

RS 37:877

§877. Authorization to arrange cremation; authorization to cremate; refusal to arrange a cremation; refusal to cremate

A. A funeral director shall have the authority to arrange the cremation of human remains upon the receipt of a cremation authorization form that contains the information provided for in Subsection B of this Section.

B. A crematory authority shall have authority to cremate human remains when they are delivered by the funeral establishment and upon receipt of all of the following:

(1)(a) A cremation authorization form signed by an authorizing agent. Such form shall contain, at a minimum, the following information:

(i) The identity of the human remains and the time and date of death.

(ii) The name and license numbers of the funeral director and funeral establishment that obtained the cremation authorization.

(iii) Notification stating whether the death occurred as a result of a disease declared by the Louisiana Department of Health to be infectious, contagious, communicable, or otherwise dangerous to the public health, if known.

(iv) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(v) A representation that the authorizing agent has the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior or equal priority to that of the authorizing agent. If the authorizing agent is acting pursuant to a notarial testament or a written and notarized declaration made by the decedent, a copy of the testament or declaration shall be attached to the cremation authorization form.

(vi) Authorization for the crematory authority to cremate the human remains.

(vii) A warranty by the authorizing agent that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation retort or the crematory retort operator performing the cremation. The authorizing agent shall be ultimately responsible to ensure that any pacemakers or other hazardous implants are removed prior to cremation.

(viii) The name of the person or legal entity authorized to receive the cremated human remains from the crematory authority.

(ix) The manner in which disposition of the cremated human remains is to take place as determined in accordance with the provisions of R.S. 8:655, if known.

(x) A listing of any items of value to be delivered to the crematory authority along with the human remains and instructions for handling the items.

(xi) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except for those representations made by the funeral director pursuant to Item (b)(ii) of this Paragraph. The signature of the authorizing agent shall be one of the following:

(aa) Witnessed by a funeral director of the funeral establishment arranging the cremation.

(bb) Notarized by a notary public.

(cc) Executed before two witnesses who sign the cremation authorization form. The name and address of each witness shall be provided on the cremation authorization form.

(b)(i) Any person signing a cremation authorization form as an authorizing agent shall be deemed to warrant the truthfulness of any facts, except those representations made by the funeral director pursuant to Item (ii) of this Subparagraph, set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.

(ii) The cremation authorization form, other than preneed cremation forms, shall also be signed by a funeral director of the funeral establishment arranging the cremation. The funeral director shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. However, the information requested by Item (a)(i) of this Paragraph shall be considered to be a representation of the funeral director or funeral establishment that the human remains delivered to the crematory authority have been identified as the decedent listed on the cremation authorization by the coroner pursuant to Item (iii) of this Subparagraph or positively identified after a viewing of the remains or a photograph or other visual image of the remains by a person who is the authorizing agent or a member of the class of which the authorizing agent is composed or a designated representative thereof, unless the remains are from a spontaneous fetal death as defined in R.S. 40:32, in which case a viewing is not required if written identification is received when such remains are released to the funeral director. When visual identification by viewing the remains is not feasible, other positive identification of the decedent may be used including reliance upon identification made from photographs or other visual images of scars, tattoos, or physical deformities taken from the decedent's remains. The information requested by Item (a)(iii) of this Paragraph shall be considered to be a representation of the funeral director or funeral establishment of any information received by the funeral director or funeral establishment pursuant to R.S. 40:1271.2.

(iii) The coroner shall provide the identification of any dead body to the funeral director or funeral establishment to whom he relinquishes possession thereof, unless the coroner is not able to establish the identity of the dead body as

provided in R.S. 13:5715.

(2) A completed and executed burial-transit permit, as provided for in Chapter 1 of Part XXVI of the Sanitary Code provided for in Title 51 of the Louisiana Administrative Code.

(3) Any other documentation or permits as required by the state or any parish.

C. A copy of a cremation authorization form signed by the authorizing agent in accordance with either Subitem (B) (1)(a)(xi)(bb) or (cc) of this Section may be delivered by any means to the funeral establishment arranging a cremation, including facsimile or other electronic transmission. The signature of the authorizing agent includes an electronic signature as provided in R.S. 9:2601 et seq. A funeral director, funeral establishment, or cremation authority may rely on, without liability, a copy of a cremation authorization form to perform a cremation.

D. A funeral director may refuse to arrange a cremation and a crematory authority may refuse to accept a body or to perform a cremation.

Acts 2003, No. 1243, §2; Acts 2011, No. 16, §1; Acts 2014, No. 264, §1; Acts 2016, No. 143, §2, eff. May 19, 2016; Acts 2020, No. 329, §1, eff. June 12, 2020.