

witnessed in the manner required by the form.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 532, Sec. 2, and Ch. [1336](#), Sec. 2

(a-1) If the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th day after the date the person received notice of the decedent's death or the 10th day after the date the decedent died, the person is presumed to be unable or unwilling to control the disposition, and:

(1) the person's right to control the disposition is terminated; and

(2) the right to control the disposition is passed to the following persons in the following priority:

(A) any other person in the same priority class under Subsection (a) as the person whose right was terminated; or

(B) a person in a different priority class, in the priority listed in Subsection (a).

(b) The written instrument referred to in Subsection (a)(1) shall be in substantially the following form:

APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

I, _____,

(your name and address)

being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by _____

(name of agent)

in accordance with Section 711.002 of the Health and Safety Code and, with respect to that subject only, I hereby appoint such person as my agent (attorney-in-fact).

All decisions made by my agent with respect to the disposition of my

remains, including cremation, shall be binding.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:

AGENT:

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of agent)

Date of Signature: _____

SUCCESSORS:

If my agent dies, becomes legally disabled, resigns, or refuses to act, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent (attorney-in-fact) to control the disposition of my remains as authorized by this document:

1. First Successor

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of first successor)

Date of Signature: _____

2. Second Successor

Name: _____

Address: _____

Telephone Number: _____

Acceptance of Appointment: _____

(signature of second successor)

Date of Signature: _____

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

RELIANCE:

I hereby agree that any cemetery organization, business operating a crematory or columbarium or both, funeral director or embalmer, or funeral establishment who receives a copy of this document may act under it. Any modification or revocation of this document is not effective as to any such party until that party receives actual notice of the modification or revocation. No such party shall be liable because of reliance on a copy of this document.

ASSUMPTION:

THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY THE PROVISIONS OF, SECTION 711.002 OF THE HEALTH AND SAFETY CODE.

Signed this _____ day of _____, 19__.

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by

_____ (name of principal).

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires:

(c) A written instrument is legally sufficient under Subsection (a) (1) if the wording of the instrument complies substantially with Subsection (b), the instrument is properly completed, the instrument is signed by the decedent, the agent, and each successor agent, and the

signature of the decedent is acknowledged. Such written instrument may be modified or revoked only by a subsequent written instrument that complies with this subsection.

(d) A person listed in Subsection (a) has the right, duty, and liability provided by that subsection only if there is no person in a priority listed before the person.

(e) If there is no person with the duty to inter under Subsection (a) and:

(1) an inquest is held, the person conducting the inquest shall inter the remains; and

(2) an inquest is not held, the county in which the death occurred shall inter the remains.

(f) A person who represents that the person knows the identity of a decedent and, in order to procure the disposition, including cremation, of the decedent's remains, signs an order or statement, other than a death certificate, warrants the identity of the decedent and is liable for all damages that result, directly or indirectly, from that warrant.

(g) A person may provide written directions for the disposition, including cremation, of the person's remains in a will, a prepaid funeral contract, or a written instrument signed and acknowledged by such person. The directions may govern the inscription to be placed on a grave marker attached to any plot in which the decedent had the right of sepulture at the time of death and in which plot the decedent is subsequently interred. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by such person. The person otherwise entitled to control the disposition of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the disposition are financially able to do so.

(h) If the directions are in a will, they shall be carried out immediately without the necessity of probate. If the will is not probated or is declared invalid for testamentary purposes, the directions are valid to the extent to which they have been acted on in good faith.

(i) A cemetery organization, a business operating a crematory or columbarium or both, a funeral director or an embalmer, or a funeral