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"HOW DO I KNOW THIS IS MY LOVED ONE?"

2/27/2018



In light of recent regulatory events, the consumer media is turning to all of us and asking the question that everyone in the cremation industry hears most often:

How do I know this is my loved one?

A Chain of Custody procedure is never more important than in moments like these. Here, you can demonstrate your commitment to a family and leave them with confidence to trust you with the care of their loved one. But what do we mean by chain of custody? Every step of your work in the handling of each case must be documented accurately and carefully: custody, control, transfer, analysis, and disposition. CANA recommends crematory facilities make a description of the cremation practice, policy, and procedures available to the family. And, even more importantly, the policy must be followed every time, no exceptions.

CHAIN OF CUSTODY

Many forms are used to document the steps in the cremation process. It may seem that some of the forms repeat the same information, but it is important to maintain complete, accurate, and cross-referenced records.

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every crematory operator must learn what laws specifically apply to their location(s).

But chain of custody goes beyond merely complying with regulations. A thorough and followed chain of custody demonstrates professionalism by establishing and adhering to policies and procedures consistent with industry best practices. Every step of the process needs to be performed in absolute accordance with policies and procedures that have been designed to prevent errors.

Once the remains are in the custody of the crematory, it is important to track and record every step of the cremation process. In the event that there are ever any questions about any case, you will be able to demonstrate that the remains were appropriately handled at every stage. Policies, procedures, forms and all of the paperwork in the world are worthless without compliance and consistency. Doing it the same way every time helps assure that mistakes are not made. If you never do it differently, you will do it right every time.

THE PAPERWORK

Documenting chain of custody is key to avoiding lawsuits for negligence in this area. Every step of the way must be recorded without exception, and the records must be archived and accessible if needed. Inaccurate, incomplete, or unfollowed documentation is worse than not having it.

Document retention and filing methods are important as well. If you can't find something, even if it was filled out perfectly, it doesn't exist.

THIRD PARTIES

Be thorough and complete with every entry every time. Write legibly when filling out forms. A document that you cannot read is worthless. If you leave a field blank it will raise a red flag. Was that field forgotten? Or was it really not applicable? If there is a space to record information and you either do not have that information or it doesn't apply to this individual, mark that fact down in the space.

If you use a third party for your cremation families, you must still prepare chain of custody procedures and require the crematory you work with to meet or exceed your standards. Ask to see their policies and tour their facility. Conduct random checks of the crematory and audit their paperwork as you would your own. You must be able to stand by the practices of their crematory and clearly describe the chain of custody to the families you serve.

If you operate as a third party crematory serving funeral homes, you know better than most the complications that can occur when working with a remote facility. Not only should any crematory working as a third party maintain the standards described above, but you must maintain your policies and follow the procedures for your various clients. Holding their staff to the standards you hold your own requires diligence. Keeping open communication and maintaining transparency allows your clients and their families to rest easy with loved ones in your care.

ASSESS YOUR STANDARDS

Despite the importance of maintaining clear and comprehensive documentation throughout every step of the process, too many facilities make the same types of easily avoided errors. Overconfidence in experience, employees spread too thin, sacrificing thoroughness for efficiency, and choosing the company over compliance are common errors but indefensible. A key thing to remember about liability risk is how small, seemingly minor lapses can have huge consequences for the operator and the facility.

How do you know your chain of custody meets appropriate standards? Walk through your documentation with a hypothetical case (like the one below) and make sure you track the remains throughout the entire process: from when you first take custody of the remains until they leave your control.

Management should perform regular audits of the crematory's record keeping to assure that all the procedures are being consistently performed. Because cremation has become the number one area of liability

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The decedent is Peggy Jones of Anywhere, USA. Peggy died alone in her home in July at the age of 62. Although she was married when she died, Peggy had been separated from her husband for 20 years. At the time of her death, Peggy was living with Mr. Smith, her partner of 18 years. Mr. Smith was traveling overseas when Peggy died, and thus, her remains were not discovered until several days after her death.

Peggy's remains were discovered when a neighbor noted an odor emanating from Peggy's home. The local authorities were notified, who in turn contacted your facility regarding the death.

ISSUE 1: IDENTIFICATION OF THE REMAINS AT REMOVAL

The medical examiner staff member was on scene when your removal team arrived. Having located Peggy's driver's license, the ME staff tagged the remains correctly, i.e., "Peggy Jones." However, the remains were verbally identified as "Peggy Jonas." The body bag contained a tag which also identified the deceased as "Peggy Jonas." Finally, although her given name was "Peggy," the ME staff prepared documents identifying the deceased as "Margaret" Jones. From the outset, Peggy's remains had been identified in three ways - two of which were inaccurate.

LESSON

The easiest way to cremate the wrong remains is improper identification.

What should have happened . . .

The removal staff should have personally examined the remains to confirm the identification affixed thereto. If any discrepancy among the documents, bag and tag affixed to the remains existed, then that discrepancy should have been resolved prior at removal.

ISSUE 2: TRACKING AND IDENTIFICATION OF REMAINS FROM REMOVAL TO CREMATORY

The remains were placed into refrigeration at your facility. The refrigeration log reflected that the remains of Peggy Jonas were placed into refrigeration at 8:42 a.m. Due to the uncertainty over the cause of her unattended death, Mr. Smith requested that a private autopsy be conducted by State U. State U logged the remains out of refrigeration at your funeral facility at 5:00 p.m. that same day, having presented documents identifying Peggy as M. Jones. State U logged Peggy's remains back into your care the following morning at 8:00 a.m., again, as M. Jones.

LESSON

Each and every document must identify the remains correctly.

What should have happened . . .

You should have ensured that Peggy's remains were identified correctly and in exactly the same way on each document making reference to them. Effective tracking and accurate cross-reference, is a must.

CREMATION IS PERMANENT

As it turns out, the language contained on nearly every cremation authorization form is true:

Cremation is an irreversible, unstoppable process.

Of course, one would think that the statement goes without saying, and yet, every cremation customer is reminded of the permanence of the cremation process. What makes the phrase worth repeating here, however, is that too often cremation providers fail to recognize the weight of the statement. Failing to follow standard practices jeopardize the trust of the cremation-buying public, as well as your license to practice.

By now, you may be thinking: "Any licensee that would make the type of mistakes described in this case doesn't deserve to serve the cremation buying public." But, mistakes just like these can be made every day, not from malice but from negligence and ignorance. Keep current on your state's requirements related to identification, authorization and disposition. Audit your procedures to make sure they are thorough and

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Excerpted from *The Cremationist*, Vol 54, Issue 1: “All Systems Go 4 Record-Keeping” by Larry Stuart, Jr. of Cremation Strategies & Consulting and CANA’s [Crematory Operations Certification Program™ \(COCP™\)](#) Module 4: *Chain of Custody*. Special thanks for Wendy Russell Weiner of Broad & Cassel for lending her experience and expertise with the case and important lessons we can all learn from.

Members can read the full article with specific recommendations paperwork to use and proper filing in Vol. 54, No. 1 Issue of *The Cremationist*. Not a member? [Consider joining](#) your business to access this and all archives of *The Cremationist* plus resources and statistics to help you find solutions for all aspects of your business -- only \$470.

Always obtain expert legal advice on policies and procedures for compliance and liability review. Contact CANA’s own Legal Counsel [Lara Price](#), Wendy Russell Wiener’s firm, Broad & Cassel, or any death care legal advisor. You can also learn more by contacting Cremation Strategies & Consulting for consultation on improving your systems.



Throughout his experience as President of Crematory Manufacturing & Service, Inc., **Larry Stuart, Jr.** has seen, first hand, the negative impact that poor crematory operations can bring about, both in the front and back of the house. Larry has written articles, developed cremation curricula, and spoken at numerous professional events. He has trained and certified thousands of cremation professionals across North America, all with a mission to advance the safety and efficiency of cremation facilities and the safety of their employees, and to foster a more positive impact on our community and our environment. As the founder of [Cremation Strategies & Consulting](#), Larry continues his mission to educate our industry peers, our customers, and the public about cremation, its history, its cultural significance as part of the funeral rite, its impact on the environment, and operational best practices.



Wendy Russell Wiener is a partner at [Broad and Cassel, LLP](#), and the chair of the regulatory department. Wiener practices regulatory insurance law and regulatory death care industry law, representing entities and individuals who interact with the administrative agencies that regulate all aspects of insurance and the death care industry. She represents clients in all types of licensing (for individuals and entities) and disciplinary matters, practice before the administrative tribunal, state and federal courts and interaction with regulators. Wiener is a member of the Federation of Regulatory Counsel (FORC), a limited group of lawyers who focus their practices on regulatory insurance law. She is a frequent contributor to the organization’s quarterly journal. Wiener is an active member of various professional and community organizations and is the former president of Temple Israel in Tallahassee. She is co-chair of the Tallahassee Jewish Food Festival and of the Southern Shakespeare Festival (Festival Day). She has served as past president of Raising a