

DUE DILIGENCE FOR FUNERAL HOMES UTILIZING THIRD PARTY CREMATORIES

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INTRODUCTION

This package was compiled utilizing materials provided by the Cremation Association of North America (CANA), the International Cemetery & Funeral Association (ICFA), and the National Funeral Directors Association (NFDA). As part of this cooperative effort among CANA, ICFA and NFDA, this crematory due diligence package will be available to members of each association.

Funeral homes that use outside crematories are hiring third parties to provide an integral part of the services which they have sold to a family. As such, the funeral home has a responsibility to the family to ensure that the crematory will carry out the cremation in a legal, professional and ethical manner. The best method to obtain these assurances, and to protect the funeral homes from liability in case of a problem at the crematory, is to carry out the four-step due diligence process outlined below.

By carefully following each of the four steps outlined below, a funeral home will undertake important steps to protect the cremation families it serves and to reduce its own potential liability. In addition, crematories that offer services to funeral homes

should be prepared to respond to the information and document requests set forth in this package or risk losing the business of funeral homes.

Funeral homes and crematories that have questions regarding this due diligence package should feel free to contact their respective association for guidance.

DISCLAIMER

THE STEPS OUTLINED IN THIS DUE DILIGENCE PACKET ATTEMPT TO COVER ALL POSSIBLE SITUATIONS. AS A RESULT, MANY FUNERAL HOMES MAY FIND THAT NOT ALL OF THE PRECAUTIONARY STEPS SET FORTH IN THE PACKET NEED TO BE INCLUDED IN THEIR REVIEW OF THIRD PARTY CREMATORIES. EACH FUNERAL HOME MUST DECIDE FOR ITSELF WHICH STEPS IN THE DUE DILIGENCE PACKET ARE APPROPRIATE FOR THE PROTECTIONS OF THE FUNERAL HOME AND THE CONSUMERS IT SERVES.

I. 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.

II. CREMATORY RECORDS REQUEST

One important aspect of due diligence is a review of the licenses and operational records of the crematory. A crematory should be willing to provide copies of its licenses and applicable operational records to each funeral home it serves. A refusal by the crematory to provide the records when requested should be regarded as a red flag to the funeral home.

On page 8, the funeral home will find a records request that it should send to each crematory it uses. If the crematory does not send the requested records or makes an incomplete response, the funeral home should follow up with the crematory to obtain the records.

Once the records are received, review them to see that the crematory has proper authorization under state law, has trained its operators, has adopted comprehensive operational procedures, maintained sufficient liability insurance, and utilizes appropriate authorization forms. If you see a deficiency, raise it with the crematory and have it addressed to your satisfaction. If it is not, use another crematory.

All records obtained from the crematory should be maintained in the due diligence file that the funeral home keeps on each crematory. In the file, the funeral home should maintain a log showing when the records were requested, received, and reviewed, and, if any deficiencies were detected, when they were brought to the crematory's attention and when the matter was resolved.

The records request should be updated at least once a year.

CREMATORY RECORDS REQUEST

Name of Crematory: _____ (the "Crematory")

Address of Crematory: _____

Contact and Telephone No.: _____

Name of Funeral Home: _____ (the "Funeral Home")

Address of Funeral Home: _____

Contact and Telephone No.: _____

The Funeral Home is requesting that the Crematory provide copies of the records listed below or, if the records are not available, please explain why in the space provided. The Funeral Home needs the requested records as part of its due diligence investigation to make sure that any crematory it uses is operating in a lawful and professional manner. Your cooperation is greatly appreciated.

Please return the records with a completed copy of this Crematory Records Request form to the Funeral Home at the address listed above. If you have any questions, please call the Funeral Home contact listed above. Thank you in advance for your prompt response.

IF A REQUESTED RECORD IS NOT PRODUCED, PLEASE EXPLAIN WHY.

1. Policy and Procedure Manual for Crematory.

Copy Provided.

Copy Not Provided Because: _____

2. State Crematory License or Permit.

Copy Provided.

Copy Not Provided Because: _____

3. Copies of Membership Certificates from CANA, Better Business Bureau or Other Organizations.

Copy Provided.

Copy Not Provided Because: _____

4. List of Crematory Operators Employed by Crematory and a Copy of any Operator Certification each has.
- Copy Provided.
- Copy Not Provided Because: _____
5. Copies of Liability Insurance Policy and Professional Liability (Errors and Omissions) Insurance Policy Carried by Crematory.
- Copy Provided.
- Copy Not Provided Because: _____
6. Copies of Cremation Authorization Form and Any Release Forms Used by Crematory.
- Copies Provided.
- Copies Not Provided Because: _____
7. Copies of All Body Acceptance Receipt Forms and Cremated Remains Receipt Forms Used by Crematory.
- Copies Provided.
- Copies Not Provided Because: _____
8. Copies of All Price Lists Used by Crematory.
- Copies Provided.
- Copies Not Provided Because: _____
9. Copies of Any State Inspection Reports of the Crematory.
- Copies Provided.
- Copies Not Provided Because: _____
10. Copies of Most Recent Maintenance/Inspection Reports or Logs Used Internally by the Crematory for its Equipment.
- Copies Provided.
- Copies Not Provided Because: _____

III. CREMATORY INTERVIEW

The third step of crematory due diligence is to interview the management of the crematory to obtain information on its personnel, facilities and operations. A list of sample interview questions have been prepared that probes each of these three areas. Funeral homes should feel free to supplement the questions with their own inquiries.

Prior to conducting the interview, the funeral home should call for an appointment so that the crematory manager is available and has set aside sufficient time for the interview. Funeral home personnel conducting the interview should take written notes of the responses to the questions. If any response is unsatisfactory or raises concerns, address it with the crematory manager immediately. For example, if the funeral home personnel believe that the crematory's system for ensuring proper identification of a body is insufficient, discuss it with the crematory manager and obtain written assurances that your concerns will be addressed.

If after returning to the funeral home and reviewing the responses to the questions, the funeral home still has concerns regarding the crematory, list those concerns in writing and send them to the crematory manager. In addition, if the funeral home believes it needs further information, send a written request to the crematory listing the follow up questions. If the crematory does not respond in a timely manner, the funeral home can either contact crematory management again or decide not to use the crematory.

Make sure that the cremation interview sheet with your written notes, any follow-up inquiries, and all responses from the crematory are maintained in the permanent due diligence file on the crematory.

CREMATORY INTERVIEW QUESTIONS

A. MANAGEMENT AND PERSONNEL

1. Who owns the crematory? _____
2. When did the current owner acquire or start the crematory?

3. How many crematory operators are employed by the crematory? _____
4. What type of background check is conducted before a crematory operator is hired? _____

5. What type of training and/or certification is required of the crematory operators and who conducts the certification? _____

6. What is the turnover rate that the crematory has experienced with crematory operators? _____

B. FACILITIES AND EQUIPMENT

1. Does the crematory have refrigeration? Yes No

If so, how many bodies can it hold and what is the age of the equipment?

_____ bodies _____ age

2. Describe the retort that is used, including its manufacturer and year of manufacture. _____

3. What type of processing station is used by the crematory? _____

4. Describe the schedule for servicing and inspecting crematory equipment.

5. Does the crematory have an alarm/security system. Yes No

If yes, describe it. _____

C. OPERATIONS

1. What procedures are used to identify remains awaiting cremation, remains in the cremation chamber, cremated remains in the processing station, and the urn or container holding cremated remains?

2. How many cremations were performed this year and last year?
This year: _____ Last year: _____
3. How and where are remains stored when awaiting cremation?

4. How long does the crematory typically hold a body before cremation?

5. How are cremations scheduled? Are cremations done by appointment?

6. Does the crematory sell or offer to sell its cremation services directly to the public? Yes No
7. Does the crematory allow witnessing of the cremation by the public?
 Yes No. If yes, what type of facility has been set up for the witnesses? _____
8. Describe what requirements the crematory has for cremation containers.

9. What does the crematory do with commingled cremated remains dust in the filtration material it collects? _____

10. If the crematory does not collect cremated remains dust, what happens to it? _____

11. Describe the crematory's policy for recovering, handling, and disposition of jewelry, dental gold, prosthesis, medical devices, and casket hardware.

12. Does the crematory allow metal caskets? Yes No. If yes, what is done with the charred shell? _____

13. Does the crematory perform pet cremations or cremation of medical waste? Yes No If yes, are pet cremations and/or medical waste cremations done in a separate retort that is not used for cremation of human remains? Yes No

14. Describe the crematory's policy for handling excess cremated remains?

15. Describe the crematory's procedures for identifying and labeling cremated remains in urns or temporary containers. _____

16. Describe the crematory's policy for packaging, shipping, and delivering cremated remains. _____

17. Describe the crematory's policy for handling unclaimed cremated remains.

18. Does the crematory have a scattering service? Yes No If yes, please explain how it operates. _____

19. Does the crematory offer educational tours of the crematory for funeral home personnel? Yes No If yes, please explain how this can be arranged. _____

20. Does the crematory permit unannounced inspections of the crematory facility by funeral home personnel? Yes No

21. Will the crematory list the funeral home as an additional insured on its professional liability insurance policy? Yes No. If yes, will the crematory furnish the funeral home proof that its name has been added to the policy as an additional insured? Yes No

IV. CREMATORY INSPECTION

The final step in the crematory due diligence process is to conduct an unannounced inspection of the crematory during business hours. The unannounced inspection should be conducted at least once a year. If the crematory refuses to permit the inspection, it is strongly recommended that the funeral home switch its business to another crematory.

Funeral home personnel conducting the inspection should use a checklist to document their findings. A sample Crematory Inspection Checklist is found on page 17. If any problems are observed during the inspection, funeral home personnel should note it on the Checklist, raise those concerns in writing to the management of the crematory and make sure that the problem is remedied.

A new Checklist should be filled out for each inspection. As with all other documents, maintain a permanent copy of each Crematory Inspection Checklist in the cemetery due diligence file.

CREMATORY INSPECTION CHECKLIST

Name and Address of Inspected Crematory: _____

Name of Inspector: _____

Date and Time of Inspection: _____

Name of Crematory Personnel Present During Inspection: _____

1. Does the crematory have its licenses and permits posted? Yes No.

Comment: _____

2. Are crematory operators and employees dressed appropriately and conducting business in a professional manner? Yes No. Comment: _____

3. Are the overall crematory facilities maintained in a neat, clean and orderly fashion? Yes No. Comment: _____

4. Are human remains that are awaiting cremation in the holding area or present elsewhere in the crematory covered up and handled in a respectful and dignified manner? Yes No. Comment: _____

5. Is there refrigeration equipment and is it operational? Yes No.

Comment: _____

6. Is the retort operational? Yes No. Comment: _____

7. Is the processing equipment clean, maintained and operational?

Yes No. Comment: _____

8. Is there an area for witnesses? Yes No. Comment: _____

9. Is the area for the witnesses clean and well maintained?

Yes No. Comment: _____

10. Is there a crematory log and is it up to date? Yes No.

Comment: _____

11. Is there an equipment maintenance schedule and is it up to date?

Yes No. Comment: _____

12. Is there an identification system in place by which human remains awaiting cremation, remains in the retort, cremated remains being processed and cremated remains in storage are all properly identified at all times?

Yes No. Comment: _____

13. Is the storage area for cremated remains maintained in a clean, sanitary, and secure condition? Yes No. Comment: _____

14. Is there a security/alarm system present in the crematory? Yes No.

Comment: _____

15. Is the crematory sufficiently staffed with crematory operators to monitor the cremations taking place? Yes No. Comment: _____

16. Can you visibly detect any cremated remains, fragments or dust anywhere in the crematory? Yes No. Comment: _____

17. Was management of the crematory cooperative and forthright in allowing the inspection to take place? Yes No. Comment: _____

CONCERNS RAISED WITH CREMATORY

List all concerns that the Funeral Home raised with the crematory following its inspection and the crematory’s response to those concerns:
