

RS 37:871

PART III. CREMATORY AND CREMATION REGULATION

§871. Unlawful practice; exception

A. No person shall cremate any human remains in any manner, engage in the practice of cremation, or operate a cremation retort without obtaining the proper license in accordance with the provisions of this Chapter.

B. No person shall cremate any human remains in a facility that is not licensed for such purpose in accordance with the provisions of this Chapter.

C. The provisions of this Part shall not apply to the Bureau of Anatomical Services, Louisiana State University Health Sciences Center. However, the crematory operated by the bureau shall be subject to an annual inspection by the board.

Acts 2003, No. 1243, §2.

RS 37:872

§872. Qualifications for licensure of a crematory retort operator; exception; compliance with other regulations

A. Any person who operates a crematory retort in this state shall obtain a license issued by the board.

B. In order to receive a license as a crematory retort operator, a person shall meet all of the following requirements:

(1) Be at least twenty-one years old, or is at least eighteen years old and is legally emancipated.

(2) Is found by the board to be of good moral character and possesses temperate habits.

(3) Is a graduate of a high school as evidenced by a diploma or general education development certificate.

(4) Has successfully completed a required training course as approved by the board.

(5) Has submitted evidence of the attainment of all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

(6) Has submitted the appropriate application as furnished and prescribed by the board along with the appropriate license fee as set forth by rule in accordance with R.S. 37:875.

C. However, when issuing a license as a crematory retort operator, the board may waive the requirements of Subsection B of this Section for any person who has been operating a crematory retort for at least one year prior to January 1, 2004.

D. A crematory retort operator shall be subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

Acts 2003, No. 1243, §2; Acts 2010, No. 372, §1.

RS 37:873

§873. Requirements for licensure of a crematory authority; location of crematory; compliance with other regulations

A. Any cemetery, funeral establishment, corporation, partnership, joint venture, or any other person or entity doing business in this state may erect, maintain, and operate a crematory in this state if he meets the requirements of this Section and obtains a license as a crematory authority from the board.

B. In order to obtain a license to operate a crematory in this state, a crematory authority shall do the following:

(1) Certify that all cremations are performed by a licensed crematory retort operator.

(2) Demonstrate, after proper investigation by the board, that the crematory meets all the requirements established by the board by rule with respect to licensed personnel, adequate facilities and buildings, and other necessary facilities.

(3) Submit evidence of the attainment of all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

(4) Submit the appropriate application on a form furnished and prescribed by the board along with the appropriate license fee as set forth by rule in accordance with R.S. 37:875.

C. A crematory may be constructed on or adjacent to any cemetery, in or adjacent to any funeral establishment, or at any other location that is in compliance with local zoning regulations and state laws.

D. A crematory authority shall be subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

Acts 2003, No. 1243, §2.

RS 37:874

§874. Annual renewal of licenses

A. Every licensed crematory retort operator who continues to practice in this state shall renew his license on or before May fifteenth of each calendar year by submitting the appropriate renewal application as required by the board along with the appropriate renewal fee set forth by rule in accordance with R.S. 37:875.

B. Every licensed crematory authority which continues to operate in this state shall renew its license on or before May fifteenth of each calendar year upon submission of the following to the board:

(1) A renewal application on a form prescribed by the board.

(2) An annual report, which indicates any changes which have occurred since the initial application or prior renewal application or that no changes have occurred.

(3) The appropriate renewal fee as set forth by rule in accordance with R.S. 37:875.

C. Any crematory retort operator or any crematory authority whose renewal application, renewal fee, and, if applicable, annual report is not received by the board by May fifteenth of each year shall be deemed delinquent. A notice of delinquency shall be sent via certified mail to the crematory retort operator or crematory authority by the board. The notice shall state that the deadline for renewal has lapsed and that if the crematory retort operator or crematory authority intends to renew, the renewal fee, the renewal application, and, if applicable, annual report shall be submitted to the board within five business days of receipt of the notice. No penalties, reinstatement fees, or late fees shall be assessed and no reinspection shall be required if the crematory retort operator or crematory authority submits the renewal fee, the renewal application, and, if applicable, the annual report within five business days of receipt of the notice. If the board does not receive the renewal fee, the renewal application, and, if applicable, annual report within the five business days provided for by this Subsection, such crematory retort operator or crematory authority shall be subject to any penalty, reinstatement fees, or late fees authorized by law.

D. A renewal fee, application, or annual report sent through the mail shall be deemed timely received if mailed on or before the due date. If received by the board after the due date, the timeliness of the mailing shall be shown by an official United States postmark or by official receipt or certificate from the United States Postal Service or a commercial mail service, made at the time of mailing that indicates the date thereof.

Acts 2003, No. 1243, §2; Acts 2017, No. 251, §1, eff. June 14, 2017.

RS 37:875**§875. Fees**

The board is authorized to adopt rules in accordance with the Administrative Procedure Act to impose and collect fees which shall not exceed the following:

- | | |
|--|-------------|
| (1) Initial crematory retort operator license | \$ 250.00 |
| (2) Annual renewal of crematory retort operator license | \$ 80.00 |
| (3) Initial crematory authority license | \$ 1,000.00 |
| (4) Annual renewal of crematory authority license | \$ 700.00 |
| (5) Inspection or reinspection for initial, location, or ownership change of crematory authority license | \$ 500.00 |

Acts 2003, No. 1243, §2; Acts 2004, No. 133, §1.

RS 37:876**§876. Authorizing agent; notarial testaments and notarized declarations**

A. The following persons, in the priority listed, have the right to serve as an authorizing agent for cremation:

(1) Any person arranging the cremation, if the decedent has given specific directions in the form of a notarial testament or a written and notarized declaration providing for disposition of his remains by cremation.

(2) The person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

(3) The surviving spouse, if there is no pending petition for divorce filed by either spouse prior to the death of the decedent spouse.

(4) A majority of the surviving adult children of the decedent.

(5) A majority of the surviving adult grandchildren of the decedent.

(6) The surviving parents of the decedent.

(7) A majority of the surviving adult siblings of the decedent.

(8) A majority of the surviving adult persons respectively in the next degree of kindred as provided in Civil Code Articles 880 et seq.

B. Notwithstanding the provisions of Subsection A of this Section, if the coroner releases the remains of a decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person may serve as the authorizing agent for cremation.

C. If the required authorization cannot be obtained, a final judgment of a district court shall be required.

D. Notwithstanding the provisions of Subsection A of this Section, in the case of those individuals whose disposition is the responsibility of the state or any of its instrumentalities, a public administrator, medical examiner, coroner, state-appointed guardian, or any other public official charged with arranging the disposition of the decedent may serve as the authorizing agent.

E. No person is allowed to serve as an authorizing agent when a decedent has left written instructions in a notarial testament or notarized declaration that he does not wish to be cremated.

F.(1) If the decedent died in a manner described by 10 U.S.C. 1481 (a)(1) through (8) while serving in any branch of the United States Armed Forces, the United States Reserve Forces, or National Guard, and the decedent executed a United States Department of Defense Record of Emergency Data, known as DD Form 93, or its successor form, the right to serve as an authorizing agent for cremation shall devolve upon the Person Authorized to Direct Disposition, also referred to as the PADD, as indicated on the DD Form 93 or its successor form.

(2) There is no liability for a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of any of them to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent for conduction of a cremation of the decedent's remains, pursuant to the instructions of the PADD as indicated on the DD Form 93, or for relying on the representation of the PADD that the decedent died in a manner described in Paragraph (1) of this Subsection.

G.(1) In the event that the decedent has made multiple notarial testaments or notarized declarations pursuant to Subsection A of this Section, the notarial testament or notarized declaration, whichever is dated last, shall control.

(2) In the event that the decedent has made one or more notarial testaments or notarized declarations pursuant to Subsection A of this Section, and the decedent executed a DD Form 93 and died in a manner described in Subsection F of this Section, the notarial testament, declaration, or the

DD Form 93, whichever is dated last, shall control the right to serve as an authorizing agent for cremation.

Acts 2003, No. 1243, §2; Acts 2015, No. 270, §3, eff. July 1, 2015; Acts 2016, No. 143, §2, eff. May 19, 2016.

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.

RS 37:878

§878. Cremation containers

A. Human remains shall be delivered to a crematory in a cremation container, which may be a casket. Human remains shall not be removed from the cremation container, and the cremation container shall be cremated with the human remains.

B. No crematory authority shall require that human remains be placed in a casket before cremation or that such remains be cremated in a casket.

Acts 2003, No. 1243, §2.

RS 37:879

§879. Cremation procedures; pacemakers; cremation retorts; refusal to accept a cremation container; unauthorized persons in crematory; simultaneous cremation of the human remains of multiple persons; cremation residue; packaging and delivery of cremated human remains

A. If an authorizing agent informs the funeral director and the cremation authority on the cremation authorization form of the presence of a pacemaker or other hazardous implants in the human remains, then the funeral establishment and the funeral director shall also be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or other hazardous implants before delivering the human remains to the crematory.

B. Cremation retorts in licensed crematories operating in this state shall be used exclusively for the cremation of human remains.

C. The human remains shall not be received by the crematory authority for cremation until all authorization documents as required by R.S. 37:877 to cremate have been received in writing from the authorizing agent.

D. A crematory authority shall not be required to accept for cremation a cremation container or a casket from which there is evidence of leakage of the body fluids from the human remains therein.

E. No unauthorized person, as determined by the crematory authority, shall be permitted in a crematory while any human remains are in the crematory awaiting cremation, being cremated, or being removed from the cremation retort. However, nothing in this Section shall preclude attendance at the cremation, if specific practices and beliefs of religious groups dictate participation in the cremation process.

F. The simultaneous cremation of the human remains of more than one adult person within the same cremation retort is prohibited.

G. The simultaneous cremation of the human remains of one adult and one or more children shall not be performed, unless the crematory authority has received specific written authorization from all authorizing agents for the human remains to be so cremated. For those cremations performed pursuant to a written authorization as authorized by this Subsection, the written authorization shall exempt the crematory authority from all liability for commingling of the cremated human remains during the cremation process.

H. Each crematory authority shall maintain proper identification of the remains.

I. Upon completion of the cremation, all of the recoverable residue of the cremation process shall be removed from the cremation retort. All residue of the cremation process shall then be separated from anything other than bone fragments, and such bone fragments shall then be processed to reduce them to unidentifiable particles. Anything other than the unidentifiable particles shall be removed from the cremated residuals and shall be properly disposed of by the crematory authority, unless otherwise directed by the authorizing agent.

J. Cremated human remains shall be packaged according to the following provisions of this Subsection:

(1) If proper authorization has been obtained from the authorizing agent, the properly identified cremated human remains shall be placed within the temporary container or urn ordered by the authorizing agent. The temporary container or urn contents shall be packaged in clean packing materials and shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent.

(2) When a temporary container is used to return the cremated human remains, the outside of the container shall be clearly identified with the name of the deceased person whose cremated human remains are contained therein, the name of the crematory authority, and an indication the

container is a temporary container.

(3) If the cremated human remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated human remains shall be returned to the authorizing agent or his representative in a separate container attached together with the first container or urn with both being marked as being together.

(4) If the cremated human remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent shall be packed securely in a suitable, sturdy, and pressure resistant container which is not fragile and is secured properly. Cremated human remains shall be shipped by a shipper who agrees to ship cremated remains and only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

K. Cremated human remains shall be made available by the funeral establishment or the crematory authority to the person or legal entity specified on the cremation authorization form. A representative of the funeral establishment or crematory authority and the person or representative of the legal entity receiving the cremated human remains shall sign a receipt indicating the name of the deceased, the date, time, and place of the person's or representative's receipt of the cremated human remains, and any other information set out in the rules and regulations governing crematories to establish a chain of custody. A copy of the receipt shall be retained by the funeral establishment or crematory authority whose respective representative delivers the cremated human remains to the person or representative of the legal entity specified on the cremation authorization form. After this delivery, the cremated human remains may be transported in any manner in this state, with a copy of the burial-transit permit, and disposed of in accordance with the provisions of this Chapter.

Acts 2003, No. 1243, §2; Acts 2016, No. 143, §2, eff. May 19, 2016.

RS 37:880

§880. Disposition of cremated human remains; refusal to release cremated human remains; prohibited activities

A.(1) Cremated human remains shall be disposed of in accordance with the provisions of R.S. 8:655.

(2) If a funeral director, funeral establishment, or crematory authority is aware of any dispute concerning the release or disposition of the cremated human remains, the funeral director, funeral establishment, or crematory authority may refuse to release the cremated human remains until the dispute has been resolved or the funeral director, funeral establishment, or crematory authority has been provided with a court order authorizing the release or disposition of the cremated human remains.

B.(1) If, after a period of sixty days from the date of cremation, the person who controls the right of disposition has not completed his responsibility of disposition or claimed the cremated human remains, the crematory authority, funeral establishment, or the person in possession of the cremated human remains may dispose of the cremated human remains in any manner permitted by law.

(2) The person who controls the right of disposition shall be responsible for reimbursing the crematory authority, funeral establishment, or person in possession of the cremated human remains for all reasonable expenses incurred in disposing of the cremated human remains pursuant to this Section. A record of such disposition shall be made and kept by the person making such disposition.

(3) Upon disposing of cremated human remains in accordance with this Section, the crematory authority, funeral establishment, or person in possession of the cremated human remains shall be discharged from any legal obligation or liability concerning such cremated human remains or disposition thereof.

(4) The provisions of this Subsection shall apply to all cremated human remains in the possession of a crematory authority, funeral establishment, or other party on August 15, 2003.

C. Cremated human remains shall be removed from their closed container before being scattered and shall be scattered in accordance with the laws of this state.

D. ~~Except with the express written permission of the person who controls the right of disposition, no person shall do either of the following:~~

(1) Place cremated human remains of more than one person in the same closed container.

The provisions of this Paragraph shall not apply to placing the cremated human remains of members of the same family in a common closed container designated for the cremated human remains of more than one person.

(2) Dispose of or scatter cremated human remains in such a manner or in such a location that the cremated human remains are commingled with those of another person. The provisions of this Paragraph shall not apply to the scattering of cremated human remains at sea or by air from individual closed containers or to the scattering of cremated human remains in an area located in a dedicated cemetery or privately owned property.

Acts 2003, No. 1243, §2.

RS 37:881

§881. Refusal to grant or renew licenses; revocation or suspension; grounds; hearings

A. The board may refuse to grant or refuse to renew, or may suspend or revoke any license when the applicant or licensee is found guilty of any of the acts or omissions set forth in R.S. 37:846(A).

B. When considering the revocation or suspension of a license, petitions shall be filed, notices shall be given, and hearings shall be conducted in accordance with the provisions of R.S. 37:846(B).

Acts 2003, No. 1243, §2.

RS 37:882

§882. Violations; penalties; hearings; subpoenas

A. Whoever violates any of the provisions of this Part shall be subject to the same penalties provided for in R.S. 37:850.

B. Hearings for violations of the provisions of this Part shall be conducted and subpoenas shall be issued in accordance with the provisions of R.S. 37:847.

Acts 2003, No. 1243, §2.

RS 37:883

§883. Liability; authorizing agent; funeral director, funeral establishment, and crematory authority; refusal to arrange or perform a cremation; refusal to release cremated human remains

A. Except for those representations made by a funeral director pursuant to R.S. 37:877(B)(1)(b)(ii), any person signing a cremation authorization form as an authorizing agent shall be personally and individually liable for all damage occasioned thereby and resulting therefrom. A crematory authority and a funeral director shall rely upon the representations of the authorizing agent in the cremation authorization form.

B. There shall be no liability for a funeral director, funeral establishment, or crematory authority that, pursuant to a crematory authorization, arranges a cremation, cremates human remains pursuant to such authorization, or releases or disposes of the cremated human remains pursuant to such authorization.

C. There shall be no liability for a funeral director, funeral establishment, or crematory authority in relying on information provided by the coroner or health care providers pursuant to R.S. 37:877(B)(1)(b)(iii) and R.S. 40:1099.1 or their failure to provide such information.

D. There shall be no liability for a funeral director, funeral establishment, or coroner for permitting an authorizing agent or designated representative thereof, or any interested party, to view human remains for the purpose of identification.

E. A crematory authority shall not be responsible or liable for the commingling of cremated human remains if it has received a written authorization pursuant to the provisions of R.S. 37:879(G).

F. A crematory authority or any other person in possession of cremated human remains for a period of sixty days from the date of cremation shall not be responsible or liable for the disposition of the cremated human remains if such remains have been disposed of in accordance with the provisions of R.S. 37:880(B).

G. A crematory authority shall not be responsible or liable for any valuables delivered to the crematory authority with human remains.

H. If a funeral director refuses to arrange a cremation or a crematory authority refuses to accept a body or to perform a cremation in accordance with R.S. 37:877(C), neither the funeral director nor the crematory authority shall be liable for refusing to accept a body or to perform a cremation.

I. If a funeral director, funeral establishment, or crematory authority refuses to release or dispose of cremated human remains in accordance with R.S. 37:880(A)(2), then such persons or entities shall not be liable for their refusal to release or dispose of cremated human remains.

Acts 2003, No. 1243, §2; Acts 2011, No. 16, §1.

RS 37:884

§884. Administration; promulgation of rules and regulations by board and crematory authorities

A. The board may adopt, promulgate, amend, and repeal such reasonable rules and regulations in accordance with the Administrative Procedure Act as may be consistent with the provisions of this Chapter governing the cremation of human remains. Such regulations specifically shall include the conditions under which the human remains of persons dying from an infectious, contagious, communicable, or dangerous disease can be transported from any portion of the state to a crematory for the purpose of cremation, and minimum standards of sanitation, required equipment, and fire protection for all crematories which the board may deem necessary for the protection of the public.

B. A crematory authority may enact reasonable rules and regulations, not inconsistent with the provisions of this Chapter, for the management and operation of a crematory, the type of cremation containers it will accept, authorization forms required, witnesses to a cremation, and similar provisions. Nothing in this Subsection shall prevent a crematory authority from enacting rules and regulations which are more stringent than the provisions contained in this Chapter. Each crematory authority shall forward to the board a copy of the rules and regulations which it has adopted for the operation of its facility.

Acts 2003, No. 1243, §2.

RS 37:885

§885. Prearranged or prepaid cremation services

Any prearranged or prepaid cremation services shall be sold or distributed in accordance with the provisions of R.S. 37:861.

Acts 2003, No. 1243, §2.