

DUE DILIGENCE FOR FUNERAL HOMES UTILIZING THIRD PARTY CREMATORIES

INTERNAL DUE DILIGENCE FOR FUNERAL HOMES

Due diligence begins with a review of the funeral home's own internal procedures. Examine each of the following areas to ensure that the funeral home properly handles cremation cases internally:

A. CREMATION AUTHORIZATION FORMS

Does your state have a cremation authorization law which dictates the disclosures that must be addressed on a cremation authorization form? If so, make sure that the funeral home is utilizing a form that is in compliance with the requirements of the statute. If your state does not have such a law, make sure you are using a cremation authorization form that requires, at a minimum, the authorizing agent to attest to each of the following items:

- The identity of the decedent after positive identification has been made by the authorizing agent or his/her representative.
- The identity of the authorizing agent and his/her legal authority for authorizing the cremation.
- Authorization to remove and dispose of any medical devices implanted in the remains or a representation that no medical devices are present.
- Permission to cremate the body and mechanically pulverize the cremated remains after a detailed explanation of the process has been provided to the authorizing agent.

- Acknowledgement that the alternative container or casket will be cremated with the remains.
- Acknowledgement that some commingling is inevitable and that it is impossible to retrieve all of the cremated remains.
- A designation of the urn and/or container which will be utilized to hold the cremated remains.
- Specific instructions as to what disposition is to take place with any personal property (clothing, eyeglasses, jewelry) on the remains.
- Specific instructions as to whom the cremated remains are to be delivered or, in the alternative, what other disposition of the cremated remains is to be made.
- Certification as to the accuracy and truthfulness of all statements made in the authorization form and indemnification of the funeral home and crematory by the authorizing agent.

B. IDENTIFICATION PROCESS

The funeral home must have in place an identification process that ensures that any body received by the funeral home has been positively identified by the authorizing agent or his/her representative. An identification tag or medallion should be affixed to the remains throughout the entire time the body is in the possession of the funeral home. The funeral home should have the crematory execute a receipt for the remains of the decedent at the time the remains are turned over to the crematory.

When the funeral home receives the cremated remains back from the crematory, it must also maintain a strict identification process for the cremated remains. Identification should be attached to the urn or container holding the cremated remains **and** an identification tag should also be placed inside the urn or container. If there is more than one container holding the cremated remains, both containers should be similarly identified and each identification tag should reference the fact that the cremated remains are in two containers. Cremated remains should always be stored in a secure, enclosed area with a log book showing when and from whom the funeral home received them and when and to whom the funeral home delivered them.

If cremated remains are placed in a pendant or other piece of jewelry, or incorporated in some other fashion into an object, that object should be identified as holding or containing the cremated remains of the decedent until such time as the funeral home delivers it to the family.

C. TRANSPORTATION

The funeral home should deliver the remains to the crematory using its own personnel. Funeral home personnel should confirm that the crematory operator has accepted the remains, that the crematory operator has been presented with the cremation authorization form and any necessary permits and authorization, and that the crematory operator has executed the receipt.

D. HANDLING CREMATED REMAINS

When accepting cremated remains from the crematory, funeral home personnel should immediately inspect the urn or container to ensure that there is appropriate identification attached to the urn or container. Once the funeral home has taken possession of the cremated remains, it should only deliver the cremated remains to the recipient designated in the cremation authorization form. If the authorizing agent wishes to change the disposition or delivery instructions in the cremation authorization form, any such modification should be in writing, signed by the authorizing agent, and delivered to funeral home personnel. Funeral homes should always obtain an executed receipt when turning over possession of the cremated remains to the authorizing agent or a designated third party.

E. INSURANCE REVIEW

Funeral homes should periodically have their insurance agent review their professional liability (also known as “errors and omissions”) insurance to determine if it is at adequate levels and covers liabilities for independent contractors that the funeral home utilizes, such as a crematory. Funeral homes may also want to consider the purchase of an umbrella policy which could cover in the event of a catastrophic court judgment against the funeral home.

F. DUE DILIGENCE FILE

For every outside crematory the funeral home uses, the funeral home should have a “due diligence” file. In that file, the funeral home will place the documentation and reports that will be generated from following the other three steps outlined in this due diligence package.