



October 22, 2014

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Dear Residential Care Facility Operator:

I am writing to bring to your attention the provisions of the *BC Cremation, Interment and Funeral Services Act* (CIFSA) and you to remind you of your obligations in arranging transport to a funeral service provider if a person in your care passes away.

This is in response to an event in April 2013 where a family alleged that the body of their family member had been removed from St. Paul's Hospital in Vancouver by a funeral service provider without the approval of the family. A subsequent investigation by Consumer Protection BC (CPBC) resulted in a specific warning letter to that provider and a general reminder to the entire funeral home industry of its obligations regarding these matters. The Ministry of Health has undertaken to provide a similar reminder to all health care facilities.

The CIFSA, which has been in place for 20 years, governs all arrangements for deceased persons, including the transfer of bodies. The CIFSA is designed to protect the family of the deceased by ensuring that the remains of the deceased are treated in accordance with the wishes of the person with the right to control disposition. This includes decisions about transporting the remains to a funeral service provider, funeral arrangements, and disposition of the body.

As a provider of residential care services, any records in your possession that contain documentation of the pre-expressed wishes of persons to whom you provide residential care will be of assistance to funeral service providers in fulfilling their due diligence as required by CIFSA.

Funeral service providers must not provide funeral services without written authorization from the person who, under section 5 of the CIFSA (see Attachment 1), has the right to control the disposition of the human remains. Authorization to transfer can only be given after the death occurs.

It is recommended that when a new resident moves into a residential care facility, that a record is made of any pre-existing funeral arrangements. In the event that a resident passes away, it is the expectation that the information on record will be used to contact the appropriate parties, as set out by the hierarchic list provided in Section 5.1 of the CIFSA so that they can begin to make arrangements with the appropriate funeral service provider. It is important to note that judgment over who controls the right of disposition under CIFSA section 5 rests solely with funeral service providers, and that the funeral service provider must determine that the person contacting them does, in fact, have authority to control the disposition.

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For your information, please find attached an outline of the suggested process to follow in the event of a death of a resident (see Attachment 2).

In the unlikely event that none of these parties can be reached, Section 5(1)(k) of the CIFSA provides that a person with a personal or kinship relationship with the deceased may be contacted, and that person is authorized to make arrangements with a funeral service provider for the removal of the remains from an assisted living residence.

Thank you for your cooperation. Please contact Sue Bedford at 250 952-1442 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Hughes', with a stylized, cursive flourish at the end.

Doug Hughes  
Director of Licensing  
Assistant Deputy Minister

Attachments(2)

pc: Sue Bedford, Director, Community Care Facility Licensing

## **Attachment 1: Excerpts from the *Cremation, Interment and Funeral Services Act***

### **Section 5**

- (1) Subject to this section and section 8 (3) (b) (i) [requirement for authorization before funeral services or disposition], the right of a person to control the disposition of the human remains or cremated remains vests in, and devolves on, the following persons in order of priority:
  - (a) the personal representative named in the will of the deceased;
  - (b) the spouse of the deceased;
  - (c) an adult child of the deceased;
  - (d) an adult grandchild of the deceased;
  - (e) if the deceased was a minor, a person who was a guardian who had care and control of the deceased at the date of death;
  - (f) a parent of the deceased;
  - (g) an adult sibling of the deceased;
  - (h) an adult nephew or niece of the deceased;
  - (i) an adult next of kin of the deceased, determined on the basis provided by sections 89 and 90 of the Estate Administration Act;
  - (j) the minister under the Employment and Assistance Act or, if the official administrator under the Estate Administration Act is administering the estate of the deceased under that Act, the official administrator;
  - (k) an adult person having a personal or kinship relationship with the deceased, other than those referred to in paragraphs (b) to (d) and (f) to (i).
- (2) If the person at the top of the order of priority set out in subsection (1) is unavailable or unwilling to give instructions, the right to give instructions passes to the person who is next in priority.
- (3) If, under subsection (1), the right to control the disposition of human remains or cremated remains passes to persons of equal rank, the order of priority
  - (a) is determined in accordance with an agreement between or among them, or
  - (b) in the absence of an agreement referred to in paragraph (a), begins with the eldest of the persons and descends in order of age.
- (4) A person claiming that he or she should be given the sole right to control the disposition of the human remains or cremated remains may apply to the Supreme Court for an order regarding that right.

### **Section 8**

- (1) A funeral provider must not provide funeral services unless the funeral provider has received written authorization from the person who, under section 5 [control of disposition of human remains or cremated remains], has the right to control the disposition of the human remains.
- (2) Despite subsection (1), a funeral provider may accept an authorization by telephone to begin funeral services if the funeral provider does not dispose of the human remains until the funeral provider receives the written authorization required by subsection (1).
- (3) An operator of a cemetery, mausoleum and crematorium must not dispose of human remains unless

- (a) the operator is authorized to do so under the Vital Statistics Act, and
- (b) the operator
  - (i) is ordered to do so by a medical health officer under the Public Health Act, or
  - (ii) has received the authorization from the person who, under section 5 [control of disposition of human remains or cremated remains], has the right to control the disposition of the human remains.

## **Attachment 2: Suggested process in the event of a death of a person in care:**

- Review care plan for pre-arranged funeral plans
- Contact next of kin as per care plan instruction
- Contact the following people, in this order to advise them to contact the funeral home to arrange transportation of the deceased:
  - (a) the personal representative named in the will of the deceased;
  - (b) the spouse of the deceased;
  - (c) an adult child of the deceased;
  - (d) an adult grandchild of the deceased;
  - (e) if the deceased was a minor, a person who was a guardian who had care and control of the deceased at the date of death;
  - (f) a parent of the deceased;
  - (g) an adult sibling of the deceased;
  - (h) an adult nephew or niece of the deceased;
  - (i) an adult next of kin of the deceased, determined on the basis provided by sections 89 and 90 of the Estate Administration Act;
  - (j) the minister under the Employment and Assistance Act or, if the official administrator under the Estate Administration Act is administering the estate of the deceased under that Act, the official administrator;
  - (k) an adult person having a personal or kinship relationship with the deceased, other than those referred to in paragraphs (b) to (d) and (f) to (i).
- The Public Guardian and Trustee would become involved only where they have been previously deemed as the administrator for the estate.
- In the event that none of the persons from a-j above are available or willing to accept responsibility, the owner/operator of the facility may, under section k above, directly contact the funeral home and make arrangements for the transportation of the deceased.