



5 Legal Requirements Before Cremation

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PUBLISHED BY

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An Open Letter to Cremation Families,

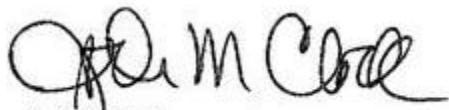
Hello! Thank you for taking the time to read this valuable information. The purpose of this is to provide just the facts on what you, a friend or family member will need to know when considering cremation as an option, either for yourself or a loved one. Please know that my sole intent is to help you become a more informed consumer and advocate.

Over the years' cremation has become more popular when it comes to a final disposition at the end of one's life. This growing trend has gained traction as the baby boomer generation have come of age. Boomers have single handedly changed the way children are brought into this world and now they are redefining what an end of life celebration, formally known as a funeral looks like, not to mention everything in-between.

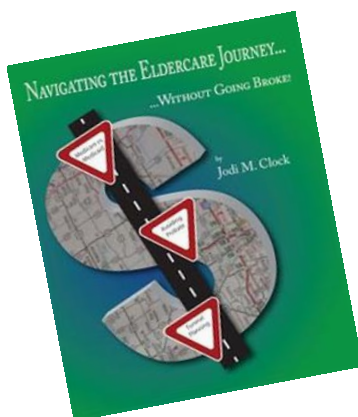
The internet is a powerful tool; however, it can also be a very dangerous one. The information a person can gather is literally one click away. The key is to know the difference between facts and let's say "well intended miss-information". People don't know what they don't know, therefore they are left to the mercy of a review, number of "likes" or even a testimonial. What people forget is those can, and sometimes are paid for by marketing companies. Fact checking can become difficult, unless you know the questions to ask, or who the reliable sources are that will provide you with the facts per the federal and or state law.

Having shared the above, I hope this booklet provides you with the knowledge necessary to know if you are dealing with a credible end of life provider.

Respectfully,



Jodi M. Clock



Author of "Navigating the Eldercare Journey.... without going broke!"

Available on Amazon.com or jodiclock.com

P.S. Please note that I am not an attorney, nor do I claim to be. The information provided may vary slightly across state lines. You may fact check information at your state's website.

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Requirement 1

Identification



The proper identification of the deceased, is one of the highest priorities for a death care provider. Why? Cremation is 100% irreversible act. It is imperative from the time a deceased individual is brought into a funeral home and or crematory's care that the body is that of who they were authorized to transport.

From the time of death occurs there are numerous touch points where human error can take place. For instance, it's not uncommon for a person to die at a nursing home facility. In fact, more times than not, more than one person typically will die on the same night. There could be more than one funeral home involved with their care team arriving to transport these individuals. If there was an error with paperwork or documentation, it's feasible that the funeral home picked up the wrong individuals. While I may be pointing out the extreme this has happened.

Once the deceased is in the death care provider's custody, it becomes their responsibility to ensure that the person they have been asked to cremate, is the person that was brought into their possession. Unless the legal next of kin was present at the removal when the care team arrived, the cremation provider is operating on trust and not fact.

When the next of kin / informant meets with the funeral home to arrange the cremation, is when the director who is overseeing the cremation should ask or request for one of the following:

- A family member or guardian to physically identify the deceased in a private setting.
- A recent photo for the director to confirm the deceased's identification.
- If there are any unique tattoos, scars, or piercings that would identify the deceased.

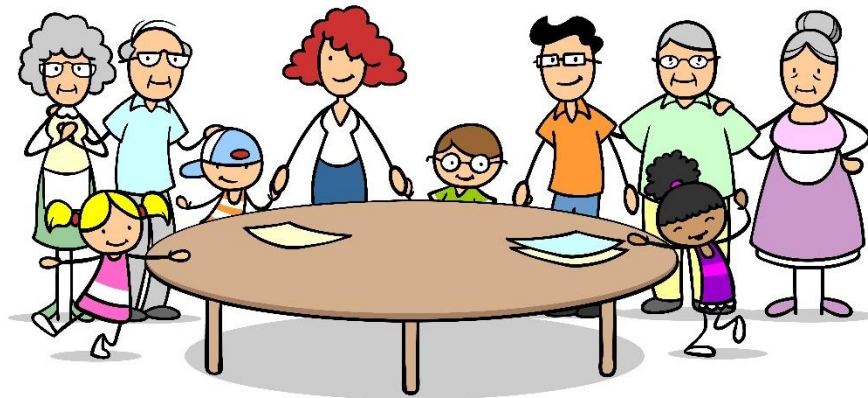
If the deceased died tragically and is unrecognizable, the informant / next of kin may be requested to release dental records the medical examiner for a positive identification.

Requirement 2

Determining the legal informant

Outside of the identification process, determining who's the legal informant is significant. Why? *This is the person who has the legal authority to make all the decisions.* They may not be financially in charge, but when it comes to the final say regarding the deceased's end disposition they have the last say.

It becomes the responsibility of the end of life provider to determine who this person legally is, not assume who the decision maker is. In today's world of blended and non-conventional families, things aren't always as they appear.



Here is the order of how law requires death care professionals to determine the next of kin.

The deceased's:

1. Legal Spouse – A spouse is a life partner in a marriage or civil union, domestic partnership or common-law marriage. The term is gender neutral, whereas a male spouse is a husband and a female spouse is a wife. (NOTE: The marriage is not tied to length of time married!)
2. Bio-logical or Legally adopted children over the age of 18. If there is more than one child, some states require all children to sign the cremation authorization, while others will accept a majority.
3. Adult Grandchildren (bio-logical or legally adopted) *
4. Parents *
5. Grandparent's *

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6. Siblings *
7. Niece or Nephew*
8. Any Aunt, Uncle or Cousin*
9. Guardian
10. Personal Representative or Nominated Personal Representative
11. Special Fiduciary appointed by Probate Court or Department of Corrections
12. County Medical Examiner

*NOTE – if there is more than one, the decision is subject to majority rule.

If you would like to control who can authorize funeral /cremation arrangements and supersede your immediate family. Prior to death you can appoint a funeral representative.

A designated funeral representative must be:

- 18 years or older.
- In writing, signed and dated saying that you are of sound mind and are voluntarily requesting for your representative to follow your wishes at the time of death on your behalf. This document must be signed by both parties and witnessed by a notary.
- May be placed in the person's will, patient advocate forms and other documents.

Once an individual is appointed as a designated funeral representative:

- Must understand their designation is revocable.
- They may not delegate their rights.

Requirement 3

Gathering the bio-graphical information

To obtain a death certificate and burial transit or cremation permit, the next of kin must meet a licensed funeral director or arranger, so they can gather the necessary information. This must happen acutely after death, regardless if the deceased has pre-arranged their own funeral. A licensed funeral director of the state where death takes place must sign the certificate.

Why? Because all the information that will be placed on the death certificate now becomes a legal document. It's imperative that all the data is double even triple checked. If inaccurate information is provided, it can stop the entire process. Even the slightest error can delay the entire process.

The following information must be provided or confirmed on behalf of the deceased in order to complete a death certificate:



- Legal name (First, Middle, Last)
- Legal address
- Date of birth
- Birthplace
- Social Security number
- Ancestry
- Fathers full name
- Mother's full name and maiden name
- Married, widowed or divorced
- Primary occupation
- Final disposition

Other information that will be placed on the death certificate:

- Physician who will be signing the death certificate
- Time of death
- Location of death
- Cause of death
- Informant's name and relation

Requirement 4

Completing the cremation authorization

No cremation can take place without a properly completed cremation authorization. While this may sound like an extra form, it's a very necessary one. Beyond the obvious reason of providing written consent for the cremation to take place, it also contains vital information about the deceased to ensure a safe and proper cremation transpires.

The cremation authorization also specifically asks if the deceased has any of the following implants, replacements or artificial parts.



Here is a list of items that the crematory operator needs to know if the deceased has:

- A pacemaker.
- Hip, shoulder or knee replacements.
- Breast implants.
- Any rods placed in the back.
- One or more metal plates.
- Some staples.
- A foreign object surgically placed item within the body.

Why? First and foremost, the safety of the crematory operator.

Items like a pacemaker must be removed *prior* to cremation. This is because the battery and other components of the pacemaker, when subjected to the intense heat within the cremation chamber will explode! These types of explosions not only damage the inside of the cremation machine; it can injure the crematory operator and other personnel. By asking a few simple questions, danger can be avoided.

Outside of pacemakers and items with a battery, artificial parts are considered medical waste. Unless the family specifically asks for the items to be returned with their loved one's cremated remains, the items are legally disposed. Many crematories will partner with a company that will recycle these types of implants and send them to third world countries to use in their medical practice or be melted down and have the funds donated to charity.

Required signatures include the informant/next of kin and the funeral director/arranger as well as listing the overseeing licensed funeral home in states where necessary.



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Requirement 5

Filing the death certificate, burial transit & cremation permit

Filing for a death certificate and burial transit & cremation certificate, depending on the state you live in can be done electronically or in person. Presently the death certificate filings are being done online, however the manual process will still be accepted. Death certificates are filed at the county clerk's office in the county where death occurred. Burial transit & cremation permits are filed and issued from the registrar's office (health department). This permit will not be generated without a confirmed filing of a death certificate.



Death Certificate Filing

Once the death certificate is completed in full and signed by the funeral director, it must go to the physician and or medical examiner for their signature. They are supposed to sign the document within 48 hours of receipt.

Realistically, depending on the day when death occurred it could take a day longer. If the cause of death is being investigated by the medical examiner, it's not uncommon for the

medical examiner to sign the certificate and leave the cause of death listed as "unknown" just to get the process going. Once the cause of death has been determined an amended death certificate will be issued.

Burial Transit & Cremation Permit

Before a deceased can be buried either in the ground or above ground, the local registrar (Director of Health) must issue a burial transit permit. A permit will not be issued unless a death certificate has been filed. The purpose of this permit is to allow the funeral home to oversee the transportation of a deceased body either to a cemetery for burial or crematory for a cremation to take place.

Please note that a burial cannot take place without the funeral director presenting this permit to the cemetery's sexton, nor can a cremation take place without receipt of this permit.

If a family wants to bury the cremated remains of their loved one later, they too must also provide a copy of this permit to the cemetery's sexton.

Like what you learned? Feel free to share it!

Jodi M. Clock is the founder of ASK JODI, a blog resource where:

- tough topics are discussed
- true facts are provided
- trusted advice about death and dying issues for people or pets or shared

She is available as a speaker or advisor for persons who have questions about funerals, cremations, pre-planning and Medicaid planning. Jodi also can talk to you about creating a plan for your pet's end of life care or re-homing options if you should die prior to your pet.

Jodi is on Facebook, Instagram and Twitter. Please follow her at "AskJodi" or email her at askjodiclock@gmail.com.

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