

DIVISION OF CEMETERIES

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TO: ALL NEW YORK STATE CREMATORIES

FROM: NEW YORK STATE DEPARTMENT OF STATE, DIVISION OF CEMETERIES

RE: REMOTE WITNESSING AND CREMATION AUTHORIZATION

DATE: JULY 29, 2021

On July 1, 2021, the Governor signed S.6521-2021, entitled “An act to amend the state technology law, the public health law and the not-for-profit corporation law, in relation to authorizing the use of electronic signatures on funeral and cemetery services documents.”

Per the regulations of the New York State Cemetery Board, the Authorization for Cremation and Disposition Form (DOS-1898-f [Rev. 04/20] (the “Form”) must include “[t]he signature of the licensed, registered funeral director who obtained the cremation authorization as a witness to the execution of the cremation authorization form.” 19 NYCRR § 203.13(c)(13).

The act states that “any form, authorization, permit or designation required by” article 15 of the Not-for-Profit Corporation Law “may be signed by written instrument or the use of an electronic signature, as that term is defined in” the State Technology Law, “with the intent to execute the instrument, writing or electronic record.”

The person in control of disposition signing and the funeral director witnessing the Form may both use electronic signatures. The funeral director must witness the person in control of disposition signing the Form, regardless of whether that signature is “wet” or electronic, and may do so using one of two methods:

1. In person. The funeral director must observe the person in control of disposition affixing a “wet” signature on paper or, for example, electronically signing the Form using a tablet
2. Via video conference. Using audio-visual technology, the funeral director must observe the person in control of disposition sign the Form. For example, the person in control of disposition could affix a “wet” signature on paper while the funeral director observes. Then, the person in control of disposition could scan a copy of the Form and send it to the funeral director using text message, email, or fax. Or, the person in control of disposition could use the “share screen” function of a video conferencing platform and electronically sign the Form while observed by the funeral director.

In all cases, and especially in cases of remote signing, the person authorizing the cremation should present valid photo identification to the funeral director, either in person, via video conference, or by transmission of a legible photograph of the identification by text message, email, or fax.

Whether or not the person authorizing the cremation uses a “wet” signature, the crematory may rely on the document presented by the funeral director as a true copy of the original. There is no need to transmit the “original” signed document by mail after e-mailing, faxing, or texting the original to the funeral director. Nor is there a need for the funeral director to provide an “original” document to the crematory.