

# Don't Get Caught with Your Forms Down!

## *Simple Steps to Improving Cremation Forms Compliance*

by Wendy Russell Wiener, Esq.

**D**EATHCARE ESTABLISHMENTS searching for a simple way to improve compliance should take a close look at the multiple forms that must be correctly completed when cremation is chosen as final disposition.

Cremation rates continue to climb, especially since the beginning of the pandemic, which means more deathcare establishments and families will be filling out paperwork, making clearly written and designed cremation forms even more critical. Just as important, I expect regulators will be making more requests for information to ensure your deathcare establishment is in compliance, so updating your forms is a great way to stay one step ahead.

These days, it's easy for deathcare establishments to accidentally fall out of compliance because the pandemic has upended traditional ways of interacting with families. Many deathcare establishments were just starting to get back to some form of "normalcy" after the peak of the coronavirus pandemic. Then the Delta variant came along, which has been causing a rise of COVID-19 cases across the country. For the rest of this year, many families may once again avoid personal interactions with deathcare establishments, resulting in virtual meetings and contract signings.

### No Time Like the Present

Effective, efficient recordkeeping and administration is the hallmark of every successful, thriving organization. Here are three reasons why focusing on forms can keep your deathcare establishment's administrative operations moving smoothly:

#### 1. Correct forms will help you stay in compliance with applicable regulations.

For risk-averse deathcare establishments, having up-to-date forms will help you sleep better at night knowing an important part of the administrative operations of your company has compliant documents.

**Deathcare establishments that have their forms regularly reviewed—and leverage today's digital technology—can spend less time managing forms and paperwork and more time serving their families and communities.**

I recommend deathcare establishments consult with an attorney or compliance consultant and the forms reviewed to make sure you're not missing any information that must be included.

#### 2. Correct forms will decrease the need to write a detailed policies and procedures manual.

For many growing organizations, a clearly written policies and procedures manual is a vital part of meeting legal and compliance obligations. But the manual can provide only reasonable assurance that you are in compliance with local, state, and federal regulations—and that assurance goes out the window if your forms are incorrect.

Obtaining and filing the necessary forms (along with required reports) is the first line of defense in satisfying requests for information from regulators.

#### 3. Forms can be stored digitally for 24/7 access if changes are needed.

If you're doing things the old-fashioned way—using paper documents—the Delta

variant surge is once again making it inconvenient or difficult for you and your staff to review and change all the necessary forms.

If your deathcare establishment is leveraging today's digital recordkeeping and administrative tools, with just a few clicks you can easily update and store your forms and send them securely to families and regulators.

With that in mind, during the pandemic, my firm spent considerable time revising and developing cremation-related forms for our clients. Here are a few tips from my "best of" cremation forms:

- **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.
- **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, only one member of any priority class is required to authorize disposition.
- **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 to sign the cremation authorization. Instead, require only one signature for authorization.

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.

- **Use separate forms for cremation and disposition.** Use a cremation authorization form and a separate 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.

- **Make sure the form correctly identifies the decedent.** Finally, one more great reason to have compliant, detailed

forms is to ensure that you have correctly identified the decedent and track the decedent's remains from first removal to final disposition.

### No Excuse for Neglect

All organizations, whether they know it or not, have a forms management function. In my 28 years of deathcare experience, I have seen how forms have been neglected by too many deathcare establishments, resulting in compliance challenges, high error rates, and expensive corrections.

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time managing forms and paperwork and more time serving their families and communities. **M**



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