

Your Forms Can Protect or Expose Your Business

As the cremation rate continues to climb, especially during the pandemic, I spent much time revising or developing cremation-related forms for the FSI clients.

Many families avoided personal interactions with the funeral home during the pandemic, making clearly written and organized cremation forms even more important.

Here are a few tips from my “best of” cremation forms:



1. Ensure that the “right” person is authorizing cremation. Every state’s law sets forth a priority of persons who are lawfully able to control the disposition of a decedent’s remains. Know the law of your state.
2. In some states more than one person must authorize cremation. Some states give the right to control disposition to more than one person in a priority class. For instance, in Washington, a majority of adult children of the decedent must authorize disposition. But in Florida, for example, only one member of any priority class is required to authorize disposition.
3. Follow the law. I strongly urge that you follow the law to make sure the right person or persons are required to authorize disposition. Do not do more or less than the law requires. For example, if you are in Florida, do not require the majority of the adult children of the decedent. Instead, follow the law and require only one. While it may seem counterintuitive to require fewer people to authorize cremation or disposition, it is the best practice to do what the law requires – and nothing more. Doing more, but doing it inconsistently, can expose your business to liability.



L E G A L



TRUST SOLUTIONS

4. Use separate forms for cremation and disposition. Use a cremation authorization form and a separate order for disposition of cremated remains form. This is especially important in Florida where the person who authorizes cremation may not be the person entitled, by law, to order disposition of the cremated remains. Remember, Florida's law gives the right to order the disposition of the cremated remains to the purchaser of the cremation services, not to the legally authorized person for the decedent.

There is a lot more that can be said about cremation related forms, too much to cover here. But, you can use the important tips above to assess whether your forms need attention or an overhaul.

Wendy Russell Wiener, Esq. is the managing member of WRW Legal and serves as FSI's General Counsel. She can be reached at Wendy.Wiener@WRWLegal.com.