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► Wallace is president and CEO of Lincoln Factoring LLC, Fort Worth, Texas, which has specialized in funeral and cemetery insurance assignments since 2003.

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FINANCES

Accepting an insurance assignment might seem to be an easy and safe way to ensure you'll be paid for the funeral or cemetery services you provide, but it's not always so straightforward. You need to know the potential pitfalls and common roadblocks you can face when dealing with this funding alternative.

Funeral and cemetery insurance assignments 101

Cash flow is necessary for the successful operation of your organization. The importance of cash flow in day-to-day operations cannot be overstated—even nonprofit cemeteries need to be able to pay their employees and suppliers. Therefore, you must make sure that each and every funeral and/or burial is fully paid for.

One the fastest and easiest way to do this, other than cash payment, is through insurance assignments.

However, is it really in your best interest to have your staff handle this huge responsibility of account receivable management (processing and payment of insurance assignment)? If such assignments are processed incorrectly, mistakes can create a negative cash flow for your funeral home and/or cemetery.

Accepting insurance assignments to pay for your services is an essential part of sustaining cash flow, but most funeral homes or insurance funding companies do not properly verify the life insurance prior to performing the funeral service.

The problem is that most funeral home and cemetery employees are not properly trained in the process of handing insurance assignment verification.

Most insurance funding companies include a strict recourse clause in their insurance assignments that does not fully protect your business interests. The result is increase financial risk for you.

Not properly verifying the life insurance policy poses significant risks. The life insurance may be contestable for several different reasons:

- The person the family thinks is the beneficiary may not be the actual beneficiary.
- There may be loans or a lien against the life insurance proceeds.

- The life policy may have been collaterally assigned.
- The policy may have a defect, such as the date of birth given in the application not matching the actual date of birth of the insured.
- The life policy may be a decreasing term or accidental death policy.

These are just a few of the details that, if not properly verified, could compromise what the insurance assignment will pay. So it is critical to verify the life insurance policy properly to ensure your services will be properly and fully paid for.

I'm going to address a few of the issues you might run into when handling insurance assignments, and dispel some common misconceptions.

The insurance company might tell you it cannot release any information due to HIPAA regulations. This is incorrect. Life insurance information is not protected health information under the Health Insurance Portability and Accountability Act.

Under a related rule, covered entities may disclose a decedent's personal health information to family members and others involved in the decedent's care before death, and to a funeral director after death, in order for the funeral director to perform his/her duty.

The insurance company might demand a death certificate before releasing information. An insurance company *does* have legal basis to require a certified copy of the death certificate before it will release any information concerning the decedent.

An insurance company *does not* have a legal right to get a certified death certificate with cause and manner of death prior to paying benefits.

The deceased's employer might balk at releasing benefit information under

a group life insurance plan. ERISA (Employment Retirement Income Security Act) requires disclosure.

Employers intrude upon an employee's protected interest when the employer fails to provide the employee's personal information, with the employee's original contractual consent, to an individual, agent or entity acting on behalf of the employee or beneficiary.

The rights of a funeral home and/or cemetery are derived from the beneficiary. Therefore, an employer has a fiduciary duty to the funeral home and/or cemetery to disclose all material facts to you.

An employer cannot legally state that it can't verify information and that a packet will be sent to the beneficiary, which can take four to eight weeks to be received. Again, ERISA requires disclosure.

An employer or its third-party administrator has an immediate duty to disclose information to you; if it refuses, that is a violation of ERISA.

Research your state law's unfair settlement practice laws. Most states have laws that require insurance companies to disclose information once a claim has been reported. If insurance companies don't disclose information, they have violated

these unfair settlement practice laws.

A high percentage of unpaid insurance assignments are due to non-disclosure of information by insurance companies or erroneous verification by insurance companies.

In either case, your cash flow ends up being hurt, which is something few organizations can afford.

If you don't think that you or someone on your staff has the time to become fully knowledgeable about handling insurance assignments, there are many experts who do this for a living and could handle it for you. 



IRREVOCABLE ASSIGNMENT
& Limited Durable Power of Attorney ("POA")

DECEDENT: _____

INSURANCE COMPANY: _____

INSURANCE POLICY, PLAN or BENEFIT NUMBER(S): _____

FACE VALUE: _____

FOR VALUE RECEIVED the undersigned person(s) equitably or legally entitled to the benefits under the above described Policy(ies), certificates, employee benefits, life or plan benefits now or in the future hereby irrevocably assigns, sets over, conveys and transfers to _____ ("FH")

6145 WEDGWOOD DR., FORT WORTH, TX 76133, its successors and assigns the unearned premiums and the sum of \$ _____ **plus statutory or contractual interest** from the date of death which is to be paid from the benefits, proceeds, any refund of premium(s) and interest of the above-mentioned or described policy(ies), certificates, employee benefits, life or plan benefits (hereinafter referred to as "Policy"). The consideration for this Irrevocable Assignment is the FH rendering funeral services or assisting with the disposition of remains of the above-named decedent which services have been specifically ordered and accepted by me/us and/or additional monies advanced to me/us for my/our personal benefit. The undersigned hereby irrevocably authorizes and directs insurance company to give the FH, LINCOLN FACTORING, L.L.C., ("LF") or its assigns any information that it may require regarding decedent and said Policy. The undersigned hereby irrevocably authorizes the above-named insurance company to make payment of the sum specified herein to the FH or its assigns on its order. The undersigned hereby irrevocably appoints the FH, LF or its assigns as my/our Attorney-in-Fact to act for me/us with full power to make collection of, compromise, settle and receipt for the proceeds of said Policy in my/our names or otherwise with authority to endorse checks; receive information concerning Decedent's above-mentioned or described Policy; and sign and complete claim forms as fully as I/we myself/ourselves could do, with full power of substitution and revocation hereby ratifying and confirming all that my/our attorneys or their substitutes may do or cause to be done by virtue of the authority and direction given herein even if undersigned subsequently becomes incapacitated. In the event that any payment is made to me/us for the Policy subsequent to the execution of this Assignment, such proceeds shall be delivered in the original form received to the FH or its Assigns; such proceeds will not be commingled with any of our other funds or property but will be held separate and apart therefrom and upon an express trust until delivery thereof is made to the FH or its assigns. I/we hereby expressly consent and agree to personally submit to the jurisdiction of all levels of any and all state and federal courts located in Tarrant County, the State of Texas, arising out of any and all litigation which occurs as a result of any dispute regarding this Assignment or any Reassignment. The substantive law of the state where decedent died will be used to enforce this assignment against insurer. I/we agree to pay all costs, expenses, and reasonable attorney's fees incurred in enforcing any of the covenants and provisions of this Assignment and incurred in any action brought against me/us on account of the provisions hereof. On demand, the undersigned promises to pay to the order of FH or its Assigns \$ _____ with interest at the highest permissible rate allowed under Texas Statutes until paid. I/We warrant and represent individually, jointly, and severally that I/We have not heretofore assigned any of the proceeds of the Policy to any person(s) or entity(ies) whatsoever. Notwithstanding, I/We hereby revoke any and all other prior assignments made by me/us of the proceeds, or any portion thereof, of the above captioned Policy to any and all other prior assignments made by me/us of the proceeds, returned premiums or any portion thereof, of the above captioned Policy to any person(s) or entity(ies) whatsoever. In the event that any payment is made to me/us for the above-mentioned Policy that is in excess of the assigned amount plus statutory or contractual interest, the undersigned hereby agrees that LF, or its successors and assigns, will take possession of the excess amount for itself until such time as the undersigned and FH agree in writing to its distribution. If the undersigned and FH do not agree in writing within one year after receipt of the excess funds, the excess funds belong solely to LF it's successors or assigns. The undersigned also authorizes and directs any organization, agency, entity or person to give and release any and all requested information regarding the decedent, beneficiary(ies) & above-mentioned or described Policy or plan benefits to FH, LF, its successors and assigns, or anyone acting on their behalf, and grants the FH, LF its successors and assigns, the power to obtain any information pursuant to HIPAA, ERISA, UPOAA and/or the FOIA that is requested in order to verify the Policy or plan to process all insurance or benefit claims hereunder. If any person or entity delays or denies this power given to FH or LF, FH or LF is assigned my/ our ERISA & POA causes of action for insurer's or entity's failure to respond timely, fully and adequately to inquiries about Decedent's benefits or requests for plan documents. "Timely" means prior to Decedent's funeral or burial. "Fully and Adequately" mean confirming beneficiary(ies) and verifying Policy coverage. IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS ____ DAY OF _____, 20____.

BENEFICIARY'S SIGNATURE & RELATIONSHIP

BENEFICIARY'S SIGNATURE & RELATIONSHIP

IRREVOCABLE REASSIGNMENT

FOR VALUE RECEIVED, the undersigned does hereby assign, transfer, convey and set over unto LINCOLN FACTORING, L.L.C., ("LF") its successors and assigns, all of our right, title and interest in and to the within Irrevocable Assignment and POA, and the insurance proceeds therein referred to, and do hereby direct that payment be made to LF hereby ratifying, confirming and approving anything that the said LF may do by virtue of the authority and direction given herein. The undersigned also irrevocably appoints LF and its assigns, as its Attorney-in-Fact to act for it with full power to make collection of, compromise, settle and receipt for the proceeds of said Policy and the authority to endorse checks, sign and complete claim forms as fully as it could do, with full power of substitution even if undersigned subsequently becomes incapacitated. In the event that any payment is made to me/us for the policies subsequent to the execution of this Irrevocable Reassignment, such proceeds shall be delivered in the original form received to LF; such proceeds will not be commingled with any of our other funds or property but will be held separate and apart therefrom and upon an express trust until delivery thereof is made to LF or its assigns. I/we hereby expressly consent and agree to personally submit to the jurisdiction of all levels of any and all state and federal courts located in Tarrant County, the State of Texas, arising out of any and all litigation which occurs as a result of any dispute regarding this Irrevocable Reassignment. The substantive law of the state where decedent died will be used to enforce assignment against insurer. I/We agree to pay all costs, expenses, and reasonable attorney's fees incurred in enforcing any of the covenants and provisions of this Irrevocable Reassignment and incurred in any action brought against me/us on account of the provisions hereof. On demand, the undersigned promises to pay to the order of LF \$ _____ with interest at the highest permissible rate allowed under Texas Statutes until paid. As security for this Irrevocable Reassignment, we agree to grant LF a security interest to the maximum extent permitted by law in all of the following collateral, whether in existence as of the date hereof or created or acquired hereafter, and in all proceeds thereof: All of our accounts and personal property and fixtures (including but not limited to chattel paper, instruments, general intangibles, documents and goods in which borrower has any interest). In the event that any payment is made to LF for the above-mentioned policy(ies) that is in excess of the assigned amount plus statutory or contractual interest, the undersigned hereby agrees that LF or its successors and assigns, will take possession of the excess amount until such time as the Beneficiary(s) and FH agree in writing to its distribution. If the beneficiary(ies) and FH do not agree in writing within one year after receipt of the excess funds, the excess funds belong solely to the LF or its successors or assigns. In the event that no payments are received by LF within ninety (90) days of the reassignment, then the undersigned does hereby unconditionally and irrevocably guaranty to fully and promptly pay LF the amount of the reassigned benefits immediately upon demand. There shall be no duty or obligation upon LF to proceed against the insurance company, to initiate any proceeding or exhaust any remedies against the insurance company, or to give any notice to the undersigned before bringing suit or exercising any rights or instituting proceedings of any kind against the undersigned. IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 20____.

NAME OF FUNERAL HOME

FUNERAL DIRECTOR'S SIGNATURE

On ____/____/20____, before me, _____, a Notary Public, personally appeared _____, beneficiary(ies) and _____, funeral director(s) who acknowledge themselves to be the persons whose names are subscribed to the within instrument. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC SIGNATURE & STAMP

A person dealing with an attorney-in-fact who unreasonably refuses to accept the above limited power of attorney shall be subject to all of the following: Liability for reasonable attorneys' fees and costs incurred in any action or proceeding necessary to confirm the validity of a power of attorney or any damages related to refusing to accept the power of attorney, and be subject to the \$100 per day penalty under ERISA. Acceptance of the limited power of attorney above shall mean allowing the attorney-in-fact to conduct business in accordance with the powers that reasonably appear to be granted in the document which include but are not limited to verifying the policy(ies), life or plan benefits with insurer, third party administrator, employer or any governmental entity and paying the assignment amount to LF. By accepting this assignment you agree that for a period of three (3) years from the date of this assignment, you shall not, without the prior written approval of the Chairman of LF., (i) call upon and/or induce a funeral home and/or a funeral director using the services of LF for the purpose of soliciting and/or selling or providing services that are competitive with LF to that funeral home or its employees or (ii) induce any funeral home or its employees using the services of LF to terminate or curtail in any fashion its business dealings with LF (iii) attempt to induce any employee of LF to terminate their employment with LF.



STANDARD LIFE INSURANCE CLAIM FORM

INSURANCE COMPANY: _____

1. POLICIES UNDER WHICH CLAIM IS BEING MADE:

Policy Number

Date of Issue

2. DECEASED NAME: _____ SS#: _____

3. DATE OF DECEASED'S BIRTH: _____ DATE OF DEATH: _____

4. PLACE OF DEATH: _____

5. CAUSE OF DEATH: **SEE DEATH CERTIFICATE**

6. NAME OF CLAIMANT: _____

7. ADDRESS OF CLAIMANT: _____

8. SOCIAL SECURITY NUMBER OF CLAIMANT: _____

9. CLAIMANT'S RELATIONSHIP TO DECEASED: _____

10. CLAIMANT'S DATE OF BIRTH: _____

11. WHY ARE YOU CLAIMING INSURANCE PROCEEDS? **BENEFICIARY OF POLICY**

12. **CLAIM IS ASSIGNED TO LINCOLN FACTORING, L.L.C., 6145 WEDGWOOD DR., FORT WORTH, TX 76133 IN THE AMOUNT OF \$** _____

13. OCCUPATION OF DECEASED: **SEE DEATH CERTIFICATE**

14. NAME OF LAST EMPLOYER: **SEE DEATH CERTIFICATE**

15. WHEN WAS HEALTH OF DECEASED FIRST AFFECTED: **SEE DEATH CERTIFICATE**

16. DURATION OF LAST ILLNESS: **SEE DEATH CERTIFICATE**

17. WAS AN AUTOPSY PERFORMED? **SEE DEATH CERTIFICATE**

18. WAS CORONER'S INQUEST HELD? _____ (attach copy of report)

19. NAME AND ADDRESS OF PHYSICIAN(S) CONSULTED DURING LAST ILLNESS: _____

20. IF POLICY IS LESS THAN TWO YEARS OLD, NAME AND ADDRESSES OF ALL PHYSICIANS CONSULTED DURING THE PAST TWO YEARS: _____

I hereby certify that the answers to questions set forth above are complete and true to the best of my knowledge and belief.

X _____
Witness

X _____
Signature of the Claimant

AUTHORIZATION TO GIVE OUT INFORMATION

TO WHOM IT MAY CONCERN: Upon presentation of this form, or a photostatic copy thereof which is a valid as the original, you are authorized and directed to disclose to _____ or its representatives, or to give as evidence in any legal proceeding to which said Company is a party, any records, information, knowledge or belief you may have relating to the employment, membership, health, medical, psychiatric or surgical history, treatment, or hospitalization, or cause of death including any autopsy report pertaining to the named deceased. To facilitate rapid submission of such information, you are authorized to give such records or knowledge to any agency employed by the INSURANCE COMPANY to collect and transmit such information.

DATE: _____ DECEASED: _____

CLAIMANT: _____

RELATIONSHIP: _____

X _____
Witness

X _____
Signature of the Claimant