

1 OFFICE OF ATTORNEY GENERAL

2 Office of Consumer Protection

3 (Amendment)

4 40 KAR 2:150. Cremation forms and inspections.

5 RELATES TO: KRS 213.081, 213.098, 367.93103, 367.93105, 367.93115, 367.93117,
6 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524,
7 367.97527, 391.010

8 STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.97501, 367.97504, 367.97534

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney
10 General to promulgate administrative regulations that will facilitate performing the duties and
11 exercising the authority vested in the Attorney General and the Department of Law. KRS
12 367.150(4) requires the Department of Law to recommend administrative regulations in the
13 consumers' interest. KRS 367.97501 and 367.97504 require the Attorney General to promulgate
14 an administrative regulation to establish an application for a crematory authority license and report
15 forms. KRS 367.97524 requires crematory authorities to obtain signed cremation authorization
16 forms before conducting any cremations. KRS 367.97534(5) authorizes the Attorney General to
17 promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to
18 367.97537, pertaining to crematory authorities. This administrative regulation prescribes the
19 license application form, and other forms, to be used by crematory authorities~~[establishes forms~~
20 ~~related to cremation as required by KRS 367.97501, 367.97504, and 367.97514].~~ This
21 administrative regulation establishes the records and information that shall be retained by [the]

1 crematory authorities [~~operators as identified in KRS 367.97504(5,)~~] and permits crematory
2 inspections by the Attorney General[~~establishes guidelines for crematory inspections regarding~~
3 ~~KRS 367.97504(1) and (5), 367.97511(4), 367.97514(5), and 367.97534~~].

4 Section 1. Crematory Authority License Application Form. An applicant for a crematory
5 authority license shall complete and submit a Crematory Authority License Application Form to
6 the Office of Attorney General before commencing business.

7 Section 2. Cremation Authorization Form. Licensed crematory authorities shall complete and
8 keep a Cremation Authorization Form for every cremation of human remains performed by
9 them.[~~The Cremation Authorization, Form CR-1, required by KRS 367.97524, shall contain:~~

10 (1) ~~The name of the crematory authority;~~

11 (2) ~~The address of the crematory authority, including the city, state, and zip code;~~

12 (3) ~~The telephone number of the crematory authority;~~

13 (4) ~~A statement informing the authorizing agent that it is the policy of the crematory authority~~
14 ~~that it will accept a declarant or decedent for cremation only after all necessary authorizations have~~
15 ~~been obtained, and all prerequisites to be performed by the state regarding the death have taken~~
16 ~~place and any required forms or permits are attached;~~

17 (5) ~~The name, address (including the city, state, and zip code), age, date of birth, and gender~~
18 ~~of the declarant or decedent, and the place and date of death;~~

19 (6) ~~Whether or not the declarant's or decedent's death was due to an infectious disease and, if~~
20 ~~so, an explanation;~~

21 (7) ~~A statement that pacemakers, radioactive, silicon or other implants, mechanical devices or~~
22 ~~prosthesis may create a hazardous condition if placed in cremation chamber and subjected to heat,~~

1 and that the authorizing agent instructs the crematory authority or funeral home to remove all
2 devices that may become hazardous during the cremation process;

3 (8) Whether the declarant's or decedent's remains contain any devices, including mechanical,
4 prosthetic, implants or materials, which may have been implanted in or attached to the declarant
5 or decedent, or any other device that may become hazardous during the cremation process;

6 (9) A description of any devices, including mechanical, prosthetic, implants, or materials, which
7 may have been implanted in or attached to the declarant or decedent, or any other device that may
8 become hazardous during the cremation process;

9 (10) A statement informing the authorizing agent of the following concerning identification of
10 the declarant or decedent:

11 (a) Kentucky law requires the individual's remains to be identified before cremation can take
12 place; and

13 (b) The individual making the identification may be the authorizing agent, a family member,
14 friend, coroner, or any other person who has personal knowledge of the decedent or the ability to
15 make positive identification and who accepts any liability arising from the identification;

16 (11) The name of the individual identifying the decedent's remains prior to cremation, the
17 relationship of that individual to the decedent, and the signature of the individual identifying the
18 body for cremation;

19 (12) Statements informing the authorizing agent of the following regarding cremation
20 authorization:

21 (a) The person legally entitled to order the cremation of a declarant or decedent is the
22 authorizing agent; and

1 ~~(b) The right to control the disposition of the remains of a declarant or decedent devolves~~
2 ~~according to the order of authority of classes of authorizing agents listed in subsection (13) of this~~
3 ~~section;~~

4 ~~(13) The selection of the class of authorizing agents having the right to authorize the cremation~~
5 ~~of the declarant's or decedent's body, in the following order of authority:~~

6 ~~(a) The individual executing a Funeral Planning Declaration, Form FPD-1 as incorporated by~~
7 ~~reference in 40 KAR 2:145, and that the original Funeral Planning Declaration shall be attached;~~

8 ~~(b) The person named as the designee or alternate designee in a Funeral Planning Declaration,~~
9 ~~Form FPD-1 as incorporated by reference in 40 KAR 2:145, and that the original Funeral Planning~~
10 ~~Declaration shall be attached;~~

11 ~~(c) The person named in a United States Department of Defense form Record of Emergency~~
12 ~~Data (DD Form 93) or a successor form adopted by the United States Department of Defense, if~~
13 ~~the decedent died while serving in any branch of the United States Armed Forces, and the original~~
14 ~~form shall be attached;~~

15 ~~(d) The decedent through a Preneed Cremation Authorization, Form CR-3 completed and~~
16 ~~executed before July 15, 2016, which was the effective date of the amendments to KRS 367.97501~~
17 ~~and 367.97527, which phased out the Preneed Cremation Authorization, Form CR3, and that the~~
18 ~~original Preneed Cremation Authorization, Form CR-3 shall be attached;~~

19 ~~(e) The surviving spouse of the declarant or decedent;~~

20 ~~(f) The surviving adult child of the declarant or decedent, or a majority of the adult children if~~
21 ~~more than one (1) adult child is surviving, or less than a majority of the surviving adult children~~
22 ~~by attesting in writing showing the reasonable efforts to notify the other adult surviving children~~
23 ~~of their intentions and that they are not aware of any opposition to the final disposition instructions~~

1 by more than half of the surviving adult children. The number of surviving adult children shall be
2 written in the completed Cremation Authorization, Form CR-1;

3 (g) The surviving parent or parents of the declarant or decedent, or if one (1) parent is absent,
4 the parent who is present has the right to control the disposition by attesting in writing showing
5 the reasonable efforts to notify the absent parent. The number of surviving parents shall be written
6 in the completed Cremation Authorization, Form CR-1;

7 (h) The surviving adult grandchild of the declarant or decedent, or a majority of the adult
8 grandchildren if more than one (1) adult grandchild is surviving, or less than a majority of the
9 surviving adult grandchildren by attesting in writing showing the reasonable efforts to notify the
10 other adult surviving grandchildren of their intentions and that they are not aware of any opposition
11 to the final disposition instructions by more than half of the surviving adult grandchildren. The
12 number of surviving adult grandchildren shall be written in the completed Cremation
13 Authorization, Form CR-1;

14 (i) The surviving adult sibling of the declarant or decedent, or a majority of the adult siblings if
15 more than one (1) adult sibling is surviving, or less than a majority of the surviving adult siblings
16 by attesting in writing showing the reasonable efforts to notify the other adult surviving siblings
17 of their intentions and that they are not aware of any opposition to the final disposition instructions
18 by more than half of the surviving adult siblings. The number of surviving adult siblings shall be
19 written in the completed Cremation Authorization, Form CR-1;

20 (j) The surviving individual or individuals of the next degree of kinship under KRS 391.010 to
21 inherit the estate of the declarant or decedent, or a majority of those in the same degree of kinship
22 if more than one (1) individual of the same degree is surviving, or less than a majority of the
23 surviving individuals of the same degree of kinship by attesting in writing showing the reasonable

1 efforts to notify the other individuals of the same degree of kinship of their intentions and that they
2 are not aware of any opposition to the final disposition instructions by more than half of the
3 individuals of the same degree of kinship. The number of surviving individuals of the same degree
4 of kinship, and a description of the relationship to the declarant or decedent, shall be written in the
5 completed Cremation Authorization, Form CR-1;

6 (k) If none of the persons listed in paragraphs (a) through (j) of this subsection are available,
7 one (1) of the following who attests in writing showing the good faith effort made to contact any
8 living individuals in an order of authority class described in paragraphs (a) to (j) of this subsection:

9 1. A person willing to act and arrange for the final disposition of the decedent; or

10 2. A funeral home that has a valid prepaid funeral plan that makes arrangements for the
11 disposition of the decedent's remains, if the funeral director makes the written attestation described
12 in this subsection; and

13 (l) The district court in the county of the decedent's residence or the county in which the funeral
14 home or the crematory is located;

15 (14) Statements informing the authorizing agent of the following regarding other rights and
16 responsibilities concerning cremations:

17 (a) The declarant or authorizing agent shall carefully read and understand the statements
18 described in this subsection before signing the authorization;

19 (b) The declarant or authorizing agent shall direct the crematory authority on the final
20 disposition of the cremated remains;

21 (c) The crematory authority shall not conduct any cremation nor accept a body for cremation
22 unless it has a Cremation Authorization, Form CR-1 signed by the authorizing agent clearly stating
23 the final disposition;

1 ~~(d) The original form shall be attached to the Cremation Authorization, Form CR-1 if:~~

2 ~~1. The cremation is being performed pursuant to a Funeral Planning Declaration, Form~~
3 ~~FPD-1 as incorporated by reference in 40 KAR 2:145; or~~

4 ~~2. A Preneed Cremation Authorization, Form CR-3 that was completed and executed before~~
5 ~~July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and~~
6 ~~367.97527, which phased out the Preneed Cremation Authorization, Form CR-3;~~

7 ~~(e) All cremations are performed individually and it is unlawful to cremate the remains of more~~
8 ~~than one (1) individual within the same cremation chamber at the same time;~~

9 ~~(f) The consumer may choose cremation without choosing embalming services; (g) If the~~
10 ~~crematory authority does not have a refrigerated holding facility, it shall not accept human remains~~
11 ~~for anything other than immediate cremation;~~

12 ~~(h) The consumer is not required to purchase a casket for the purpose of cremation;~~

13 ~~(i) The crematory authority requires that the body of the declarant or decedent shall be delivered~~
14 ~~for cremation in a suitable, closed container that shall be either a casket or an alternative cremation~~
15 ~~container for cremation, but the crematory authority shall not require that the body be placed in a~~
16 ~~casket before cremation or that the body be cremated in a casket, nor shall a crematory authority~~
17 ~~refuse to accept human remains for cremation because the remains are not in a casket;~~

18 ~~(j) The container in which the body is delivered to the crematory for cremation shall be:~~

19 ~~1. Composed of readily combustible materials suitable for cremation;~~

20 ~~2. Able to be closed to provide a complete covering for the human remains;~~

21 ~~3. Resistant to leakage or spillage; and~~

22 ~~4. Rigid enough to support the weight of the declarant or decedent;~~

1 ~~(k) The crematory authority may inspect the casket or alternative container, including opening~~
2 ~~it if necessary, and the crematory authority shall not accept for holding a cremation container from~~
3 ~~which there is any evidence of leakage of the body fluids from the human remains in the container;~~

4 ~~(l) The type of casket or cremation container selected for cremation;~~

5 ~~(m) Due to the nature of the cremation process any personal possessions or valuable materials,~~
6 ~~such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that are left~~
7 ~~with the declarant or decedent and not removed from the casket or alternative cremation container~~
8 ~~prior to cremation shall be destroyed or shall otherwise not be recoverable, unless authority to do~~
9 ~~so otherwise is specifically granted in writing;~~

10 ~~(n) As the casket or alternative container will usually not be opened by the crematory authority~~
11 ~~to remove valuables, to allow for final viewing or for any other reason unless there is leakage or~~
12 ~~damage, the authorizing agent understands that arrangements shall be made to remove any~~
13 ~~possessions or valuables prior to the time the declarant or decedent is transported to the crematory~~
14 ~~authority;~~

15 ~~(o) Cremated remains, to the extent possible, shall not be contaminated with foreign material;~~

16 ~~(p) All noncombustible materials, such as dental bridgework, and materials from the casket or~~
17 ~~alternative cremation container, such as hinges, latches, and nails, shall be separated and removed,~~
18 ~~to the extent possible, by visible or magnetic selection and shall be disposed of by the crematory~~
19 ~~authority with similar materials from other cremations in a nonrecoverable manner, so that only~~
20 ~~human bone fragments and organic ash, including both human remains and container remains,~~
21 ~~remain, unless those objects are used for identification or as may be requested by the authorizing~~
22 ~~agent;~~

1 ~~(q) As the cremated remains often contain recognizable bone fragments, unless otherwise~~
2 ~~specified, after bone fragments have been separated from the other material, they shall be~~
3 ~~mechanically processed or pulverized, which includes crushing or grinding into granulated~~
4 ~~particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to~~
5 ~~placement into the designated container; and~~

6 ~~(r) While every effort shall be made to avoid commingling of cremated remains, inadvertent or~~
7 ~~incidental commingling of minute particles of cremated remains from the residue of previous~~
8 ~~cremations is a possibility, and the authorizing agent understands and accepts this fact;~~

9 ~~(15) Instructions on disposition of the cremated remains, indicating whether the cremated~~
10 ~~remains will be:~~

11 ~~(a) Interred and, if so, where;~~

12 ~~(b) Scattered in a scattering area or garden and, if so, where;~~

13 ~~(c) In any manner on private property with the permission of the owner and, if so, where;~~

14 ~~(d) Delivered either in person or by a method that has an internal tracking system that provides~~
15 ~~a receipt signed by the person accepting delivery and, if so, to whom; or~~

16 ~~(e) Picked up at the crematory office and, if so, by whom;~~

17 ~~(16) The date the remains were received by the crematory authority, the cremation number, the~~
18 ~~date of cremation, and the name of the person performing the cremation;~~

19 ~~(17) A statement informing the declarant or authorizing agent of the following regarding~~
20 ~~execution of the Cremation Authorization, Form CR-1:~~

21 ~~(a) Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant,~~
22 ~~designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, grants~~
23 ~~consent to the cremation of the decedent;~~

1 ~~(b) Executing the Cremation Authorization, Form CR-1 as authorizing agent, or as declarant,~~
2 ~~designee, or alternate designee if using a Funeral Planning Declaration, Form FPD-1, warrants:~~

3 ~~1. That all representations and statements contained on the Cremation Authorization,~~
4 ~~Form CR-1 are true and correct;~~

5 ~~2. That the statements contained on the Cremation Authorization, Form CR-1 were made~~
6 ~~to induce the crematory authority to cremate the human remains of the declarant or~~
7 ~~decedent; and~~

8 ~~3. That the person executing the Cremation Authorization, Form CR-1 has read and~~
9 ~~understands the provisions contained on the Cremation Authorization, Form CR-1; and~~

10 ~~(c) If a written attestation is required, the authorizing agent shall select and complete an~~
11 ~~attestation:~~

12 ~~1. For authorizing agent or agents listed in subsection (13)(f), (h), (i), or (j) of this section,~~
13 ~~an attestation that reasonable efforts have been made to notify the other members of the~~
14 ~~authorizing class and the authorizing agent or agents are not aware of any opposition to the~~
15 ~~final instructions, and stating the number of individuals in the authorizing class, the number~~
16 ~~of authorizing agents authorizing the cremation, the name of the decedent, a description of~~
17 ~~the reasonable efforts, and the number of other members of the authorizing class;~~

18 ~~2. For an authorizing agent listed in subsection (13)(g) of this section, an attestation that~~
19 ~~reasonable efforts have been made to notify the other parent, and a description of the~~
20 ~~reasonable efforts; or~~

21 ~~3. For authorizing agent or agents listed in subsection (13)(k) of this section, an attestation~~
22 ~~that a good faith effort has been made to contact any living individual described in~~
23 ~~subsection (13)(a) through (j) of this section, and a description of the good faith effort;~~

- 1 ~~(18) Signature of each authorizing agent granting consent to the cremation of the decedent;~~
2 ~~(19) The name of each authorizing agent and the relationship of the authorizing agent to the~~
3 ~~declarant or decedent;~~
4 ~~(20) The address of the authorizing agent, including the city, state, and zip code;~~
5 ~~(21) The telephone number of the authorizing agent;~~
6 ~~(22) The name, address, city, state, zip code, telephone number, and signature of the funeral~~
7 ~~director or other individual as witness for the authorizing agent; and~~
8 ~~(23) The date and location where the authorizing agent signed the Cremation Authorization,~~
9 ~~Form CR-1.]~~

10 Section 3[2]. Crematory Annual Report Form. Licensed crematory authorities shall complete
11 and submit a Crematory Annual Report Form for each calendar year beginning January 1 and
12 ending December 31. The completed Crematory Annual Report Form shall be filed with the
13 Attorney General's Office by March 31 of the year following the calendar year reported.[The
14 Crematory Annual Report, Form CR-2, required by KRS 367.97504(6), shall contain:

- 15 ~~(1) The name of the crematory authority;~~
16 ~~(2) The address of the crematory authority, including the city, state, and zip code;~~
17 ~~(3) The number of retorts operated by the crematory authority;~~
18 ~~(4) The number of cremations performed by the crematory authority in each retort during the~~
19 ~~preceding calendar year;~~
20 ~~(5) The total number of cremations performed by the crematory authority during the preceding~~
21 ~~calendar year;~~
22 ~~(6) A numerical breakdown of the disposition of cremated remains in the preceding year,~~
23 ~~indicating the number:~~

- 1 (a) Scattered;
- 2 (b) Interred, either in a niche or in-ground burial;
- 3 (c) Returned to the family or funeral home; or
- 4 (d) With other means of disposition. The other means of disposition used shall be briefly
- 5 described;
- 6 (7) A list of the names and registration numbers of all crematory operators who worked for the
- 7 crematory authority during the preceding year;
- 8 (8) The signature of the individual completing the form and the date on which the form was
- 9 completed; and
- 10 (9) A statement requiring the remittance of a ten (10) dollar check or money order for the annual
- 11 registration fee.

12 ~~Section 3. Preneed Cremation Authorization Form.~~

- 13 (1) ~~The Preneed Cremation Authorization, Form CR-3, shall not be completed or executed on~~
- 14 ~~or after July 15, 2016, which was the effective date of the amendments to KRS 367.97501 and~~
- 15 ~~367.97527, which phased out the Preneed Cremation Authorization, Form CR-3.~~
- 16 (2) ~~A Preneed Cremation Authorization, Form CR-3, completed and executed prior to July 15,~~
- 17 ~~2016, which was the effective date of the amendments to KRS 367.97501 and 367.97527, which~~
- 18 ~~phased out the Preneed Cremation Authorization, Form CR-3, shall contain:~~
- 19 (a) ~~The name of the crematory authority;~~
- 20 (b) ~~The address, including the city, state, and zip code;~~
- 21 (c) ~~The telephone number of the crematory authority;~~
- 22 (d) ~~The name of the authorizing agent;~~
- 23 (e) ~~The address of the authorizing agent, including the city, state, and zip code;~~

- 1 ~~(f) The home telephone number of the authorizing agent;~~
- 2 ~~(g) The age and gender of the authorizing agent;~~
- 3 ~~(h) Whether the decedent authorizing agent has any infectious or contagious disease and, if so,~~
4 ~~an explanation;~~
- 5 ~~(i) Whether the decedent authorizing agent's body contains a pacemaker, prosthesis, radioactive~~
6 ~~implant, or any other device that could be explosive;~~
- 7 ~~(j) Whether the decedent authorizing agent has been treated with therapeutic radionuclides such~~
8 ~~as Strontium 89 or any other treatment that would result in residual radioactive material remaining~~
9 ~~as part of the decedent authorizing agent's remains and, if so, what the treatment was and the last~~
10 ~~date it was administered;~~
- 11 ~~(k) A statement specifying that all cremations are performed individually and that it is unlawful~~
12 ~~to cremate the remains of more than one (1) individual within the same cremation chamber at the~~
13 ~~same time;~~
- 14 ~~(l) A statement informing the authorizing agent that the agent may choose cremation without~~
15 ~~choosing embalming services and that if the crematory chosen does not have a refrigerated holding~~
16 ~~facility it shall not accept human remains for anything other than immediate cremation;~~
- 17 ~~(m) A statement informing the authorizing agent that:~~
- 18 ~~1. The agent is not required to purchase a casket for the purpose of cremation;~~
- 19 ~~2. The crematory authority shall require the decedent authorizing agent to be delivered for~~
20 ~~cremation in a suitable container, which shall be either a casket or an alternative cremation~~
21 ~~container; and~~
- 22 ~~3. An alternative cremation container shall be:~~
- 23 ~~a. Composed of readily combustible materials suitable for cremation;~~

1 ~~b. Able to be closed to provide a complete covering for the human remains;~~

2 ~~e. Resistant to leakage or spillage; and~~

3 ~~d. Rigid enough to support the weight of the decedent;~~

4 ~~(n) A statement informing the authorizing agent that the crematory may inspect the casket or~~
5 ~~alternative container, including opening if necessary, and if there is leakage or damage, the~~
6 ~~crematory shall refuse to accept the decedent authorizing agent's remains for the purpose of~~
7 ~~cremation or refrigeration;~~

8 ~~(o) The type of casket or alternative container selected for cremation;~~

9 ~~(p) A statement informing the authorizing agent that:~~

10 ~~1. Due to the nature of the cremation process any personal possessions or valuable materials,~~
11 ~~such as dental gold or jewelry, as well as any body prostheses or dental bridgework, that~~
12 ~~are left with the decedent authorizing agent and not removed from the casket or alternative~~
13 ~~container prior to cremation shall be destroyed or shall otherwise not be recoverable; and~~

14 ~~2. The casket or alternative container will usually not be opened by the crematory authority~~
15 ~~to permit the removal of valuables, to allow for final viewing or for any other reason unless~~
16 ~~there is leakage or damage, so the authorizing agent shall make arrangements to have any~~
17 ~~possessions or valuables removed prior to the time the remains are transported to the~~
18 ~~crematory authority;~~

19 ~~(q) A statement informing the authorizing agent that:~~

20 ~~1. To the extent possible, cremated remains shall not be contaminated with foreign~~
21 ~~material;~~

22 ~~2. All noncombustible materials such as dental bridgework, and materials from the casket~~
23 ~~or alternative container, such as hinges, latches, and nails, shall be separated and removed,~~

1 to the extent possible, by visible or magnetic selection and shall be disposed of by the
2 crematory authority with similar materials from other cremations in a nonrecoverable
3 manner, so that only human bone fragments and organic ash, including both human remains
4 and container remains, remain;

5 3. As the cremated remains often contain recognizable bone fragments, unless otherwise
6 specified, after the bone fragments have been separated from the other material, they shall
7 be mechanically processed or pulverized, which includes crushing or grinding into
8 granulated particles of unidentifiable dimensions, virtually unrecognizable as human
9 remains, prior to placement into the designated container; and

10 4. While every effort shall be made to avoid commingling of cremated remains, inadvertent
11 or incidental commingling of minute particles of cremated remains from the residue of
12 previous cremations is a possibility, and the authorizing agent understands and accepts this
13 fact;

14 (r) A statement informing the authorizing agent that:

15 1. The original copy of the Preneed Cremation Authorization, Form CR-3 shall be retained
16 by the firm or person with which the arrangements are being made and a copy shall be
17 provided to the authorizing agent; and

18 2. A person arranging his or her own cremation shall have the right to transfer or cancel
19 this authorization at any time prior to death by notifying by certified mail, the firm or
20 person with which the preneed authorization form is filed;

21 (s) A statement informing the authorizing agent that if there are not different or inconsistent
22 instructions provided to the crematory authority at the time of death, the crematory authority shall

1 ~~release or dispose of the cremated remains as indicated on this Preneed Cremation Authorization,~~
2 ~~Form CR-3;~~

3 ~~(t) A statement informing the authorizing agent that:~~

4 ~~1. If there is a conflict between the authorizing agent's preneed authorization and the~~
5 ~~demands of the next class of authorizing agent, the crematory authority shall not accept for~~
6 ~~cremation the authorizing agent's remains without an order deciding the issues entered by~~
7 ~~the district court of the county of the decedent authorizing agent's residence or the county~~
8 ~~where the funeral home or the crematory authority is located;~~

9 ~~2. The order may be issued by the court after a petition for a resolution has been initiated~~
10 ~~by any natural person in the next class of authorizing agent or the crematory authority; and~~

11 ~~3. Unless extraordinary circumstances exist, the court shall give due deference to the~~
12 ~~desires of the decedent authorizing agent as expressed in the Preneed Cremation~~
13 ~~Authorization, Form CR-3;~~

14 ~~(u) Instructions on the disposition of the cremated remains, indicating whether the cremated~~
15 ~~remains will be:~~

16 ~~1. Interred and, if so, where;~~

17 ~~2. Scattered in a scattering area or garden and, if so, where;~~

18 ~~3. Scattered on private property with the permission of the owner and, if so, where;~~

19 ~~4. Delivered either in person or by registered mail and, if so, to whom; or~~

20 ~~5. Picked up at the crematory office and, if so, by whom;~~

21 ~~(v) The printed name, signature, address (including city, state, and zip code) and home~~
22 ~~telephone of the authorizing agent, explicitly authorizing the crematory authority to cremate the~~
23 ~~human remains of the authorizing agent;~~

1 ~~(w) The date and location where the authorizing agent signed the Preneed Cremation~~
2 ~~Authorization, Form CR-3;~~

3 ~~(x) The signature of the funeral director or other individual as witness for the authorizing agent;~~

4 ~~(y) The name of the funeral director or other individual acting as witness for the authorizing~~
5 ~~agent;~~

6 ~~(z) The address of the funeral director or other individual acting as witness for the authorizing~~
7 ~~agent, including the city, state, and zip code; and~~

8 ~~(aa) The telephone number of the funeral director or other individual acting as witness for~~
9 ~~the authorizing agent.]~~

10 Section 4. Statement of Supervision Form. Licensed crematory authorities shall complete and
11 submit a Statement of Supervision for Registered Crematory Retort Operators Form for each
12 trained retort operator before permitting the trained operator to operate a retort.~~[The Statement of~~
13 ~~Supervision for Registered Crematory Retort Operators, Form CR-4, required by KRS~~
14 ~~367.97514(6), shall contain the:~~

15 ~~(1) Name of the crematory retort operator who was supervised;~~

16 ~~(2) Name of the employer crematory authority;~~

17 ~~(3) Name of the supervising crematory operator, verifying that the crematory retort operator~~
18 ~~completed forty-eight (48) hours of on the job training supervised by the crematory operator;~~

19 ~~(4) Date on which the form was signed;~~

20 ~~(5) Signature of the crematory retort operator;~~

21 ~~(6) Signature of the crematory operator who supervised the crematory retort operator; and~~

22 ~~(7) Registration number of the crematory operator.~~

1 ~~Section 5. Crematory Authority License Application Form. The Crematory Authority License~~
2 ~~Application, Form CR-5 required by KRS 367.97504(1), shall contain:~~

3 ~~(1) A statement informing the applicant that a crematory authority license shall be obtained~~
4 ~~from the Attorney General at least thirty (30) days prior to the opening of the crematory authority~~
5 ~~to conduct cremations;~~

6 ~~(2) A statement informing the applicant that a \$100 registration fee shall accompany the~~
7 ~~application, and that the application shall be signed by a person, officer, or agent with authority to~~
8 ~~do so, under oath, and the signature shall be notarized;~~

9 ~~(3) The date of the application;~~

10 ~~(4) The full legal name of the applicant;~~

11 ~~(5) The crematory name, if different from the applicant;~~

12 ~~(6) The business telephone number;~~

13 ~~(7) The physical address of the crematory, including the city, county, state, and zip code;~~

14 ~~(8) Mailing address, including city, state, and zip code, of the crematory authority, if different~~
15 ~~from the physical address;~~

16 ~~(9) The form of organization of the crematory, indicating whether it is a:~~

17 ~~(a) Corporation, and if so indicate the state of incorporation;~~

18 ~~(b) Limited liability company, and if so indicate the state of organization;~~

19 ~~(c) Partnership, and if so indicate the state of formation;~~

20 ~~(d) Individual; or~~

21 ~~(e) Other, and if so, please explain and indicate the state of formation;~~

22 ~~(10) Evidence of authority to transact business in the Commonwealth of Kentucky, including a~~
23 ~~copy of the applicant's certificate of authority to transact business in the Commonwealth of~~

1 ~~Kentucky issued by the Kentucky Secretary of State, or other evidence of authority to transact~~
2 ~~business in the Commonwealth of Kentucky and describing the other evidence;~~

3 ~~(11) The name, position, home address, including the city, state, and zip code, driver's license~~
4 ~~number and state of issuance, and date of birth, of every owner of the applicant, or if the applicant~~
5 ~~is a business entity, every member, officer, and director of the applicant;~~

6 ~~(12) The name, address, including city, state, and zip code, and account number, if applicable,~~
7 ~~of one (1) financial reference. Suitable financial references shall include financial institutions and~~
8 ~~industry suppliers. Personal references shall not be acceptable;~~

9 ~~(13) The name and address, including city, state, and zip code, of the financial institution at~~
10 ~~which the applicant has its business bank account;~~

11 ~~(14) The account number of the business bank account;~~

12 ~~(15) Whether the applicant intends to solicit preneed funeral contracts. If yes, a completed~~
13 ~~application for a Preneed Merchandise Sellers Application, Form CPN-6, incorporated by~~
14 ~~reference in 40 KAR 2:155, shall be attached;~~

15 ~~(16) A statement from the applicant's retort manufacturer, which shall include:~~

16 ~~(a) The date on which the manufacturer delivered the retort to the applicant;~~

17 ~~(b) Whether the manufacturer installed the retort and, if so, when the installation occurred; and~~

18 ~~(c) Whether the retort was tested upon installation and, if so, the results of those tests;~~

19 ~~(17) A statement informing the applicant that by submitting the application, the applicant~~
20 ~~represents, agrees to, and states under penalty of law, that:~~

21 ~~(a) The information provided is true and accurate to the best of the applicant's knowledge;~~

1 ~~(b) The applicant is required to notify the Attorney General immediately of any change in the~~
2 ~~information required by this section and that KRS 367.97504(2) governs when a new license~~
3 ~~application form is required to be filed;~~

4 ~~(c) The applicant is not insolvent, has not conducted business in a fraudulent manner, and is~~
5 ~~duly authorized to do business in the state;~~

6 ~~(d) The applicant is in a position to commence operating a crematory and that all relevant state~~
7 ~~and local permits required have been issued;~~

8 ~~(e) Final judgment or conviction for any crime involving moral turpitude has not been entered~~
9 ~~against the applicant;~~

10 ~~(f) The license may be denied pursuant to KRS 367.97504, and may be denied, suspended, or~~
11 ~~revoked pursuant to KRS 367.97534;~~

12 ~~(g) The applicant understands that, pursuant to KRS 367.97504(2), changes in the persons, firm,~~
13 ~~partnership, ownership, association, or corporate structure as originally named in the application~~
14 ~~render the license, if granted, void, and that the crematory authority shall file a new application~~
15 ~~before the changes shall be official; and~~

16 ~~(h) The applicant is authorized to complete the application on behalf of the applicant crematory;~~
17 ~~and~~

18 ~~(18) A dated and notarized signature of the person making the application on behalf of the~~
19 ~~crematory, and that person's title or position held].~~

20 Section 5[6]. Required Records of the Crematory Authority. To comply with KRS
21 367.97504(5), a crematory authority shall keep and maintain the following records for all
22 cremations occurring within the prior ten (10) years~~[The records maintained by the crematory~~
23 ~~authority required by KRS 367.97504(5) shall include]:~~

1 (1) ~~[For all cremations occurring within the last ten (10) years:~~

2 (a) ~~A] The original or a copy of the completed Cremation Authorization, Form CR-1; [and, if~~
3 ~~applicable, the]~~

4 (2) ~~Any discontinued~~ Preneed Cremation Authorization, Form CR-3 completed and executed
5 ~~prior to July 15, 2016[, which was the effective date of the amendments to KRS 367.97501 and~~
6 ~~367.97527, which phased out the Preneed Cremation Authorization, Form CR-3; or]; and,~~

7 (3) ~~[(b) The]~~ Any Funeral Planning Declaration, Form FPD-1 as incorporated by reference in
8 40 KAR 2:145.

9 ~~[(2) A copy of the identification required to be attached to the outside of the cremation container~~
10 ~~by KRS 367.97507(2) and 367.97514(2); and~~

11 (3) ~~A copy of any stainless steel identification tag that is placed with the human remains prior~~
12 ~~to cremation, is subjected to the cremation process with the human remains, survives the cremation~~
13 ~~process, and is left with the cremated remains after the cremation process is complete.]~~

14 Section 6[7]. Inspection of Crematory Authorities. The Attorney General may conduct
15 announced and unannounced inspections of applicants' and licensed crematory authorities'
16 premises during normal business hours to review records and ensure compliance with KRS
17 367.97501 to KRS 367.97537 and related regulations. Applicants and licensed crematory
18 authorities shall permit such inspections and make all requested records readily available to the
19 Attorney General upon request.~~[An inspection of the crematory authority and its records, as~~
20 ~~required by KRS 367.97504(5), shall include annual, unannounced inspections of all crematory~~
21 ~~authority facilities and records and may include:~~

22 (1) ~~An inspection of the crematory authority to determine if it is in active operation or is in a~~
23 ~~position to commence operation;~~

- 1 ~~(2) An inspection of the retort for proper operation;~~
- 2 ~~(3) An inspection of the crematory authority facility to determine if it is secure from~~
3 ~~unauthorized access;~~
- 4 ~~(4) An inspection of the crematory authority facility to determine if the crematory authority~~
5 ~~license is displayed in a conspicuous place;~~
- 6 ~~(5) An inspection of the refrigerated holding facility used for holding human remains to~~
7 ~~determine if it is secure from unauthorized access and functioning properly; and~~
- 8 ~~(6) An inspection of crematory records for all cremations occurring within ten (10) years of the~~
9 ~~date of the inspection, including all information required to be kept by KRS 367.97504(5) and this~~
10 ~~administrative regulation.]~~

11 Section 8. Material Changes in Application and Reports. A licensed crematory authority shall
12 notify the Attorney General within fourteen (14) days of any material change in the information
13 provided in its applications or reports.

14 Section 9. Human Remains of Deceased Pregnant Mother. A licensed crematory may cremate
15 the remains of a deceased pregnant woman together with the fetal remains of her unborn child(ren)
16 within the same cremation chamber. Completion of a Cremation Authorization Form authorizing
17 cremation of the deceased pregnant woman shall also authorize cremation of her unborn
18 child(ren).~~[Inspection Completion Certificate. Each crematory authority that successfully passes~~
19 ~~an annual inspection shall receive an Inspection Completion Certificate, which shall contain:~~

- 20 ~~(1) The name of the crematory authority;~~
- 21 ~~(2) The address of the crematory authority, including city, state, and zip code;~~
- 22 ~~(3) A certified statement that an inspection has been performed by the Kentucky Attorney~~
23 ~~General's Office;~~

1 ~~(4) The date on which the inspection was performed; and~~

2 ~~(5) The signature of an authorized representative of the Attorney General's Office.]~~

3 Section 10[9]. Incorporation by Reference. (1) The following material is incorporated by
4 reference:

5 (a) “Cremation Authorization”, Form CR-1, Oct. 2022[04-17];

6 (b) “Crematory Authority Annual Report”, Form CR-2, Oct. 2022[11-02];

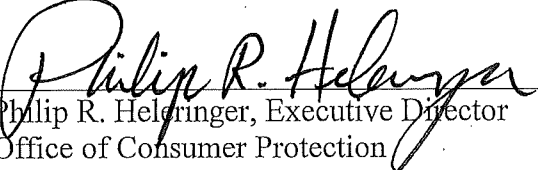
7 ~~(c) [“Preneed Cremation Authorization”, Form CR-3, 11-02;]~~

8 ~~[(d)]~~ “Statement of Supervision for Registered Crematory Retort Operators”, Form CR-4, Oct.
9 2022[11-02]; and


10 ~~(d)[(e)]~~ “Crematory Authority License Application”, Form CR-5, Oct. 2022[07-16].

11 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
12 the Office of the Attorney General, Office of Consumer Protection, 1024 Capital Center Drive,
13 Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This
14 material is also available on the Office’s website, <https://ag.ky.gov/Pages/default.aspx>.

READ AND APPROVED


Philip R. Helzlsouer, Executive Director
Office of Consumer Protection
Office of Attorney General

10/12/2022
Date


Daniel Cameron, Attorney General
Department of Law

10/13/2022
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on December 29, 2022 at 10:00 a.m. Eastern Time at the Kentucky Office of Attorney General, Office of Consumer Protection, 1024 Capital Center Drive, Room A, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this Office in writing at least five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on December 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen B. Humphress, Asst. Attorney General, Office of Consumer Protection, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 40 KAR 2:150 (Amendment)

Contact Person: Stephen B. Humphress

Phone Number: 502-696-5408

Email: steve.humphress@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the license application form, annual report, cremation authorization form, and crematory retort training report to be used, kept, and filed by crematory authorities. This administrative regulation establishes the records and information to be retained by crematory authorities and establishes guidelines for crematory inspections.

(b) The necessity of this administrative regulation: This regulation is necessary to provide the methods by which the Office of Attorney General, Office of Consumer Protection (“Office”), may perform its statutory obligations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 15.180 directs the Attorney General to promulgate administrative regulations that will facilitate the performance of duties vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to recommend administrative regulations in the consumers’ interest. KRS 367.97501 and 367.97504 require the Attorney General to promulgate an administrative regulation to establish an application for a crematory authority license and annual reports. KRS 367.97534(5) authorizes the Attorney General to promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to 367.97537, pertaining to crematory authorities. KRS 367.97524(1) requires crematory authorities to possess signed cremation authorization forms before accepting or cremating any human remains.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes the license application form, annual report, cremation authorization form, and crematory retort training report to be used, kept, and filed by crematory authorities, establishes the records and information that shall be retained by crematory authorities, and establishes guidelines for inspection of those records and crematories.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Through this amendment, the Office is revising the regulation to remove unnecessary language from the regulation as duplicative and which is already incorporated by reference in forms. The amendment includes updates incorporated forms that are easier to understand and consistent in appearance. It is intended that the new forms are easier for regulated crematory authorities to complete. The amended regulation provides better notice about when crematory authorities must file required forms. The regulation expressly permits the cremation of a deceased pregnant woman with the fetal remains of her unborn child.

(b) The necessity of the amendment to this administrative regulation: The crematory authorization form needs to be updated to reflect statutory changes resulting from HB 3 (2022), Senate Bill 38 (2020), and Senate Bill 66 (2020). The Office needs to update its regulations and forms to conform to KRS Chapter 13A drafting requirements. The Office also needs to update its regulation and forms to make both easier to understand by crematory authorities and consumers.

(c) How the amendment conforms to the content of the authorizing statutes: As previously explained, KRS 15.180, 367.150(4), 367.97501, 367.97504, and 367.97534(5) authorize the administrative regulation amendments.

(d) How the amendment will assist in the effective administration of the statutes: The regulation amendments will cause the regulations to be more easily understood by regulated entities. The regulation amendments will cause the crematory authority forms to be more easily understood and completed, provide better notice to consumers, allow easier processing by Office staff, and save administrative resources.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation amendment affects forty-six (46) licensed crematory authorities, individuals desiring to have human remains cremated, and the Office.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Licensed crematory authorities will be required to use the new forms incorporated into this regulation. The Office will review the new forms for compliance with law.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Licensed crematory authorities will have no additional costs. They will be able to download the new forms from the Office's website at no cost. The Office will have no additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulation amendments are intended to make the regulations more easily understood. In addition, it is intended that the required forms are more easily understood and completed, that the forms provide better notice to consumers, and that the forms allow easier processing by the Office.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no costs to implement this administrative regulation amendment.

(b) On a continuing basis: There are no continuing costs to implement this administrative regulation amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional costs associated with implementing this administrative regulation amendment so no funding is needed.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There is no anticipated increase in fees or funding necessary to amend this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increased any fees: This administrative regulation amendment does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. This administrative regulation applies equally to all crematory authorities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation #: 40 KAR 2:150

Contact Person: Stephen B. Humphress

Phone Number: 502-696-5408

Email: steve.humphress@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments or school districts) will be impacted by this administrative regulation? The Office is the only government agency expected to be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 15.180, 367.150(4), 367.97501, 367.97504, and 367.97534(5) authorize the administrative regulation amendments.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The Office does not expect that this amendment will require any additional government expenditures.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation amendment.

(c) How much will it cost to administer this program for the first year? There are no additional costs to administer this administrative regulation amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs to administer this administrative regulation amendment for each subsequent year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There are no expected costs to administer this amendment.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? There are no expected cost savings generated by this administrative regulation amendment for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? There are no expected cost savings generated by this administrative regulation amendment for subsequent years.

(c) How much will it cost the regulated entities for the first year? There are no expected costs generated by this administrative regulation amendment for the first year.

(d) How much will it cost the regulated entities for subsequent years? There are no expected costs generated by this administrative regulation amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: There are no expected costs generated by this administrative regulation amendment.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There is not an expected major economic impact from this regulation as it does not create costs for the Office or regulated entities.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

Administrative Regulation #: 40 KAR 2:150

Contact Person: Stephen B. Humphress

Phone Number: 502-696-5408

Email: steve.humphress@ky.gov

1. “Cremation Authorization”, Form CR-1, Oct. 2022. The form is updated to make the form easier to understand and to be consistent with other forms for information format and professional appearance. The form is updated to reflect statutory changes resulting from HB 3 (2022), Senate Bill 38 (2020), and Senate Bill 66 (2020) to reflect additional persons and order about whom have the right to order the cremation of a decedent and to prohibit authorization by someone who committed a crime resulting in the death of the decedent. Some order of requested information is changed. Form adds a section that requests additional information for crematory authority performing the cremation. Form adds a section for identification of a fetal decedent. Better instructions were added to the form sections and end.
2. “Crematory Authority Annual Report”, Form CR-2, Oct. 2022. The form is updated to make the form easier to understand and to be consistent with other forms for information format and professional appearance. Some order of requested information is changed. Form adds a section that requests additional information for crematory authority filing the report. Language was added so that form signers swear and affirm to their provided information in the form. Better instructions were added to the form sections and end.
3. “Statement of Supervision for Registered Crematory Retort Operators”, Form CR-4, Oct. 2022. The form is updated to make the form easier to understand and to be consistent with other forms for information format and professional appearance. Some order of requested information is changed. Form adds a section that requests additional information for crematory authority filing the statement. Language was added so that form signers swear and affirm to their provided information in the form. Better instructions were added to the form sections and end.
4. “Crematory Authority License Application”, Form CR-5, Oct. 2022. The form is updated to make the form easier to understand and to be consistent with other forms for information format and professional appearance. Some order of requested information is changed. Form requests additional information about the applicant. Form removes request for financial information. Form removes certain acknowledgments by applicant. A notary requirement in the form was removed and replaced with language whereby form signers swear and affirm to their provided information in the form. Better instructions were added to the form sections and end.



**COMMONWEALTH OF KENTUCKY
OFFICE OF ATTORNEY GENERAL**

Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
<https://ag.ky.gov>

CREMATION AUTHORIZATION FORM (CR-1)

SECTION A – CREMATORY AUTHORITY INFORMATION

A crematory authority shall not conduct a cremation nor accept the body of the Declarant or Decedent for cremation unless: (1) it has received a Cremation Authorization, Form CR-1 signed by the Declarant or Authorizing Agent(s) clearly stating the final disposition; (2) the Commonwealth of Kentucky has performed all prerequisites regarding the death; and, (3) any required forms or permits are attached.

Name of crematory authority: _____ License no. _____

Doing business as (DBA) name: _____

Street address for crematory's physical location: _____

City: _____ State: _____ Zip code: _____ County: _____

Business mailing address: _____

City: _____ State: _____ Zip code: _____ County: _____

Contact person name: _____

Contact person phone: _____ Contact person email: _____

SECTION B – IDENTIFICATION OF DECEDENT

B 1. General Decedent Identification. [For identification of a fetus that is to be cremated, please complete Section B 2.]

A person must identify the Decedent's remains before cremation can take place. The following person(s) may identify the Decedent: (1) Authorizing Agent(s) (See Section C); (2) a family member; (3) friend; (4) coroner, or (5) any other person, who has personal knowledge of the Decedent or the ability to make positive identification and who accepts any liability arising from such identification.

Name of decedent: _____

Residence street address: _____

City: _____ State: _____ Zip code: _____

Age: _____ Gender: _____

Date of birth: ____/____/____ Date of death: ____/____/____

Location where death occurred (city, county and state): _____

Did the Decedent have any infectious or contagious disease? Yes. No.

If "yes", please explain: _____

(Signature of person identifying decedent)

(Relationship to decedent)

(Printed name of person identifying decedent)

SECTION B – IDENTIFICATION OF DECEDENT *(continued)*

B 2. Fetal Decedent Identification

A person must identify Fetal Decedent remains before cremation can take place. The following person(s) may identify the Fetal Decedent: (1) Authorizing Agent(s) (*See* Section C); (2) a family member; (3) friend; (4) coroner, or (5) any other person, who has personal knowledge of the Fetal Decedent or the ability to make positive identification and who accepts any liability arising from such identification.

Name of identifier: _____

Identifier's street address: _____

City: _____ State: _____ Zip code: _____

Decedent's date of death: _____ / _____ / _____ Gestational age: _____ Gender _____

Location where death occurred (city, county and state): _____

Did the Fetal Decedent have any infectious or contagious disease? Yes. No.

If "yes", please explain: _____

(Signature of person identifying decedent)

(Relationship to decedent)

(Printed name of person identifying decedent)

SECTION C – AUTHORIZING AGENTS FOR CREMATION

The person legally entitled to order cremation of a decedent's human remains is the **Authorizing Agent(s)**. The right to control the disposition of a decedent's human remains is based on the following authority order for **Authorizing Agent(s)**. Please complete this section to reflect the applicable **Authorizing Agent(s)**. Absent a court-ordered waiver, a person cannot be an Authorizing Agent if that person has been arrested for, or charged with intentionally, knowingly, or wantonly, committing a crime which resulted in the death of the Decedent.

- (1) The Declarant executing either:
- (a) Funeral Planning Declaration, Form FPD-1 (**attach** original Funeral Planning Declaration); or,
 - (b) Discontinued Preneed Cremation Authorization, Form CR-3, executed prior to July 15, 2016 (**attach** original Form CR-3).
- (2) The person named as the designee or alternate designee in a Funeral Planning Declaration, Form FPD-1 (**attach** original Funeral Planning Declaration).
- (3) The person named in a U.S. Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (**attach** original form).
- (4) The surviving spouse of the Decedent.
- (5) The surviving adult child of the Decedent; **OR** a majority of the adult children if more than one (1) adult child is surviving; **OR** less than a majority of the surviving adult children by attesting in writing showing the reasonable efforts to notify the other adult surviving children of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children. There are _____ surviving adult children.

(continued on next page)

SECTION C – AUTHORIZING AGENTS FOR CREMATION *(continued)*

Please read instructions and affirmations for Section C on prior page 2 and finish completing this Section. *Attach additional pages if needed.*

- (6) The surviving parent(s) of the Decedent. If one (1) parent is absent, the parent who is present has the right to control the disposition by attesting in writing showing the reasonable efforts to notify the absent parent. Number of surviving parents: _____.
- (7) A healthcare facility or abortion clinic to whom parent(s) have relinquished guardianship and responsibility for final disposition of the fetal remains after an abortion.
- (8) The surviving adult grandchild of the Decedent; **OR** a majority of the adult grandchildren if more than one (1) adult grandchild is surviving; **OR** less than a majority of the surviving adult grandchildren by attesting in writing showing the reasonable efforts to notify the other adult surviving grandchildren of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult grandchildren. There are _____ surviving adult grandchildren.
- (9) The surviving adult sibling of the Decedent; **OR** a majority of the adult siblings if more than one (1) adult sibling is surviving; **OR** less than a majority of the surviving adult siblings by attesting in writing showing the reasonable efforts to notify the other adult surviving siblings of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the surviving adult siblings. There are _____ surviving adult siblings.
- (10) An individual in the next degree of kinship under KRS 391.010 to inherit the estate of the Decedent; **OR** a majority of those in the same degree of kinship if more than one (1) individual of the same degree is surviving; **OR** less than a majority of the individuals of the same degree of kinship by attesting in writing showing the reasonable efforts to notify the other individuals of the same degree of kinship of their intentions and that they are not aware of any opposition to the final disposition instructions by more than half of the individuals of the same degree of kinship. There are _____ surviving individuals of the following relationship:
_____.
- (11) If none of the persons listed in Section C (1) to (10) above are available, one of the following who attests in writing showing the good-faith effort made to contact any living individuals described in sections (1) to (10) above:
- (a) A person willing to act and arrange for the final disposition of the decedent; or
 - (b) A funeral home that has a valid prepaid funeral plan that arranges for the disposition of the decedent's remains, if the funeral director makes the written attestation.
- (12) If all the alternatives listed in Section C (1) to (11) have been exhausted, a court appointed guardian or conservator for the Decedent at the time of death, **IF** the Decedent had not expressed an objection to cremation to the guardian or conservator prior to death; and
- (a) The Decedent arranged a preneed policy in effect that is limited to the cost of cremation; or,
 - (b) The Decedent lacked sufficient funds at the time of death to pay for a full burial.
- (13) The District Court in the county of the Decedent's residence or the county in which the funeral home or the crematory is located.

SECTION D – CREMATION RIGHTS AND RESPONSIBILITIES

The **Authorizing Agent(s)** have carefully read and understand the following statements before signing and completing this authorization:

- (1) The crematory authority shall not accept the Declarant/Deceased for cremation until: (1) all necessary authorizations have been obtained; (2) the Commonwealth of Kentucky has performed all prerequisites regarding the death; and, (3) any required forms or permits are attached.
- (2) All cremations are performed individually, unless the cremation is of a fetus. With the exception of fetuses, it is unlawful to cremate the remains of more than one individual within the same cremation chamber at the same time.
- (3) The Declarant or Authorizing Agent(s) may choose cremation without choosing embalming services. If the crematory authority does not have a refrigerated holding facility, it shall not accept human remains for anything other than immediate cremation.
- (4) The Declarant or Authorizing Agent(s) is not required to purchase a casket for the purpose of cremation. The crematory authority requires that the body of the Declarant/Decedent be delivered for cremation in a suitable, closed container. The container shall be either a casket or an alternative cremation container, but the crematory authority shall not require that the body be placed in a casket before cremation or that the body be cremated in a casket, nor shall a crematory authority refuse to accept human remains for cremation because they are not in a casket. The container in which the body is delivered to the crematory for cremation shall:
 - a. be composed of readily combustible materials suitable for cremation;
 - b. be able to be closed to provide a complete covering for the human remains;
 - c. be resistant to leakage or spillage; and,
 - d. be rigid enough to support the weight of the declarant or decedent.

The crematory authority may inspect the casket or alternative container, including opening it if necessary. The crematory authority shall not accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains in the container. Type of casket or alternative container selected

-
- (5) Due to the nature of the cremation process, any personal possessions or valuable materials, such as dental gold or jewelry (as well as any body prostheses or dental bridgework), that are left with the decedent and not removed from the casket or container prior to cremation shall be destroyed and not be recoverable (unless the Declarant or authorized agent(s) grants authority, in writing, to the crematory authority to specifically recover materials). A crematory authority usually does not open a casket or container to allow for final viewing, remove valuables, or for other reasons. The authorizing agent(s) understands that arrangements must be made to remove any possessions or valuables prior to the time the declarant or decedent is transported to the crematory authority.
 - (6) Pacemakers, radioactive, silicon or other implants, mechanical devices or prosthesis may create a hazardous condition when placed in a cremation chamber and subjected to heat. The following list describes all devices (including mechanical, prosthetic, implants or materials) which have, or may have been, implanted in or attached to the declared/deceased: _____

The Declarant or Authorizing Agent(s) hereby authorizes the crematory authority or funeral home to remove all devices that may become hazardous during the cremation process.

- (7) Cremated remains shall not be contaminated (to the extent possible) with foreign material. All non-combustible materials (insofar as possible), such as dental bridgework, and materials from the casket or alternative container, such as hinges, latches, nails, etc., shall be separated and removed (to the extent possible) by visible or magnetic selection and shall be disposed of by the crematory authority with similar materials from other cremations in a non-recoverable manner, so that only human bone fragments and organic ash, including both human remains and container remains, remain unless those objects are used for identification or as may be requested by the authorizing agent(s). Since cremated human remains often contain recognizable bone fragments, any such fragments shall be

(continued on next page)

SECTION D – CREMATION RIGHTS AND RESPONSIBILITIES *(continued)*

Please read instructions and affirmations for Section D on prior page 4.

mechanically processed or pulverized, which includes crushing or grinding into granulated particles of unidentifiable dimensions, virtually unrecognizable as human remains, prior to placement into the designated container, unless otherwise directed. While every effort will be made to prevent commingling, inadvertent or incidental commingling of minute particles of cremated remains from the residue of previous cremations is a possibility, and the Declarant or Authorizing Agent(s) understands and accepts these facts.

SECTION E – FINAL DISPOSITION INSTRUCTIONS

Please mark and complete the chosen disposition.

The Authorizing Agent(s) hereby direct the final disposition of the cremated human remains as follows:

Disposition of the cremated remains shall be by:

- (1) Interment, at _____
- (2) Scattering in scattering area or garden, at _____
- (3) In any manner on private property with the permission of the owner, at _____
- (4) Delivery either in person or by a method that has an internal tracking system that provides a receipt signed by the person accepting delivery, to: _____

Picked up at the crematory office, by: _____

SECTION F – SIGNATURE OF AUTHORIZING AGENT(S)

Please complete the following.

By signing this Cremation Authorization Form, the undersigned Authorizing Agent(s) hereby grants consent to the cremation of the identified Decedent, affirm that the undersigned has not been arrested for, or charged with intentionally, knowingly, or wantonly, committing a crime which resulted in the death of the Decedent, and hereby swear and affirm under penalty of perjury, that all representations and statements contained in this form are true and correct to the best of the undersigned's knowledge, information and belief, and that the undersigned has read and understand the provisions contained in this form.

- If the Authorizing Agent is a **Declarant** executing a Funeral Planning Declaration, Form FPD-1, or a Declarant who executed a Preneed Cremation Authorization Form CR-3 prior to July 15, 2016 (discontinued form), no Authorized Agent signature is required. Simply **attach** the original executed Funeral Planning Declaration **Form FPD-1** or discontinued Preneed Cremation Authorization, **Form CR-3**.

If the Appointing Authority is a class of members, mark the applicable class and complete the information below that applies:

- For class Authorizing Agent(s) listed in Section C (6) (**children**), Section C (8) (**grandchildren**), Section C (9) (**siblings**), or Section C (10) (**next degree of kinship**), the undersigned Authorizing Agent(s) state that there are _____ total members in the authorizing class and that _____ members authorize cremation of the Decedent. The undersigned has made reasonable efforts to notify the other _____ members of the authorizing class by (describe efforts): _____. The undersigned are not aware of any opposition to the final instructions.

(continued on next page)

SECTION F – SIGNATURE OF AUTHORIZING AGENT(S) (continued)

Please read instructions and affirmations for Section F on prior page 5 and finish completing this Section. *Attach additional pages if needed.*

- For an Authorizing Agent listed in Section C (7)(parent), the undersigned Authorizing Agent state that he/she has made reasonable efforts to notify the other parent by (describe efforts):

- For Authorizing Agent(s) listed in Section C (11) (others), the undersigned Authorizing Agent(s) state that a good-faith effort has been made to contact any living individual described in Section C (1 to 10) by (describe efforts):

SIGNED and EXECUTED on this the _____ day of _____, 20____, BY:

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

Name: _____ Signature: _____

Address: _____ Relationship to Decedent: _____

City, State, Zip Code: _____ Telephone: _____

SIGNATURE OF FUNERAL DIRECTOR OR OTHER INDIVIDUAL AS WITNESS FOR THE SIGNATURE(S) OF THE DECLARANT OR AUTHORIZING AGENT(S) ABOVE

Name: _____ Signature: _____

Address: _____ Title or Relationship: _____

City, State, Zip Code: _____ Telephone: _____

SECTION G – CREMATION VERIFICATION

Date that Crematory Authority Received Decedent's Human Remains: _____ / _____ / _____

Date of Cremation: _____ / _____ / _____

Cremation Number: _____

Retort Operator Who Performed Cremation: _____

By executing this completed Cremation Authorization Form, the undersigned, as crematory authority representative, hereby swears and affirm under penalty of perjury, that all representations and statements contained in this form are true and correct to the best of the undersigned's knowledge, information and belief.

(Signature of Crematory Authority Representative)

(Date Signed)

(Printed Name)

(Title)

INSTRUCTIONS

The crematory authority MUST keep and maintain the original completed CREMATION AUTHORIZATION FORM as part of its business records for a period of ten (10) years and permit the Attorney General to inspect it upon request.

SECTION D – SIGNATURE OF CREMATORY AUTHORITY

By submitting this completed Crematory Authority Annual Report Form, the undersigned hereby swears and affirms, under penalty of perjury, that the undersigned has authority to sign on behalf of the Crematory Authority; that all representations and statements contained in this report are true and correct to the best of the undersigned's knowledge, information and belief; and that there has been no material change of information in the Crematory Authority's license application, or the last annual report, that has not already been previously reported.

(Signature of Crematory Authority Representative)

(Date Signed)

(Printed Name)

(Title)

INSTRUCTIONS

*This form MUST be completed and filed with the Office of the Attorney General **by March 31** of the year following the calendar year reporting period. Return the original completed form, any attachments, and payment of ten dollars (\$10.00) by cashier's check, money order, and certified check made payable to "Kentucky State Treasurer" to:*

*Kentucky Office of Attorney General
Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601*



Date Received: _____
Date Reviewed: _____
Reviewed by: _____

For Official Use Only

**COMMONWEALTH OF KENTUCKY
OFFICE OF ATTORNEY GENERAL**

Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
<https://ag.ky.gov>

**STATEMENT OF SUPERVISION FOR
REGISTERED CREMATORY RETORT OPERATORS (CR-4)**

SECTION A – CREMATORY REPORT TRAINING INFORMATION

Name of person trained (“Trainee”): _____
Name of crematory operator (“Trainer”): _____
Trainer registration no.: _____
Name of crematory authority: _____ License no. _____
Doing business as (DBA) name: _____
Street address for crematory’s physical location: _____
City: _____ State: _____ Zip code: _____ County: _____
Business mailing address: _____
City: _____ State: _____ Zip code: _____
Contact person name: _____
Contact person phone: _____ Contact person email: _____

SECTION B – SIGNATURE OF TRAINEE AND TRAINOR

By submitting this Crematory Retort Operator Training Report Form, the undersigned crematory operator and trainee hereby swear and affirm, under penalty of perjury, that the Trainee received at least forty-eight (48) hours of on the job crematory retort training supervised by the Crematory Operator.

(Signature of Trainer) (Date Signed)

(Signature of Trainee) (Date Signed)

INSTRUCTIONS

This form MUST be completed and filed with the Office of Attorney General by mailing to:

*Kentucky Office of Attorney General
Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601*

CR-5
(Oct. 2022)



Date Received:	_____
Fee Paid:	_____
Date Reviewed:	_____
Reviewed By:	_____

For Official Use Only

**COMMONWEALTH OF KENTUCKY
OFFICE OF ATTORNEY GENERAL**

Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
<https://ag.ky.gov>

CREMATORY AUTHORITY LICENSE APPLICATION (CR-5)

SECTION A – CREMATORY APPLICANT INFORMATION

Complete the following and attach requested documentation:

Name of crematory authority applicant: _____

Doing business as (DBA) name: _____

Street address for crematory’s physical location: _____

City: _____ State: _____ Zip code: _____ County: _____

Business mailing address: _____

City: _____ State: _____ Zip code: _____

Contact person name: _____

Contact person phone: _____ Contact person email: _____

Please provide the following information regarding the applicant (check one):

- Corporation Limited liability company Partnership
- Individual Other - please explain: _____

State of incorporation, organization, formation, or existence: _____

Please attach a copy of the applicant’s certificate of existence, authorization certificate from the Kentucky Secretary of State’s Office, or other evidence of the applicant’s authority to transact business in the Kentucky. Instructions for obtaining certificates can be found at: <https://www.sos.ky.gov>

Does the applicant intend to solicit the sale of pre-need burial contracts? (Choose one) Yes No

(If “YES,” complete and attach a pre-need burial contract sellers license application, Form CPN-6)

SECTION B – OWNERS AND OFFICERS OF APPLICANT

Complete the following for the business officer(s), director(s), and persons with a 10% or more controlling interest in the applicant (proprietor(s), partner(s), owner(s), member(s), and/or shareholder(s)). If ownership is held by an artificial entity(s) in a parent-subsiary relationship, please complete for individuals whose ownership in the parent entity(s) equates to a 10% ownership of the applicant: (Attach additional pages if needed)

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

(Continued on next page)

SECTION B – OWNERS AND OFFICERS OF APPLICANT *(continued)*

Complete the following for the business officer(s), director(s), and persons with a 10% or more controlling interest in the applicant (proprietor(s), partner(s), owner(s), member(s), and/or shareholder(s)). If ownership is held by an artificial entity(s) in a parent-subsidary relationship, please complete for individuals whose ownership in the parent entity(s) equates to a 10% ownership of the applicant: *(Attach additional pages if needed)*

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

Name: _____ Title: _____
Address: _____

SECTION C – SIGNATURE OF APPLICANT

By submitting this application, the undersigned does hereby swear or affirm, under penalty of perjury the following:

- (1) The undersigned is authorized to complete this application form on behalf of the applicant.
- (2) The information, and any attachments, provided in and with this application are true and correct to the best of the undersigned's knowledge, information and belief.
- (3) No final judgment or conviction for any crime involving moral turpitude has been entered against the applicant or any of the individuals identified in Section B above.
- (4) The applicant agrees to notify the Attorney General within fourteen (14) days of any material change in the information provided in and with this application.
- (5) The applicant is solvent.
- (6) The applicant has not conducted business in a fraudulent manner.
- (7) The applicant is in a position to commence operating a crematory and all relevant state and local permits required have been issued.
- (8) The applicant agrees to provide requested records, documents and information to the Attorney General within a reasonable time after requested.
- (9) The applicant understands that its registration application may be denied and a registration suspended or revoked by the Attorney General.

(Signature of Applicant Representative)

(Date Signed)

(Printed Name)

(Title)

INSTRUCTIONS

1. Every person or business desiring to operate a crematory and conduct cremations must obtain a crematory authority license from the Attorney General at least thirty (30) days prior to opening for the purpose of conducting cremations.

2. This application form **MUST** be completed and filed with the Office of Attorney General with payment of one hundred dollars (\$100.00) by cashier's check, money order, certified check made payable to "Kentucky State Treasurer." Send the signed original of this form, payment, and all attachments to:

Kentucky Office of Attorney General
Office of Consumer
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601

3. The following attachments **MUST** be included with this application:

- (a) Applicant's Certificate of Existence or Authorization certificate from Kentucky Secretary of State's Office
- (b) \$100.00 Registration Fee
- (c) Completed CPN-6 license application form if applicant intends to sell pre-need burial contracts.

4. The applicant must notify the Attorney General, in writing, if there is any change to the information contained in this application after it is filed.

SENATE MEMBERS

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President, LRC Co-Chair
David Givens
President Pro Tempore
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LEGISLATIVE RESEARCH COMMISSION

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Capitol Fax 502-564-2922
Annex Fax 502-564-6543
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Majority Whip
Angie Hatton
Minority Whip

MEMORANDUM

TO: Stephen B. Humphress, Assistant Attorney General, Office of Consumer Protection

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 040 KAR 002:150.

DATE: October 13, 2022

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **JANUARY 2022** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on January 13, 2022**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures