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ICCFA Magazine author spotlight

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► He is the ICCFA's special cremation legal counsel. ICCFA members in good standing may call him to discuss cremation-related legal issues for up to 20 minutes at no charge to the member. The association pays for this service via an exclusive retainer.

More about this topic



► Lemasters will moderate the ICCFA's Alkaline Hydrolysis Summit at its 2011 Convention & Expo, Mandalay Bay, Las Vegas, March 8-11. Turn to page 54 for more information.

More from this author

► Turn to page 32 to read Lemasters' briefing on the state of legislation about alkaline hydrolysis.



► Go to www.iccfa.com to the Cremation Coaching Center, where you can post a question for Lemasters to answer.



► Lemasters will participate in the government and legal panel at the ICCFA 2011 Convention & Expo, Mandalay Bay, Las Vegas, March 8-11. He also will present two cremation-related sessions. Turn to pages 54, 66 and 70 for more information about these sessions.

CREMATION

What do you say when families ask you about scattering? Do you tell them to just do whatever they want to, quietly? You shouldn't. Educate yourself and then educate your families.

For sale: 2 bedroom/2 bath/ grandma scattered in backyard

Imagine you're househunting. You're going through a beautiful home in the countryside. Perfect views over a lake; a peaceful, tranquil setting—just what you're looking for. Then the seller says: "We love this place. We hate to leave, because our grandparents are scattered in the backyard overlooking the lake."

"Your grandparents are what?"

Of course, since the people reading this article are cemeterians, funeral directors and crematory operators, maybe I shouldn't assume that would be your reaction. But while such an announcement might not bother you, dear reader, I guarantee it will put off plenty of potential buyers.

The scattering of cremated remains has become a trend. As this trend grows, how are you educating your families about what is allowed when it comes to scattering?

The growth of scattering

To see the extent to which society has acknowledged and accepted scattering, just take a look at popular culture. As far as movies go, the 1998 classic, "The Big Lebowski" has one of the best (and perhaps most accurate) portrayals of a scattering.

That was fiction, but there are certainly examples in the news. Remember several years ago when Misty May scattered her mother's cremated remains on the beach volleyball court during the Athens Olympics?

If that isn't enough, just look at Walt Disney World. There are several stories that document the scattering of cremated remains throughout the park. In fact, the park has a code for a cremated remains clean-up ("HEPA clean-up"). It might interest you to know that the most popular Disney site for scatterings is the Haunted Mansion.

No doubt about it, the scattering of

cremated remains is accepted. The question is how we, as an industry, are educating families about it.

Where can human remains be scattered?

How often does a family ask you, "Can I just scatter these ashes in the local park? The lake? Our farm? Our backyard?" And families aren't just asking you; they're asking their friends, they're going online and Googling the information.

There are a couple of things that make this question difficult for us to answer. First, as providers who believe in remembrance and memorialization, it is hard for many of us to wrap our minds around the concept of "just scattering" cremated remains, with no way to record the event or mark the location.

Second, many providers just don't know the answer. I remember early on in my career as a funeral director responding to families who asked whether it was OK to scatter in a specific place, "It's better if you just don't ask or say anything." This was just a fancy way of saying "I don't know."

While talking about the importance of memorialization may be a way for us to point out that scattering is not necessarily the best option, it doesn't address the question of whether the family is *allowed* to scatter in a specific place. This article addresses the latter issue.

There are few, if any, rules and laws that regulate scattering. Most states address scattering only as a method of final disposition. The general law on scattering does not forbid it, but also does not give guidance on where or how to proceed.

There is one basic rule everyone should know to start. In general, scattering is acceptable anywhere—as long as you have express permission from the property

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owner. There are always exceptions, but you should always start by following this mantra: Get permission first, whether the family wants to scatter in a public area such as a park, on the water, on private land or in a cemetery.

In public areas. It may surprise you to learn that permission to scatter in parks is somewhat easy to obtain. For example, Yosemite National Park not only allows scattering—with permission—it also keeps a “Book of Memories” in which those who have been scattered in the park are acknowledged and memorialized.

Yosemite does regulate where scattering can take place. No scattering is allowed within 100 yards of a waterway or within common public areas, for example.

Whatever public area a family wishes to use for scattering, the governmental agency that oversees it needs to be contacted. Ask for permission and inquire about restrictions and permits before proceeding.

On the water. Water scatterings, or sea scatterings, are becoming common. Again, start by asking permission.

There is federal law regarding scattering

at sea. US Code, Title 40, Part 229, permits scattering of cremated remains as long as scattering takes place at least three nautical miles from land.

While there is law for federal waterways, typically no law addresses scattering in state or local waterways. In those instances, it is best to inquire about local or municipal zoning ordinances, again simply by asking for permission at the local or state level.

On private land. Typically there are no state regulations about scattering on private property, but municipal zoning or other regulations may affect the legality of scattering human remains in specific areas.

Many funeral service providers say to families, “There is nothing saying you can’t scatter.” The better response when a family asks you about scattering is, “You should check with the local government to see if there are any ordinances restricting scattering where you plan to do it.”

In addition, permission should be obtained from the property owner. And remember, in most cases, people don’t own their land—the bank (mortgage-holder) does. So unless the bank says scattering is

OK, there could be problems.

In a cemetery. Another common venue for scattering should be the cemetery. I say “should be” because many cemeteries still do not offer a scattering option, perhaps because they fear people will bypass burial or niche space for the less expensive option.

Some states do restrict scattering in cemeteries, but most allow it. With the growth of scattering, cemeteries should create options for it (memorialization can then be offered) and implement rules and regulations to govern the process.

The scattering of cremated remains is becoming more and more common. As a service provider, it is not enough for you to ignore the situation and hope that the family does what is legal and proper.

When families ask about scattering, you should not say, “Just don’t ask—as long as no one knows you’re doing it, you will be OK.” You should know what scattering options are available and how scattering is regulated. You can check on local regulations and ordinances for any restrictions in your area. And always tell the families the No. 1 rule: Get permission first. 