 30, 2020

Authority: Executive Order No. 103 (Murphy)(“EO 103”); P.L. 2020, c. 18

Effective Date: April 30, 2020

Expiration Date: Concurrent with the end of the state of emergency and public health emergency declared in EO 103, whichever is later, unless earlier terminated by the Director.

This is an emergency modification of a rule at N.J.A.C. 13:36-8.10, which requires the presence of a licensed mortuary practitioner at the time of final disposition of human remains. This modification permits interns registered with the State Board of Mortuary Science who are engaged in learning the practice of mortuary science under the supervision of a licensed practitioner to be present at the time of disposition in lieu of a licensed practitioner.

Consistent with the Commissioner of the New Jersey Department of Health’s Executive Directive 2020-010, there is an ongoing need to enable licensed mortuary practitioners to focus their efforts on the expeditious handling of human remains. Modification of this rule will allow registered interns to attend to certain aspects of mortuary practice, specifically the requirement that a licensed practitioner be physically present at the time of interment, cremation or other disposition of a dead human body, or any disinterment other than when undertaken pursuant to a court order.

Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive, suspend or modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. That authority has also been codified upon the enactment of P.L. 2020, c.18, which allows the Director to modify temporarily any rule adopted pursuant to statutory authority under Title 45, including the rules of the Board of Mortuary Science.

Pursuant to the authority above and with the approval of the Governor and the concurrence of the Attorney General, in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Division of Consumer Affairs is modifying its rules as follows:

N.J.A.C. 13:36-8.10 is modified to read as follows:

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-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 **or a registered intern under the supervision of a licensed practitioner** 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.

Notwithstanding the modification above, whenever human remains are entrusted to the care of a registered mortuary for disposition, pursuant to N.J.A.C. 13:36-5.18 the registered mortuary retains professional responsibility for the remains from the point of removal to the final place of disposition or upon transfer to another registered mortuary for disposition.

I find that modification of the rule above is necessary to enable licensed practitioners to direct their registered interns to accompany remains to final disposition, thereby permitting licensees to attend to the increased volume of cases they are experiencing due to the COVID-19 emergency. Enforcement of the existing rule without modification would be detrimental to the public welfare during this emergency.

Date: April 30, 2020

A handwritten signature in black ink that reads "Paul Rodríguez". The signature is written in a cursive style with a large, stylized initial "P".

Paul R. Rodríguez, Acting Director