

North Carolina Board of Funeral Service Cremation Guidelines

2013 Edition

Issued By

NORTH CAROLINA BOARD OF FUNERAL SERVICE

Practical guidelines to assist in the compliance with the laws, rules and regulations governing the providers of cremation services in North Carolina

Introduction

The North Carolina Board of Funeral Service and the North Carolina Crematory Authority have recognized a need among those providing crematory services to have access to information which would better help them to understand and therefore, comply with the rules, regulations and laws governing their profession. As a result, we have produced these regulatory guidelines with the hope that they will lead to improved practices in the process of providing crematory services.

These guidelines were prepared after a thorough and comprehensive review of the North Carolina General Statutes, the North Carolina Administrative Code, and the federal laws affecting the crematory industry and related to the topics contained herein.

These Guidelines are offered simply as that – guidelines, to help you understand the law. This work is not to be viewed as a replacement or substitution for the law as it is written and has been enacted. These guidelines are a compilation of our explanations of the issues that we have determined arise most frequently, answers to inquiries by those we serve and are meant to provide direction for the industry as a whole.

We hope that you will use these guidelines to help you clarify some of the issues presented by the regulations and the state and federal laws.

~ **The North Carolina Board of Funeral Service** ~

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Chapter 1

Authorizations

The North Carolina Board of Funeral Service and The Crematory Authority in conjunction with the North Carolina Legislature have established a set of regulations and laws to assure that the cremation and disposition of a human body is managed in a way that is respectful to the wishes of the individual, considerate of the desires of the family and loved ones of the deceased and, at the same time, protects the public welfare. Many times these interests are competing and must be balanced. This is accomplished through the process and application of the law.

One important issue to be carefully managed by the crematory is that of obtaining proper authorization prior to performing a cremation. Obtaining the proper authorization to conduct a cremation protects the crematory and its managers and employees from penalties for noncompliance with the regulations and reduces the risk of potential legal claims. It is important to understand what proper authorization means.

What is Authorization?

The law states that a crematory licensee shall not cremate human remains until it has received a cremation authorization form signed by an *authorizing agent*. The general composition of the authorization form is prescribed by the NCBFS. Individuals have a right to determine the disposition of their own body. They may also delegate that decision to someone else. This person (or institution) is called an “authorizing agent.”

"Authorizing agent" means a person legally entitled to authorize the cremation of human remains in accordance with G.S. 90-210.124.

The authorizing agent does not have authority to cancel or modify a properly executed preneed contract¹. The exception to this is where the individual who has executed his or her own contract has expressly permitted it. The authorizing agent cannot cause or prohibit the substitution

of a cremation as a method of disposition set forth in a preneed contract unless he or she obtains a court order permitting the substitution.

At the time the action is taken, the authorizing agent must be at least 18 years of age and be competent to have taken such an action at the time the action is taken. This is true for

- Acting prior to death, the deceased
- An agent the deceased appointed
- An agent who become one as a matter of law.

[See section on "[Competency](#)"]

The Authorizing Agent

The authorizing Agent has the authority to determine the type, method, place, and disposition of the decedent's body. However, the authorizing agent does not have the right to cancel or modify a properly executed preneed funeral contract without first obtaining a court order permitting this.

Authorizing Agent's Responsibility

An authorizing agent who signs a cremation authorization form is deemed to warrant the truthfulness of any facts represented on the cremation authorization form, including that person's authority to order the cremation. An authorizing agent signing a cremation authorization form is personally and individually liable for all damages caused by the provider of cremation services while acting in reliance upon the authorization form. There are two exceptions to this rule:

(1) the name and the address of the crematory to be in receipt of the human remains, and

(2) the representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous to the person performing the cremation. (This is so, unless the authorizing agent *has actual knowledge* to the contrary.)

The crematory licensee must also sign the cremation authorization form however, he or she is not responsible for any representations made by the authorizing agent unless the licensee has actual knowledge to the contrary. The funeral director must sign the authorization form warranting that the human remains delivered to the crematory are, in fact, the remains identified on the cremation authorization form.

A crematory licensee has the legal right to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. While acting pursuant to the authorization form, a crematory licensee bears no liability for the cremation of human remains nor for the release or disposition of the cremated remains which are done in accordance with the signed authorization. This is so unless the crematory licensee acted with gross negligence. This is also provided that the crematory licensee performs the cremation in compliance with the law.

Competency to Direct Disposition

For the purpose of determining proper authority to direct disposition, competency is determined

- (a) For the decedent – at the time of the execution of the document in question
- (b) For the individual given authority to direct - at the time of death of the decedent.

If an individual granted the authority to act as the authorizing agent by law is found to be incompetent, he or she will be treated as if they predeceased the decedent to be cremated. The attending physician may certify the incompetence of this individual, and the certification will apply only to the right to act as the authorizing agent.

Rights of Authorizing Agent and the Responsibility to Act

If an agent is authorized by certain documentation to act, but does not want to take the responsibility, there is a way for him or her to decline. Any individual given such authority may waive his or her rights by any written statement notarized by a notary public or signed by two witnesses.

The designated authorized agent only has a limited time in which to exercise his or her authority. A person who does not exercise his or her right to dispose of the decedent's body within *five days* of notification or *10 days* from the date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or contest such disposition. In addition, the authorizing agent has *30 days* to claim the cremated remains, after which time the licensee may release the cremated remains to another family member upon written notification sent by certified mail to the authorized agent. The Licensee may also dispose of the cremated remains as set forth in [NCGS §90-210.130](#) .

Authorization Form: What Information is Required?

The specific minimum requirements of the North Carolina Board of Funeral Service are contained in the sample form included in the appendix. [See <http://www.ncbfs.org/1CremAthmod.pdf>]

Highlighted below are some of the more substantial representations made by the authorizing agent upon signing the authorization form.

- The relationship between the authorizing agent and the decedent
- That the agent does have the right to authorize the cremation and is not aware of any living person who has a superior priority right to that of the authorizing agent.

Note: If the agent knows of one or more living persons who have either a superior right or an equal right to be an authorizing agent, then the representation must include a statement in the authorization form certifying that

- he or she does not know the location of any such person or persons (if this is the case); and
- has no reason to believe that such person, if any exist, would object to the cremation; and

- full disclosure as to the location (known or unknown) of all persons with equal right has been made.
- The actual authorization of the cremation and the manner in which final disposition is to be made

SIGNING THE AUTHORIZATION FORM: Extremely important is the fact that the authorization form **must** be signed by **the actual** authorizing agent. In some situations, an additional authorization form to cremate must also be signed by a medical examiner or an attending physician (See [Medical Examiners, Physicians and Jurisdiction](#))

Final Disposition

"Final disposition" means the cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee. Upon the written direction of the authorizing agent, the disposition of cremated remains may be performed in several different ways.

The authorized agent always retains the right to revoke the authorization and instruct the licensee to cancel the cremation and to release the human remains to another crematory licensee or funeral establishment, but only upon two conditions.

1. The cremation has not been commenced
2. The instructions are provided to the licensee in writing

The licensee must honor the written instructions.

What to Do When a Dispute Arises

If there is a reasonable basis for questioning any of the representations made by the authorizing agent or if the licensee is aware of any dispute concerning the cremation of human remains, the crematory licensee will not be liable for refusing to accept a body or

perform a cremation until it receives a court order or other suitable confirmation that the dispute has been settled.

If there is a dispute between equally authorized agents concerning the cremation of human remains, as may be the case in situations like divorce or separation, the crematory licensee may require a court order or other suitable confirmation that a dispute has been settled, prior to performing a cremation. The licensee will not be liable for refusing to accept a body or denying cremation under these circumstances. [See [NCGS §90-210.131](#)]

This holds true for the disposition of cremated remains also. The licensee may refuse to release the cremated remains until the dispute has been resolved or the licensee is provided with a court order authorizing the release or disposition of the remains.

If the dispute is not resolved within 30 days after the remains are received by the licensee, then a reasonable storage fee may be charged.

Determining Who has Authority to Sign an Authorization Form

Determining just who has the proper authority to sign an authorization form is an important and sometimes daunting task. It requires diligence in process and detailed record keeping.

The Questions to Ask

Who was the deceased? The answers to the questions listed below will direct you to the proper next choice to make.

- ✓ Did the deceased die in his or her own home state (one different than North Carolina and the cremation is being performed in North Carolina?)
- ✓ Did his or her death occur at a nursing home or hospital while under the care of a physician?

- ✓ Is the deceased a victim of a crime? [If yes, see [Jurisdiction of Medical Examiner](#)]
- ✓ Was the cause of death an accident or unknown?
- ✓ Was the death unattended?
- ✓ Is this body unclaimed? [[What to Do When You Have an Unclaimed Body](#)]
- ✓ Was the deceased a migrant farm worker or the dependent of a migrant farm worker [See [Migrant Farm Worker and Dependents of Migrant Farm Workers](#)]
- ✓ Did the deceased have a communicable disease? [If yes, see [Management of a Body known to have had a Communicable Disease](#)]
- ✓ Did the deceased leave any validly executed documents dictating his or her disposition? [See [When Documents DO Exist Indicating Disposition or Delegated Authority](#)]
- ✓ Who has the legal authority to direct the disposition of the body where no documentation exists? [See [When No Document Exists Indicating an Authorizing Agent](#)]

When No Document Exists Indicating an Authorizing Agent

NCGS §130A-420 lists the individuals (with some exceptions which will be addressed below) who, by law, have the right to direct the disposition of the body absent validly documented directions. All such individuals must be at least 18 years of age and competent at the time they are called upon to act. In all cases, reasonable effort must be made to locate these individuals. All efforts to this purpose should be documented as evidence of attempts made.

In this specific order, those who may serve as an authorizing agent are as follows:

1. The surviving spouse
2. A majority of the surviving children
3. The surviving parents
4. A majority of the surviving siblings
5. Generally stated, a majority of those considered “next of kin” as defined by state law [[NCGS §104A-1](#) “Next of Kin”ⁱⁱ]
6. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.
7. A state-appointed guardian, public administrator, medical examiner, coroner, or public official charged with arranging final disposition, **IF** the decedent is an indigent or the State has assumed responsibility for final disposition.
8. An authorized representative of the nursing home or private institution *which has been charged with the responsibility of making arrangements for final disposition* **IF** the decedent died in the nursing home or private institution, and **ONLY** in absence of any individuals listed previously.
9. An authorized representative of the private institution *which has been charged with the responsibility of making arrangements for final disposition* **IF** the decedent donated his body to science and **ONLY** in the absence of any individuals listed previously.
10. Any person willing to assume the responsibility as authorizing agent **ONLY** in absence of any individual listed previously.

When Documents DO Exist Indicating Disposition or Delegated Authority

When documents do exist which indicate the authorized agent, then you must consider the type of the document it is. If validly executed, these

documents control who holds the authority and dictate what to do with the body. If there is more than one of these documents then they are to be evaluated in the following order of priority:

1. Preneed funeral contract
2. Cremation Authorization form
3. Health Care Power of Attorney [See [Chapter 32A - Article 3](#) of NCGS]
4. A Written Will properly executed according to State law
5. Written statement, other than a will, signed by the individual and two witnesses
6. United State Department of Defense Record of Emergency Data, DD Form 93 or later version. Although this is last on the list, **IF** the circumstances described in 10 U.S.C. §1481(a)(1) through (8) have occurredⁱⁱⁱ, it takes precedence over all other forms. [See 10 [U.S. Code](#) §1481 “Military Death”]

Preneed Contract Authorization

Certain language is required to be included in any preneed contract concerning authorizations. This language is presented below:

(b) Any cremation authorization form executed by an individual as the individual’s own authorizing agent on a preneed basis shall contain the following disclosure, which shall be completed by the authorizing agent:

I do not wish to allow any of my survivors the option of cancelling my cremation and selecting alternative arrangements, regardless of whether my survivors deem such a change to be appropriate.

~OR~

I wish to allow only the survivors whom I have designated below the option of cancelling my cremation and selecting alternative arrangements or continuing to honor my wishes for cremation and purchasing services and merchandise if they deem such a change to be appropriate.

Because this important language is included in the required cremation authorization form, special attention must be paid to the response. This may direct yet another question if survivors are given authority to make decisions about the cremation. You should ask: *What is the scope of authority given to the authorized agent by the terms of the preneed contract?*

If the deceased executed an authorization form on a preneed contract prior to death, special attention must be given to the instructions set forth in the form. **Any** person who is in possession of the executed form and any person making arrangements for disposition who has knowledge of the form **must** use the person's best efforts to ensure that the decedent's remains are cremated and that disposition of the remains is in accordance with the instructions contained on the cremation authorization form.

Where survivors are given the option of canceling the cremation, special circumstances can arise. If the survivors are in disagreement then the opinion of the majority of the survivors determines the course of action. If the survivors are in disagreement and they are evenly split as to that decision and there is therefore, not a majority, then the original instructions of the deceased **must** be followed.

The crematory licensee and the funeral establishment or licensee has no choice where a properly executed preneed authorization form exists. They are required to follow the instructions contained in the document. In so doing, they are free of any civil liability and are discharged from any legal obligation concerning the cremated remains.

Health Care Power of Attorney

A principal may convey the authority to make decisions concerning autopsies, anatomical gifts, or disposition of the remains to a specified person by executing a health care power of attorney (HCPOA). This document must specifically state the granting of the

authority to determine disposition. Effective January 1, 2012, this authority is conveyed upon the death of the principal regardless of the competency of the decedent.

A health care power of attorney or similar document which is executed in a jurisdiction other than North Carolina is valid in North Carolina if it appears to have been executed in accordance with the requirements of either the original state or those of North Carolina [See North Carolina [GS 32A-27.](#)] It is important to verify that the person in possession of the HCPOA is actually the person specified in the HCPOA, and that the document states on its face that it is a health care power of attorney.

Determining Who is “Next of Kin” – Reasonable Efforts

What are Reasonable Efforts? – Due diligence

Reasonable efforts may include the use of some of the following methods to ascertain and locate the next of kin

- Placing a small ad in the local newspaper
- Placing an ad in the newspaper in the location where the next of kin was last known to be
- Performing an internet search for the next of kin
- Consulting the white pages or telephone directories

In the event that your efforts prove unsuccessful, you must secure releases and waivers from the persons who are readily available to take part in the decision making process. These waivers and releases should indicate that they have no knowledge of the whereabouts of the next of kin and that your establishment is released from responsibility should the next of kin show up and make his or her voice known.

Reasonable Efforts - Best Practices

It is best practice to keep all records of attempts which were made to contact the next of kin. These records may include file

notations about methods used, phone calls made or searches performed to locate the next of kin. Keeping and maintaining such records is your protection against any attempt by an individual to question the performance of a cremation.

Chapter 2

Medical Examiners, Physicians and Jurisdiction

Jurisdiction – What Is It and How It Applies to Your Decision Making

Jurisdiction, as it applies to this section, is the power or right of the medical examiner to exercise authority within the bounds of a specific territory. The jurisdiction of a medical examiner is dictated by state statute. The medical examiner only has jurisdiction within the county in which he or she operates.

For deaths occurring under the jurisdiction of the medical examiner, a cremation cannot be performed without an authorization from a medical examiner in the county where the death occurred. This can be in the form of a “Medical Examiner’s Authorization for Cremation” or a signed death certificate.

However, an important change in the law has taken place. Effective January 1, 2014 the Medical Examiner’s Authorization is included on the new certificate of death which is the required form to be filed with the North Carolina Department of Health and Human Services Vital Record.

Jurisdiction of Medical Examiner

The Medical Examiner has jurisdiction in several situations and therefore his or her certification is required prior to cremation. As a general statement, where the cause of death was clearly by other than natural causes or unusual circumstances surround the death, it is requisite that a medical examiner be consulted. State law sets forth the

specific situations which activate the jurisdiction of the medical examiner:

1. Death resulting from violence, poisoning, accident, suicide or homicide
2. Sudden death when deceased had been in apparent good health or when unattended by a physician
3. Death occurring in jail, prison, correctional institution or in police custody
4. Death occurring in a State facilities operated in accordance with Chapter 122C, Article 4, Part 5 of the General Statutes (specifically listed facilities which deliver services for mental health, developmental disabilities and substance abuse)
5. Death occurring pursuant to Article 19 of Chapter 15 of the General Statutes (which deals with executions)
6. Death occurring under suspicious, unusual or unnatural circumstances

It is the medical examiner of the county in which the death occurred which maintains this jurisdiction. The medical examiner classifies the death as one of the following:

- accident
- suicide
- homicide
- execution by the State
- undetermined

and certifies his or her findings to the State Registrar of Vital Statistics in the event that the medical examiner assumes jurisdiction.

Body Brought in From Out of State

When a body is brought to the State of North Carolina from another state, the laws and regulations of the state of North Carolina control all aspects of the disposition of the body. However, North

Carolina does recognize the authorizations for disposition made in other states.

In this case, if there is a reason to believe that either the death was not properly investigated or that there is not an adequate certificate of death, a report of this fact must be made to a medical examiner in the county where the body is located or to the Chief Medical Examiner.

What is a Medical Examiner's Role in Body Disposition

In deaths which are being investigated by the Office of the Chief Medical Examiner, a properly signed "burial transit/cremation form" must be received prior to cremation. Effective January 1, 2014 the requisite burial transit/cremation form is included on the newly adopted certificate of death form. The inclusion of certain language in the new form authorizing the disposition/transportation will operate as the burial/cremation permit. NCGS §130A-388 prohibits the cremation without the permission of the Medical Examiner, it states as follows:

- (a) No person knowing or having reason to know that a death may be under the jurisdiction of the medical examiner pursuant to G.S. 130A-383 or 130A-384, shall embalm, bury or cremate the body without the permission of the medical examiner.

Similarly, 10A NCAC 44.0501 states that before a dead body may be cremated, a medical examiner must certify that the medical examiner has investigated the cause and manner of death and determined that no further examination is necessary.

You must make sure that you receive the certification by the medical examiner stating that he or she has inquired into the cause and the manner of death and has the opinion that no further examination is necessary. There are only two exceptions to this requirement to obtain certification from the medical examiner:

1. A death which occurs in a hospital (inpatient), licensed nursing home, or under the care of a licensed hospice and the death was

medically attended and determined to be result of a natural disease

2. A body that is donated to the Commission of Anatomy

After the investigation has been made by the medical examiner, he or she must release the body to the next of kin or other interested person who will assume responsibility for final disposition.

If the body is unclaimed, the medical examiner is responsible for making reasonable efforts to contact the next of kin or other interested persons. After the passage of 10 days, if the body is not claimed, then the medical examiner is authorized to dispose of the remains.

The Function of an Attending Physician

If an attending physician had been treating the decedent, then you must obtain from the attending physician, a death certificate prior to cremation. The attending physician is responsible for completing the medical certification of the death certificate, unless there is evidence that the cause of death was unrelated to the previous diagnosis and treatment. [See [10A NCAC 41H.0503](#)]

If the death is a fetal death, the attending physician must sign the report of a fetal death. This report is then filed with the local registrar of vital statistics.

As will be detailed in a subsequent section, the attending physician must report any suspicion of any communicable disease which the decedent may have had. The physician must report this to the local health director of the county or district in which the physician has been consulted [NCGS §130A-135](#).

Alternative signature permitted in absence of a physician

If the attending physician is unavailable, the death certificate can be signed by

- the physician who pronounced death
- by an associate physician

- the physician on call for the attending physician if the medical records support this certification. [See [10A NCAC 41H.0503](#)]

And, when specifically authorized by the supervision physician:

- a certified nurse practitioner
- a physician's assistant

[See amendments to state law (NCGS 90-18.1)

Note that the North Carolina Medical Board requires that in order for a physician's assistant and/or a nurse practitioner to complete a certificate of death, he or she must be specifically authorized by the supervising physician under the terms of the supervisory arrangement or collaborative practice agreement. As with any delegated tasks, the supervising physician is ultimately responsible for ensuring the certificate of death is properly filled out and filed.

Attending Physician Must Notify of Contagious Disease

As previously noted, the physician who has been consulted by a person suspected to have a communicable disease must report that suspicion to the local health director of the county or district in which the physician is consulted. This requirement can be found [NCGS 130A-135](#). A specific list of the reportable diseases and the procedures for making such reports can be found at [10A NCAC 41A.0101](#).

When the patient dies in a location other than a health care facility, the attending physician must notify the funeral service personnel verbally of the precautions required as soon as the physician becomes aware of the death. The rule [10A NCAC 41A.0212](#) addresses the duty of the attending physician to notify the persons handling the body of a deceased known to have had a contagious disease as it specifically sets forth:

- (a) It shall be the duty of the physician attending any person who dies and is known to be infected with HIV, plague, or hepatitis B or any person who dies and is known or reasonably suspected to be infected with smallpox, rabies, severe

acute respiratory syndrome (SARS), or Jakob-Creutzfeldt to provide written notification to all individuals handling the body of the proper precautions to prevent infection. This written notification shall be provided to funeral service personnel at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the attending physician shall notify the funeral service personnel verbally of the precautions required as soon as the physician becomes aware of the death. These precautions are noted in Paragraphs (b) and (c).

(b) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe acute respiratory syndrome (SARS) or any person who died and is known to be infected with plague shall not be embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation.

(c) Persons handling the body of any person who died and is known to be infected with HIV or hepatitis B or any person who died and is known or reasonably suspected to be infected with Jakob-Creutzfeldt or rabies shall be provided written notification to observe blood and body fluid precautions.

Chapter 3

Management of the Body in Specific Situations

What to Do When You Have an Unclaimed Body

Reasonable efforts must be made to contact relatives of the deceased or persons who may wish to claim a body for final disposition. However, after 10 days, the Commission of Anatomy must be notified. [NCGS 130A-415](#). This time period may be shortened by the county director of social services if he or she makes the determination that the body will not be claimed for final disposition within the 10 day period. If the body is that of a minor then there is no requirement that the Commission be notified. The county then assumes the responsibility in the case of a minor.

Upon notification, the Commission of Anatomy (the “Commission”) may direct that the body be delivered to it at a time and place specified by the Commission. In the alternative, the Commission may direct that it will remove the body, and your establishment must permit them to do so.

Once the Commission takes custody of the body, all interests in and rights to the unclaimed dead body is vested in the Commission.

If the Commission declines the dead body, then you must inform the director of social services of the county in which the body is located. At this point the director of social services assumes the authority to direct final disposition of the body.

If the Commission cannot be reached, arrangements must be made with the nearest medical school to arrange for refrigerated storage of the body until the Commission can be reached.

The form authorizing the transfer of the physical custody of a body which has not been claimed is DHS Form 2594.

If the medical examiner has jurisdiction in the case of an unclaimed body, then notification of the Commission is not required. The medical examiner maintains authority until he or she signs the release form. The medical examiner takes the responsibility to use reasonable efforts to contact the next of kin or other interested persons. [See [10A NCAC 44.0401](#)] After 10 days, if no one claims the body, then the code states that the body *must* be cremated. The medical examiner, by law, must retain the cremated remains for three years. If the cremated remains are not claimed within three years, the medical examiner must dispose of them in an appropriate manner.

Due caution must be taken to shield the unclaimed body from public view.

Disposition of Human Remains of a Pregnancy

The Department of Public Health governs the disposition of the remains of a terminated pregnancy. Cremation or burial are the only choices of disposition if the fetus is recognizable.

If the fetus was 20 weeks or more, the death must be reported to the local registrar within 10 days after delivery. The report is made on a form prescribed and furnished by the State Registrar. The report must be prepared and filed with the local registrar by one of the following:

If the fetal death was

- ⇒ in a hospital or other medical facility then by the person in charge of the facility with the signature of the attending physician
- ⇒ outside of a hospital or medical facility then by the physician in attendance at or immediately after the delivery
- ⇒ attended by a person authorized to attend childbirth, then by the supervising physician

- ⇒ attended by lay midwives and all other persons then by the medical examiner

The Commission of Anatomy and Medical Schools

The Commission of Anatomy is vested with complete authority over a body which has not been claimed within 10 days after death. This is so except in a few instances referred to in the previous section. Once the Commission of Anatomy (the Commission) has the authority for the unclaimed body, all interests in and rights to the dead body belong to the Commission. The attending physician can donate the body to the Commission if there is no expressed indication that the donor desired otherwise. The Commission then distributes the body to a medical school in accordance with its rules and regulations.

Migrant Farm Worker and Dependents of Migrant Farm Workers

When the deceased is classified as a migrant farm worker, there is a unique process which must be followed. A "migrant farm worker" is defined by both the code and statute as a person who moves in response to the demand for seasonal agricultural labor. This also includes individuals who are dependents of migrant farm workers. "Dependent" means child, grandchild, spouse or parent of a migrant agricultural worker who moves with the migrant agricultural worker in response to the demand for seasonal agricultural labor.

There are two entities which must be notified of the death of a migrant farm worker or his or her dependent:

1. The Department of Social Services of the County where the body is found
2. Office of the Chief Medical Examiner

The person with knowledge of the detailed information of the deceased is responsible for providing that information to the Department of Social Services. The Department of Social Services is responsible for notifying the Office of the Chief Medical Examiner (the "OCME") of the death and for sending specific information about the deceased to the CME. When the Department of Social Services is

assigned to be the authorizing agent, it first must take steps to attempt to locate the next of kin. 10A NCAC 44.0304 states that:

Upon notice from the Department of Social Services, the Office of the Chief Medical Examiner shall take such steps as are necessary to ascertain or confirm the identity of the deceased and locate any relative or interested person who may be willing to assume responsibility for final disposition. The Office of the Chief Medical Examiner shall attempt to contact the nearest relatives and any interested person and send them an information packet outlining alternatives in regard to final disposition.

The OCME must confirm the identity of the deceased and locate any relative or interested person who may be willing to assume responsibility for final disposition. The OCME then sends those persons an information packet outlining alternatives in regard to final disposition.

The North Carolina Administrative Code states that after the next of kin receives notification, they or any interested person willing to assume responsibility for disposition, must, *within 30 days*, notify the OCME of their intentions and take possession of the body. At the same time, the general statutes state that if the body is unclaimed within *10 days* then the body shall be offered to the Commission of Anatomy. (See [The Commission of Anatomy and Medical Schools](#))

The Department of Social Services is authorized to make disposition of the body if the Commission of Anatomy does not accept the remains and also when the relatives or interested persons who claim the body cannot afford the disposition. If the relatives or interested person claim the body and can take responsibility for final disposition but cannot transport the body, the Department is authorized to pay \$200.00 toward transportation.

If the next-of-kin or interested persons have assumed responsibility for final disposition, then all arrangements for transportation and disposition shall be made by them. If the relatives or interested persons claim the body but are unable to provide transportation or final disposition, then the OCME will arrange for the cremation of the body and will also mail ashes to the claimants without

charge. [10A NCAC 44.0308](#) provides for final disposition made by the OCME if, *after 10 days*, the body is not identified or no relatives or interested parties can be identified, and the Commission of Anatomy will not accept the body.

Communicable Disease - Physician's Responsibility

It is the duty of a physician with whom the deceased consulted professionally to report any suspicion that the deceased had a communicable disease to those handling the remains and to the local health director. What constitutes a reportable communicable disease is established by the Division of Public Health. The physician must report the existence of such to the local health director of the county or district in which the physician is consulted. The list of reportable communicable diseases as established by the Division for Public Health can be found at [10A NCAC 41A.0101](#).

Chapter 4

Requirements for Transporting Remains

In order to understand the necessity for properly completed forms and documents involved in receiving the remains for cremation, it is important to understand the process involved in transporting remains. This will allow the cremation service provider to better work with all service providers which are a part of the process.

A body cannot be transported from one location to another without the oversight of the North Carolina Board of Funeral Service. This is managed by a permit process which has been established to monitor such transportation and assure that it has been performed in a safe and respectful manner.

The “transportation or removal of a dead human body” means the removal of the dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.

A business, through an individual employee, must first obtain a permit from the North Carolina Board of Funeral Service prior to offering such transportation services. The employee of such a transport business can only work for that business if he or she provides to the NCBFS, the name and address of each entity for which the employee works. A violation of the rules may result in revocation or suspension of the permit or a fine.

There are specific exceptions to this requirement which are outlined in [NCGS §90-210.25\(c\)](#) (5) and (6) which include, for example, emergency medical technicians, firemen, police officers acting within the scope of their duty, and employees of hospitals. The list of exemptions applies to many others.

All persons or businesses transporting a dead human body must comply with [NCGS §90-210.25\(c\) \(9\)](#) which states how the body should be handled. Generally,

- A body cannot be transported in an open cargo area or passenger area of a vehicle within public view.
- If the body is being removed or transported,
 - it must be covered and on a stretcher
 - enclosed in a casket or container
 - secured in whatever form of containment is used

The body must be handled and managed with respect at all times. A photograph or video recording cannot be taken of the body without consent of the deceased's immediate family or next of kin or other authorized agent.

Special requirements: Transport of Body Known to have a Communicable Disease

If the body to be transported is known to have a reportable communicable disease then it must be encased in accordance with the rules established by the Commission for Public Health. The rule for proper encasement is found at [10A NCAC 41A.0212](#) and states:

The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation.

A burial-transit permit will not be issued unless these rules are followed. The list for what has been established by the Commission to be a reportable communicable disease can be found at [10A NCAC 41A.0101](#).

It is the duty of the attending physician to provide written notification to all individuals handling the body of a deceased known to have smallpox, plague, HIV infection, hepatitis B infection, rabies, or Jakob-Creutzfeldt of the proper precautions to be taken to prevent infection.

The form used to authorize the transportation and storage of a body while an investigation to determine whether it is claimed or unclaimed is in progress is DHS Form 2596.

Transportation Permit

A burial/transport permit must be obtained from the local registrar prior to transporting a body out of state. If all the requirements of NCGS 130A-112 (concerning notification of death) have been met and the death is not under investigation by a medical examiner, then the registrar must issue the permit.

If the death is within the jurisdiction of a medical examiner, then the transportation must be authorized by the medical examiner. Effective January 1, 2014 the burial/transport permit is included on the new certificate of death form (DHHS 1872).

Chapter 5

Removal of the Remains

A very specific procedure should be developed for the protection of your employees and your establishment whenever a body is removed from the place of death. There are potentially serious consequences for the mistakes made during a removal. Until the proper authorized agent, usually the next of kin, has signed the authorization form approving the removal, the body should not be moved.

When a body is involved in an investigation by the medical examiner, the body is not be disturbed at the scene of death without proper authorization by the medical examiner or the appropriate law enforcement agency. A burial-transit permit/cremation authorization form must be received and maintained by the crematory where a full investigation by the Office of the Chief Medical Examiner is involved. Effective January 1, 2014, the required permit will be included on the new certificate of death form (DHHS 1872.)

When a body is removed from any hospital, nursing home, or other health care facility and the deceased was known to have any of a number of certain infectious diseases (see Chapter 3 “Management of a Body Known to have had a [Communicable Disease](#)”), then a written notification of the related precautions to be taken in handling the body must be received. In this case, the body must be tightly sealed in a strong outer case which shall not be reopened except with the consent of the local health director.

Chapter 6

Payment Issues

Crematories face a number of unique situations which may leave the question of payment and the effect of who is paying for what at issue. Included in this section are some frequently occurring events which may lead to inquiry.

Payment by Others Does Not Affect Authority of Authorizing Agent

The authorizing agent does not lose his or her status because someone else paid for the cremation. Others are permitted to pay for disposition of the remains. However, only the authorizing agent has the power to execute the authorization form and to direct the cremation.

The authorizing agent is responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains, even where he or she did not claim them after a 30 day period.

Payment Where There is a Dispute about Disposition

A crematory licensee may charge a reasonable storage fee if a dispute over the disposition of cremated remains is not resolved after 30 days.

Payment in the Case of an Unclaimed Body

Where there is an unclaimed body, expenses are paid in accordance with NCGS 28A-12-6 and NCGS 28A-19-8, which, in essence, state that the decedent's estate is liable for the expenses incurred. If the decedent's estate is insufficient to satisfy the expenses and cannot afford it, then the remaining expenses are to be paid by the county in which the decedent resided. If the residence is unknown then the expenses are paid by the county in which the death occurred.

Payment by Medical School

When the Commission of Anatomy has distributed a body to a medical school, the regulation set forth at 10 NCAC 39B.0113 dictates that the body must be cremated after study (or after determination that it is unacceptable for study.) The medical school to which the body is distributed is responsible to pay for the costs of cremation, a plain container and delivery to the family. If it is an unclaimed body, then the medical school shall make final disposition of the remains.

When the transfer of one or more bodies or parts thereof under the control of the Commission is made, the person, institution or agency to which such transfer is made shall arrange and pay all reasonable costs of such transfers and reimburse the medical school initially receiving that body or bodies for payments made in connection with the initial delivery or deliveries. 10A NCAC 39B.0112

Payment by Chief Medical Examiner

The Office of the Chief Medical Examiner is authorized by the North Carolina administrative code to make payments to the firm handling the disposition of the body of a migrant farm worker or the dependent of a migrant farm worker. (See 10A NCAC 44.0306)

Chapter 7

Record Keeping

Developing a dependable process by which events are documented and records are consistently and properly kept is one of the most important things your establishment can do to guard itself from liability and sanctions. Here are the various reporting requirements as well as some recommendations for good record keeping.

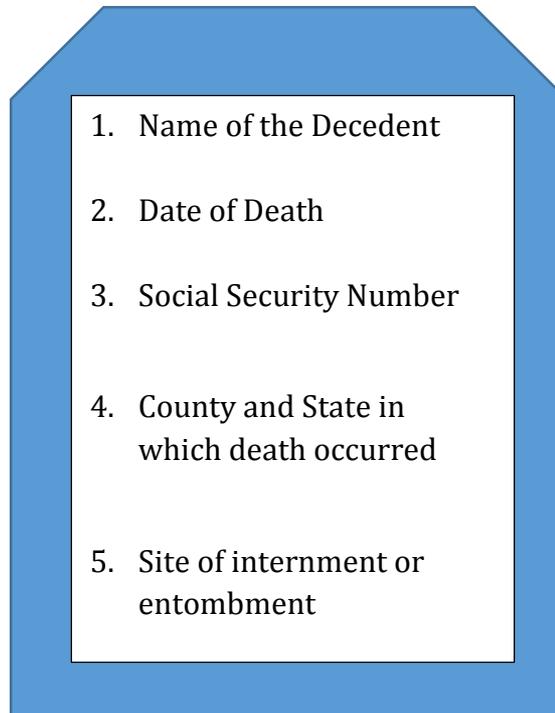
Reporting Responsibilities

The law requires that certain records be kept. Specifically, NCGS §130A-117(c) states that

A funeral director, embalmer, or other person who removes from the place of death, transports or makes final disposition of a dead body or fetus, shall keep a record which shall identify the body and information pertaining to the receipt removal, delivery, burial, or cremation of the body, as may be required by the State Registrar. In addition, that person shall file a certificate or other report required by this Article or the rules of the Commission.

These records must be retained for at least three years and, if the State Registrar requests it, they must be made available for inspection.

Prior to cremation, a body must be identified using a durable, non-corroding tag permanently marked with certain information, (noted below). After cremation, the tag should be placed inside the temporary container or the urn containing the cremated remains.



[See NCGS §90-210.29A]

The Notification of Death must identify the attending physician or the medical examiner, if he or she has jurisdiction, and it must contain a certification by the funeral director, or person acting as such for final disposition, that the body has been released by the medical examiner. (Sec. 130A-112)

A burial-transit permit signed by the medical examiner must be obtained by the funeral director or person acting as such who first assumes custody of a dead body or fetus which is under the jurisdiction of the medical examiner. This must be done within five days after death and prior to final disposition or removal of the body from the State. If the body is from out of the State, it must be accompanied by a burial transit or disposal permit issued by the state in which death occurred. The out of state burial-transit permit will be recognized within this State.^{iv}

When a delivery of human remains is made to a crematory, the licensee of the establishment must provide the person making the delivery with a receipt which is signed by both the licensee and the person making the delivery. Forms provided by the North Carolina

Board of Funeral Service are to be used for this purpose. (NCBFS Forms [Form 56 A](#) or [56-G](#))

The signed receipt must contain the following information:

	<ul style="list-style-type: none">✓ The name of the deceased✓ The date and time of delivery✓ The name of the funeral establishment (or other entity managing the deliver)✓ The name of the persona from whom the remains were received✓ The name of the person who received the human remains on behalf of the crematory licensee✓ The type of casket or cremation container or other conveyance in which remains were delivered <p><i>Keep the receipt for at least 3 years</i></p>	
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NCBFS Form [56B](#) must be used to document the tracking of the remains throughout the cremation process.

After the cremation of the remains, a receipt must also be provided to the person receiving the cremated remains from the crematory licensee. [See Form 65C or 56 G] Both parties must sign the receipt.

	<ul style="list-style-type: none"> ✓ The date and time of the release ✓ The name of the deceased ✓ The name of the person to whom the remains were released ✓ The name of the establishment with whom the receiver is affiliated ✓ The name of the person who released the cremated remains on behalf of the crematory <p style="text-align: center;"><i>Keep the Receipt for at least 3 years</i></p>	
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A certificate of cremation must be issued by the licensee upon the completion of the cremation. The Board requires that this, along with all forms related to each cremation, be kept at its cremation facility for a minimum of three years. The licensee must also keep a cumulative record of all dispositions of cremated remains. The information for each cremation must be kept for three years.

The cremation authorization form containing a statement signed by the authorizing agent specifying the ultimate disposition of the remains (if known) must be maintained.

Forms evidencing waiver of waiting period for cremation

The forms which evidence waiver of the waiting period prior to cremation are provided by the Board. These forms require

1. Listing the statutory basis for the waiver
2. The signature of the official authorized to waive the waiting period and
3. Any other information the Board deems necessary and required by law.

[See NCBFS Form [55](#)] [[21 NCAC 34C .0302](#)]

Forms relating to Cremation and Delivery

The Board provides forms which are to be used to evidence the receipt and delivery of human remains [NCBFS Form 56-A].

- ❖ Receipts for human remains must include:
 - ✓ The name of the crematory licensee
 - ✓ The full name of the decedent
 - ✓ The date and time of death
 - ✓ The date and time the human remains was delivered to the crematory licensee
 - ✓ Any affiliation by the person delivering the remains with either a funeral establishment or crematory
 - ✓ The signature and name of the agent of the crematory who received the human remains
 - ✓ Any other information the Board deems necessary

This receipt is to be furnished to the person who delivers the human remains. (See, [21 NCAC 34C .0303 \(a\)](#))

- ❖ Records documenting the release of cremated human remains from a crematory licensee to a person who receives the cremated remains must include:
 - ✓ The name of the crematory licensee
 - ✓ The full name of the decedent
 - ✓ The date and time of the release
 - ✓ The name of the person who received the cremated remains
 - ✓ Any affiliation by the person receiving the remains with a funeral establishment or other entity
 - ✓ The signatures of the person delivering the remains
 - ✓ The name of the recipient of the remains
 - ✓ Mailing or handling instructions
 - ✓ Any other information the Board deems necessary

Crematory licensees must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains. (See [NCGS §90-210.127\(b\)](#) and [21 NCAC 34C .0303 \(b\)](#)) (See also, NCBFS [Form 56C](#))

- ❖ Forms and records documenting the release of human remains from a funeral establishment to the person who receives the cremated remains must include:
 - ✓ The name of the funeral establishment
 - ✓ The full name of the decedent
 - ✓ The date and time of the release
 - ✓ The person to whom the remains were released
 - ✓ The type of container in which the remains were released
 - ✓ The signatures of the parties delivering and receiving remains
 - ✓ Shipping or special handling instructions, if any
 - ✓ Any other information the Board deems necessary

Funeral establishments must provide evidence by signature, postal receipt or its equivalent, of the receipt of the cremated remains. (See, 21 NCAC 34C .0303 (c)) (See [Form 56D](#))

- ❖ Forms and records which reflect and evidence the track of human remains through the cremation process from the time the remains are received at the crematory until the cremated remains are delivered must include:
 - ✓ The name of the crematory license
 - ✓ The full name of the decedent
 - ✓ A description of the cremation container used
 - ✓ The time and date the decedent was placed into the crematory
 - ✓ The name of the person who placed the remains in the crematory
 - ✓ The time and date the remains removed from the crematory
 - ✓ A description of the container in which the cremated remains were placed
 - ✓ The time and date the cremated remains were processed
 - ✓ The name and signature of the person who processed the cremated remains and placed them into a container
 - ✓ Any other information the Board deems necessary

(See, [21 NCAC 34C.0303 \(d\)](#)) (See also, [Form 56B](#))

The regulations do permit some latitude as is set forth in 21 NCAC 34C 0303(e):

In lieu of the separate forms required by Paragraphs (a), (b), and (d) of this Rule, a crematory licensee may use a form prescribed by the Board that combines all information required by Paragraphs (a), (b), and (d) of this Rule.

Record Retention

As a general rule, all records must be retained by the crematory licensee for a period of three years from the date of cremation. The records are to be made available for inspection upon request of the Board or its agents during this three year period of time. Some records specifically identified in the regulation are death certificates, authorizations, waivers, statements, reports and other documents required by G.S 90-210.120 through .134.

Photocopies Approved

The regulations requiring that various documentation to be received prior to cremation are deemed to be met when a photocopy or facsimile has been received within the time prescribed. This is allowed by regulation [See, [21 NCAC 34C.0102](#)].

Fees and Reports to be submitted to the Board

A fee of \$10.00 for each cremation performed in each month is due to be submitted to the board by the 10th day of the month following that in which the cremations took place. This is required of every crematory licensee. (See 21 NCAC 34A .0201(b) and 21 NCAC34C.0305). A monthly report must be submitted along with the fee which includes the following information:

- ✓ The name of the crematory
- ✓ Each cremated decedent's name
- ✓ Date of each cremation
- ✓ The Person or other entity for whom each cremation was performed
- ✓ The number of cremations contained in the report
- ✓ The total amount of fees remitted with the report

This report must be signed by an authorized representative of the crematory. Licensees are assessed a late fee of \$75 in addition to the report fee for reports filed past the 10th of the month.

Written Policy and Procedure

Although it is not a legal requirement, establishing and maintaining written policies and procedures is highly recommended for a crematory establishment. A policy and procedure manual can

1. Clarify proper procedure
2. Establish a process which keeps your business in compliance with the law
3. Aid you and your staff in daily and routine procedures ensuring that they are performed consistently and correctly
4. Provide a checklist to assure that all legally required steps have been followed
5. Provide good documentation reflecting your practices in the event you are ever sued
6. Provide documentation evidencing compliance with OSHA standards
7. Provide evidence to defend against claims of noncompliance should you be questioned

Your procedures should include detailed descriptions of how your establishment manages:

- Identification of the body
- The process used to identify next of kin
- Documenting chain of events
- Establishing a chain of custody for body and cremated remains
- Body removal policy
- Client communications
- Cremation procedure
- Processed remains- transfer and shipping
- Documentation retention policies

Documenting the Chain of Custody

Much litigation has occurred as a result of the mishandling of cremated remains. The establishment of a documented chain of custody of the cremated remains offers a way to protect your establishment both from violations of the law and from lawsuits.

After the completion of a cremation, a description of the handling of the cremated remains must be recorded. The container used for the cremated remains should be noted. Further documentation should be made concerning the following

- The place of storage, noting time and date immediately after the completion of the cremation
- Each and every time the cremated remains are moved to a different location, this should be recorded
- When an individual takes custody of the cremated remains, he or she is be required to sign a receipt, noting the time and date of transfer
- If the cremated remains are shipped, document the method of shipment, the place of shipment and require a signature prior to the release of the shipment to the individual or establishment

It is required that the crematory licensee document the chain of custody for the cremated remains and maintain that record for at least 3 years.

A record must be kept of the disposition of cremated remains where the authorizing agent did not claim the remains within the 30 day period. The licensee is discharged from legal obligation or civil liability concerning the cremated remains if such a record is kept.

Vital Records

Certificates of Death and Notifications of Death

Within 5 days of death a Certificate of Death must be filed with the local registrar. Who is responsible for filing the certificate depends upon the circumstances of death.

The funeral director, or person acting as such, who first assumes custody of the body is responsible for filing the Death Certificate. He or she must also submit a Notification of Death to the local registrar in the county where the death occurred and must do so within 24 hours of taking custody of the body or fetus.

The Notification of Death must include the following information:

- ✓ The name of the attending physician responsible for medical certification, or
- ✓ The name of the medical examiner, if the death is under his or her jurisdiction
- ✓ A certification that the medical examiner has released the body for final disposition

The place of filing the death certificate is determined by the location of the death

- In the county where the death occurred
- In the county in which the body was found if the location of the occurrence of death is unknown
- In the county where the body was first removed from a conveyer if the death occurred in a moving conveyer (e.g. vehicle, airplane, train)

The information to be included in the Death Certificate is to be obtained from the next of kin or the individual with the most reliable information.

The State Registrar governs the administration of vital records. The death certificate requirements are found at [10A NCAC 41H](#) and NCGS 130A-112 through 118. Only forms approved by the State Registrar may be used. The contents of the death certificate are specified by the federal agency responsible for the national vital statistics. Federal regulations dictate the minimum information to be set forth in a Death Certificate. Effective January 1, 2014 North Carolina will use the federal form DHHS 1872. The form which is

submitted for filing cannot be a copy or a duplicate. The information must be consistent and proper.

There are times when a cause of death is noted in the death certificate and later it is determined that there exist additional factors which caused the death. In this case, the certificate must be amended to include any supplemental information supporting the cause of death. The amendment is to be attached to the original. This must be done using the form issued by the State Registrar and designed for that purpose. The registrar will mark on the face of the certificate "cause amended" and the date of the amendment.

If there is an error on the certificate, the State Registrar may correct the errors by request of the individual or institution responsible for filing the original certificate, or by his or her own observation. Errors may be corrected by the local registrar until such time as the certificate has been officially filed with the North Carolina Vital Records section of the North Carolina Department of Health and Human Services (DHHS). After the death certificate has officially been filed with the Vital Records section, it may only be corrected by following process adopted by the State Registrar. In order to keep records consistent in both the state and local registrar offices, the registrar which made the correction must file the corrected form with the other, be it the local registrar or the State Registrar. A notation on the certificate must be made stating "Corrected Certificate" with further notations of the date of the correction, the items corrected and the signature of the appropriate registrar.

The funeral director (or person acting as such) must also obtain a medical certificate from the attending physician if one was involved in the treatment of the deceased. After January 1, 2014 the medical certificate will be included on the certificate of death. An incomplete certificate of death may be filed by the funeral director if such information is not available to the director filing the certificate. However, the death certificate MUST have the signature of the attending physician (or the nurse practitioner or physician's assistant if so authorized by the attending physician) or medical examiner. The missing information must be provided to the registrar within 30 days.

By law, hospitals and institutions are required to follow a procedure for assisting funeral directors in completing death certificates. The information required to be provided is, at minimum,

- ✓ The name of the deceased
- ✓ The name of the attending physician or medical examiner
- ✓ The date of death.

Where the death is certified by an attending physician, you must obtain a death certificate signed by the attending physician (or other individual properly authorized by the attending physician) prior to cremation.

If the medical examiner has jurisdiction, he or she must complete and sign the Certificate of Death. Effective January 1, 2014 a new section will be added to the certificate of death form [DHHS 1872] setting forth the medical examiner certification. In circumstances where a medical examiner is required to sign, the crematory must receive and maintain the cremation authorization form signed by a medical examiner. The Chief Medical Examiner has the authority to amend a medical examiner death certificate. NCGS 130A-385(c).

In order for certificates to be considered complete and acceptable for registration with the State Registrar of Vital Statistics, each certificate shall:

- (1) be filed on forms prescribed and distributed by the State Registrar,
- (2) not be marked "copy" or "duplicate",
- (3) not be a duplicate copy except for marriage and divorce certificates,
- (4) not contain improper or inconsistent data,
- (5) be prepared in conformity with regulations, or instructions issued by the State Registrar.

Concerning certified copies of death certificates, the regulation set forth at [10A NCAC 41H.0604](#) states that whenever it is physically

possible, a certified copy of a death certificate must be a photocopy. If it is not possible, then it can be typed on a form which approximates the form on which the original certificate was filed. It must include all the supplemental causes of death as an attachment, if any exist.

Attending Physician and the Certification of Death

The code sets forth the following concerning the Attending physician's responsibility to document and certify the cause of death:

Except for deaths caused by conditions under the jurisdiction of the medical examiner, the physician who last treated the deceased is responsible for completing the medical certification of the death certificate, unless there is evidence or indication that the cause of death is unrelated to the previous diagnosis and treatment. If the attending physician is unavailable, the certificate shall be signed by the physician who pronounced death (if he can reasonably determine the cause) or by an associate physician or physician on call for the attending physician if medical records of the deceased are available and if the cause of death is reasonably ascertainable from the records and circumstances preceding death. 10A NCAC 41H .0503

Inspection Issues

All records are subject to inspection, upon request, by the Board of Funeral Service or its agents. Omissions in proper documentation can lead to license suspension, penalties, fines and/or probation.

Some commonly discovered omissions found during such inspections include:

- Death certificates lacking statutorily required information
- Incomplete NCBFS-56 Forms
- Authorization of Cremation forms which are incomplete

Inspection findings reports

After an inspection has been performed by a Board inspector the findings are recorded and filed with the Board on forms created by the Board. The form is to include:

- ✓ The name and address of the crematory
- ✓ The names of the crematory owner and manager
- ✓ Acknowledgement of the findings of inspector
- ✓ The date for compliance

- ✓ Verification by the crematory licensee that any violations have been corrected
- ✓ The date of the verification
- ✓ Other information as the Board deems necessary

Verification that violations have been corrected must be received by the Board within seven days after the date for compliance. 21 NCAC 34C.0105

All completed forms relating to receipt and delivery of human remains must be maintained by crematories and funeral establishments and made available for inspection or copying by the Board inspector upon request. 21 NCAC 34C .0303 (f).

Chapter 8

Final Disposition: Cremation Procedures

In order to perform a cremation, the necessary documentation must first be in place. No cremation may be performed before the expiration of 24 hours after the time of death and without first receiving the following items:

- ✓ A signed death certificate, to include at minimum:
 - Name of the deceased
 - Date of birth
 - Date of death
 - Gender
 - Place of death – address of place or facility, name of the city, name of the country
 - Time of death (if known)
- ✓ A properly executed authorization form signed by the legally authorized agent and the signature(s) of one of the following:
 - The funeral director
 - If no funeral director then two witnesses with notarized signatures
- ✓ Where required, a signed copy of the medical examiner's authorization which will be included as a section in the revised certificate of death effective January 1, 2014

Condition of Body Prior to Cremation

It is unlawful to knowingly cremate a body which has a pacemaker, defibrillator or other potentially hazardous implant in it. If

the funeral director is informed of the presence of a pacemaker, defibrillator or other potentially hazardous implant in the human remains then it is the responsibility of the funeral director to ensure that all necessary steps have been taken to remove the hazard before delivering the human remains to the crematory. It is the authorizing agent's responsibility to both inform the funeral director and the crematory of the existence of the hazard, as well as to assure steps are taken for the removal of the hazard prior to cremation. The authorized agent is not responsible if he or she does not know, or did not have reason to know of the existence of the hazardous implant.

A body cannot be cremated prior to the expiration of 24 hours after the time of death. There are some exceptions which include:

- The death was a result of an infectious, contagious, or communicable and dangerous disease (defined by the Commission for Public Health at [10A NCAC 41A .0101](#))
- AND-
- Such time requirement is waived in writing by the medical examiner, county health director or attending physician where the death occurred.

Viewing of Cremation and Cremation Chamber

Only those persons, who are authorized, shall be permitted in view of the cremation chamber in the holding and processing facility while any human remains are being processed by the crematory operator. Possible authorized persons include

- Relatives of the deceased and those they invite
- The authorizing agent and those invited by the agent
- Medical examiners
- Inspectors of the North Carolina Board of Funeral Service
- Law enforcement officers in execution of their duties

Any authorized persons remain subject to the rules adopted by the crematory licensee directed to maintain the safety of such individuals.

Special accommodations: Religious Practices-

If the Authorizing Agent specifies in writing that religious practices conflict with Article 13 of [NCGS §90-210](#), then the crematory licensee must observe those religious practices to the extent that they do not interfere with cremation in a licensed crematory or the required documentation and record keeping.

Post Cremation

The crematory licensee may store or retain cremated remains as directed by the authorizing agent. The disposition of the cremated remains is the responsibility of the authorized agent. If the agent does not specify the final disposition, or claim the cremated remains within 30 days, then the licensee may release the cremated remains to another family member upon written notification sent by certified mail to the authorized agent.

Chapter 9

Facilities & Containers

Facilities – Physical Requirements

The regulations are very specific about the requirements for the facilities. A detailed understanding of the standards to be met by crematories concerning containers and facilities can be gained by review of 21 NCAC 34C .0201 which sets forth:

Every crematory shall have the following:

- (1) A holding facility of suitable size to accommodate all human remains which are retained and awaiting cremation.
- (2) A commercially-manufactured cremation unit, within the crematory, made specifically for the cremation of human remains, meeting the following minimum standards:
 - (a) An ash collection pan to minimize commingling of cremated remains of one human remains with another.
 - (b) A hearth or floor without depressions so as to minimize commingling of cremated remains of one human remains with another.
 - (c) A door safety switch to stop the burner operation when the front charging door is opened.
 - (d) A pollution monitoring system to monitor and detect smoke when the density exceeds applicable federal and state standards, whereupon the system will automatically stop the burner operation on a time setting of not less than three minutes.
 - (e) Approval by Underwriters Laboratory or a comparable testing agency.
- (3) A commercially-manufactured processor, within the crematory, made specifically for the pulverization of cremated remains, meeting the following minimum standards:
 - (a) Capable of consistently processing cremated remains to unidentifiable dimensions.
 - (b) A dust-resistant processing chamber.
 - (c) An exterior surface made of easily cleaned, non-corrosive material.

All cremation facilities must keep a refrigeration unit which has the capacity to store at minimum three adult human bodies. Any

human remains which have not been embalmed and are in the custody of the crematory licensee for more than 24 hours prior to cremation must be kept in a refrigeration unit. The regulation dealing with refrigeration, 21 NCAC 34C .0202, further states that:

Each refrigeration unit required by this Rule shall meet the following minimum standards:

- (1) Capable of maintaining an interior temperature of 40 degrees Fahrenheit while loaded with the maximum number of bodies for which it is designed.
- (2) Sealed concrete, stainless steel, galvanized, aluminum or other easily cleaned flooring in walk-in units.
- (3) Stainless steel, aluminum or other non-corrosive and easily cleaned materials for the remainder of the interior of all units.

The North Carolina Board of Funeral Service is authorized to inspect the facilities for cleanliness and the crematory licensee must make the facilities available for inspection at all times. 21 NCAC 34C .0206 states that:

All areas of the crematory and holding facility devoted to the reception, storage and cremation of human remains and to the pulverization and delivery of cremated remains, and all equipment located therein, shall be kept in good repair and in a sanitary condition and subject to inspection by the Board or its agents at all times.

Containers

A cremation container must be used to enclose the human remains during the process of cremation. The containers in which the cremated remains are placed must be labeled at the time the remains are placed in the container. Prior to cremation, the container holding the remains must be labeled with

- the name of the decedent
- the date of death
- the gender of the decedent
- the age of the decedent at the time of death

This applies to both temporary and permanent containers and urns. If an inside and outside container are used, then both containers must be labeled. 21 NCAC 34C .0205 requires that the label contain the following information:

- the name of the decedent,
- the date of cremation, and
- the name of the crematory

This is in addition to the requirements of NCGS 90-210.29A which requires that a tag of durable, non-corroding material be affixed to the inside of the temporary container or urn and that the tag be permanently marked with

- the name of the deceased
- the date of death
- the social security number of the deceased
- the county and state of death
- the site of interment or entombment

Licensees are prohibited from making any requirement of their clients that a casket be used for cremation and they cannot refuse to cremate human remains solely because the body is not in a casket. Additionally, licensees cannot require that the cremated remains be placed in an urn or receptacle designed to permanently encase the cremated remains after the cremation process has been performed.

Chapter 10

Other Considerations

Licenses

Licenses, certificates, duplicates and renewal must be conspicuously displayed in the place where the licensee renders service.

Licensee must file their licenses in the office of the board of health of the county or city (or the superior court of the county) in which he or she practices. [90-210.25(c)(1)]

“Reason to Believe”

There are a number of situations which require that you report to the proper authority, usually, the Chief Medical Examiner. If you have “reason to believe” or “reason to know”, as the statute sets out, that any of these things have happened then it is best to report it to a medical examiner in the county where the body resides or to the Chief Medical Examiner.

- When a body is brought into North Carolina from another state and the death does not appear to have been properly investigated.
- When a body is brought into North Carolina from another state and there is an inadequate certificate of death.
- When it appears that death occurred under any suspicious, unusual or unnatural circumstance.

Criminal Liability

It is a felony which carries a fine of up to \$50,000 to intentionally falsify, forge, conceal, deface or obliterate a document of anatomical gift, an amendment or revocation of a document of anatomical gift or a refusal in order to obtain a financial gain. [See NCGS §130A-412.19.] It is also a felony of to purchase or sell a body part for valuable consideration if it is intended to be removed after the individual's death. [NCGS 103A-412.18.]

Chapter 11

Things to Remember

The crematory services offered to the individuals and families requiring them are ones which define human existence....that we care for one another. How we deal with each other in this industry should reflect the integrity with which the business is run. Cooperation and compliance are the keys to good business. Funeral homes are responsible to their clients for the performance of the crematory services whether handled directly by the funeral home or indirectly by use of a third party crematory service provider.

Both funeral establishments and crematory establishments should work together to create a respectful and law abiding partnership in service to the individuals and families of the deceased. To facilitate this cooperation, funeral homes must establish and follow policies and procedures which ensure that all documentation is in order prior to releasing the remains of the decedent to the crematory. Documentation of each step of the process, through and including the delivery of the cremated remains to the authorized agent, is requisite. All are well served when rules are followed, procedures are in place and documentation is made, assuring compliance with both the law and the needs of your client.

APPENDIX

Forms

The following forms referenced in these guidelines are made available to the funeral service community through the North Carolina Board of Funeral Services website and can be found at the referenced links. The forms are also included in this section for viewing convenience.

- Required Items for Cremation Authorization Form <http://www.ncbfs.org/1CRemReqAuth.pdf>
- Model Cremation Authorization Forms <http://www.ncbfs.org/1CremAthmod.pdf>
- Crematory inspection For (BFS-54) <http://www.ncbfs.org/pdf/bfs54.pdf>
- Cremation Waiting Period Waiver (BFS-55) <http://www.ncbfs.org/1bfs55.pdf>
- Crematory Receipt of Remains (BFS-56A) <http://www.ncbfs.org/1BFS56A.pdf>
- Record of Cremation Form (BFS-56B) <http://www.ncbfs.org/1BFS56B.pdf>
- Crematory Delivery of Cremated Remains (BFS-56C) <http://www.ncbfs.org/1BFS56C.pdf>
- Funeral Establishment delivery of Cremated Remains (BFS-56D) <http://www.ncbfs.org/1BFS56D.pdf>
- Physician's Statement for Cremation of Amputated Body Parts (BFS-56E) <http://www.ncbfs.org/amputation.pdf>
- Physicians Statement for Cremation of Fetal Remains under 20 weeks Gestation (BFS-56F) <http://www.ncbfs.org/Fetal.pdf>
- Form combining information of forms 56-A,B,&C(new Form BFS-56G) <http://www.ncbfs.org/BFS-56G.pdf>
- Medical Examiner Authorization for Cremation http://www.ncbfs.org/1Auth%20for%20Cremation%201181%20rev03_2005.pdf
- Certificate of Death, revised and effective January 1, 2014, is appended to these guidelines

End Notes

i “Preneed Contract” is statutorily defined as any contract, agreement, or mutual understanding, or any series or combination of contracts, agreements, or mutual understandings, whether funded by trust deposits or prearrangement insurance policies, or any combination thereof, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, or mausoleum

ii NCGS § 104A-1. Degrees of kinship; how computed.

In all cases where degrees of kinship are to be computed, the same shall be computed in accordance with the civil law rule, as follows:

(1) The degrees of lineal kinship of two persons is computed by counting one degree for each person in the line of ascent or descent, exclusive of the person from whom the computing begins; and

(2) The degree of collateral kinship of two persons is computed by commencing with one of the persons and ascending from him to a common ancestor, descending from that ancestor to the other person, and counting one degree for each person in the line of ascent and in the line of descent, exclusive of the person from whom the computation begins, the total to represent the degree of such kinship.

(1951, c. 315; 1953, c. 1077, s. 2) ⁱⁱⁱ

10 U.S. Code §1481

(a) The Secretary concerned may provide for the recovery, care, and disposition of the remains of the following persons:

(1) Any Regular of an armed force under his jurisdiction who dies while on active duty.

(2) A member of a reserve component of an armed force who dies while—

(A) on active duty;

(B) performing inactive-duty training;

(C) performing authorized travel directly to or from active duty or inactive-duty training;

(D) remaining overnight immediately before the commencement of inactive-duty training, or remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training;

(E) staying at the member’s residence, when so authorized by proper authority, during a period of inactive duty training or between successive days of inactive duty training;

(F) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training; or

(G) either—

(i) serving on funeral honors duty under section [12503](#) of this title or section [115](#) of title [32](#);

(ii) traveling directly to or from the place at which the member is to so serve; or

(iii) remaining overnight at or in the vicinity of that place before so serving, if the place is outside reasonable commuting distance from the member’s residence.

[(3) Repealed. [Pub. L. 99-661](#), div. A, title VI, § 604(e)(3)(B), Nov. 14, 1986, [100 Stat. 3877](#).]

(4) Any member of, or applicant for membership in, a reserve officers' training corps who dies while

(A) attending a training camp,

(B) on an authorized practice cruise,

(C) performing authorized travel to or from such a camp or cruise, or

(D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel.

(5) Any accepted applicant for enlistment in an armed force under his jurisdiction.

(6) Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death.

(7) A person who—

(A) dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days; or

(B) is not covered by subparagraph (A) and, while in a retired status by reason of eligibility to retire under chapter [61](#) of this title, dies during a continuous hospitalization of the person that began while the person was on active duty as a Regular of an armed force under the Secretary's jurisdiction.

(8) Any military prisoner who dies while in his custody.

iv **§130A-113. Permits for burial-transit, authorization for cremation and disinterment-reinterment.**

(a) The funeral director or person acting as such who first assumes custody of a dead body or fetus which is under the jurisdiction of the medical examiner shall obtain a burial-transit permit signed by the medical examiner prior to final disposition or removal from the State and within five days after death. (b) A dead body shall not be cremated or buried at sea unless the provisions of G.S. 130A-388 are met.

(c) A permit for disinterment-reinterment shall be required prior to disinterment of a dead body or fetus except as otherwise authorized by law or rule. The permit shall be issued by the local registrar to a funeral director, embalmer or other person acting as such upon proper application.

(d) No dead body or fetus shall be brought into this State unless accompanied by a burial-transit or disposal permit issued under the law of the state in which death or disinterment occurred. The permit shall be final authority for final disposition of the body or fetus in this State.

(e) The local registrar shall issue a burial-transit permit for the removal of a dead body or fetus from this State if the requirements of G.S. 130A-112 are met and that the death is not under the jurisdiction of the medical examiner. (1973, c. 873, s. 2; 1977, c. 163, s. 2; 1983, c. 891, s. 2.)