

SPOTLIGHT

Proper Disposition of Unclaimed Cremated Remains

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The Occupational Code (the “Code”) and its associated administrative rules govern the practice of embalming, funeral directing, and mortuary science in the State of Michigan. The Code provides protection from civil liability to licensed funeral directors and funeral homes (licensees) concerning unclaimed cremated remains, provided that the licensees follow the procedures outlined in the Code. The Code defines “[u]nclaimed cremated remains” as:

[T]he cremated remains of a dead human body that has not been picked up or delivered to a person having the right to make decisions relating to the disposition of a decedent’s body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206 [EPIC]. MCL 339.1809(4)(a).

The purpose of this Bulletin is to alert licensees to what the Code considers a proper disposition and to what procedures the Code requires of them before proceeding with a proper disposition.

Six Month Waiting Period

No action may be taken regarding unclaimed cremated remains until at least six months have passed from the date of cremation. MCL 339.1809a(1).

Do the Cremated Remains Belong to a Veteran or a Veteran’s Spouse?

After unclaimed cremated remains are in the possession of a licensee for 6 months, the licensee should determine whether any of the unclaimed cremated remains are those of a veteran or their spouse. This is because what the Code considers to be a proper disposition differs for veterans and their spouses and for non-veterans. For non-veteran remains, the Code states that a proper disposition is the “interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state.” MCL 339.1809a(4)(b). For the cremated remains of a veteran or a veteran’s spouse, the Code states that a proper disposition includes the “interment, entombment, or inurnment in a cemetery designated solely for veterans by the United States department of veterans affairs or by the Michigan department of veterans affairs.” MCL 339.1809a(4)(b).

To determine which of the unclaimed cremated remains in its possession are those of veterans or their spouses, the Code states that a licensee may “compile a list of names of the unclaimed cremated remains held in his or her possession for 6 months or longer,” MCL 339.1809b(1), and “release [that] list . . . to any federally chartered veterans service organization” so that the organization can make a determination with the national cemetery association regarding whether the deceased individual “is eligible for proper disposition at a veterans cemetery” MCL 339.1809b(2). A Directory of veterans service organizations (VSOs) is available on the United States Department of Veterans Affairs website: <https://www.va.gov/vso/>. Note that, at the time of publication of this Bulletin, the Directory includes both congressionally chartered VSOs and VSOs

that are not congressionally chartered. The Code requires licensees to confirm the status of deceased individuals for which it possesses unclaimed cremated remains with a congressionally chartered VSO. MCL 339.1809b(2). Congressionally chartered VSOs are listed in Part I and Part II of the Directory; whereas, Parts III and IV contain lists of VSOs not congressionally chartered.

Written Notice to the Deceased's Loved One and 30-Day Waiting Period

Once a licensee determines which of the unclaimed cremated remains in its possession belong to veterans or their spouses, it must, before proceeding with a proper disposition, make "reasonable efforts to provide written notice of [its] intent . . . to the persons having the right to make decisions relating to the disposition of a decedent's body under [EPIC]." MCL 339.1809a(1) and MCL 339.1809b(3). While the Code does not state all the possible ways in which such reasonable efforts could be made, it does specifically state that it is sufficient for the licensee to mail the notice to the last known address of the person who has the right to make decisions related to the disposition of the unclaimed cremated remains. MCL 339.1809a(1). Licensees must then wait 30 days.

Transfer to an Appropriate Cemetery and Certification of Compliance

At the end of the 30-day waiting period, the licensee may transfer the unclaimed cremated remains to a cemetery in this state for non-veteran remains or to a cemetery designed solely for veterans for remains belonging to veterans or their spouses. MCL 339.1809a(1), MCL 339.1809a(4)(a), & MCL 339.1809b(3). Along with the unclaimed cremated remains, a licensee must also present to the cemetery a written statement certifying compliance with all statutory requirements. MCL 339.1809a(1). The certification should include, at a minimum, the following:

1. A statement by the licensee that the unclaimed cremated remains were in its possession for a minimum of six months,
2. that a proper determination was made regarding whether the remains are those of a veteran or the spouse of a veteran,
3. that reasonable efforts to provide written notice of the proper disposition were made to the persons having rights to make decisions related to the decedent's body under EPIC, and
4. that at least 30 days passed since that notice was sent.

Upon presentation of that certification to the cemetery, the licensee and cemetery may then proceed with the interment, entombment, or inurnment of the unclaimed cremated remains.

The Department and the Michigan Funeral Directors Association, https://associationdatabase.com/aws/MFDA/ebulletin/view_mail/119848/877062#Unclaimed, strongly encourage all licensees to follow the above procedure and to promptly proceed with making a proper disposition for any unclaimed cremated remains in its possession. However, it is especially imperative that licensees do so with respect to the unclaimed cremated remains of deceased veterans and their spouses. Due to their priceless sacrifice and commitment to service

during their lifetimes, when the family of veterans and their spouses have not made alternative arrangements, these individuals deserve the honor and respect of a proper disposition at a veteran's cemetery. Moreover, due to available federal benefits, a proper disposition can be made at a veteran's cemetery **at no cost to the licensee**. For more information on the burial benefits available to deceased veterans and their spouses see https://www.cem.va.gov/burial_benefits/.