



Caring for the Dead in

Alabama

Persons in Alabama may care for their own dead. The legal authority to do so is found in:

Title 22-9A-14(b): . . . The funeral director or person acting as the funeral director who first assumes custody of the dead body shall file the certificate of death . . .

There are no other statutes that might require you to use a funeral director when no embalming is desired. A 1986 letter from John Wible, General Counsel, Alabama Department of Health, verified this interpretation for an earlier book, and nothing has changed in the laws since.

Death Certificate

If death occurs in a hospital or nursing home, the facility will initiate the death certificate and have the attending physician sign the medical portion of the form. The remaining personal or family information must be added, typewritten or in permanent ink. For death at home, a blank form and information on current procedures is available from the state Office of Vital Records, Health Statistics, in the Department of Health in Montgomery. The death certificate must be filed with the local registrar or county health department within five days and prior to cremation or removal from the state.

Alabama expects funeral directors and doctors to be using electronic death registration before long, but families caring for their own dead may still use a paper death certificate, obtainable from the state office.

Fetal Death

A fetal death report is required if death occurs after 20 weeks of gestation. All other procedures apply.

Transporting and Disposition Permit

A burial transit permit is no longer used in Alabama. A body may be moved with medical permission. A completed death certificate constitutes authorization for final disposition. If disposition is planned in another state and that state expects a burial transit permit, the funeral director doing the embalming required to cross state lines can obtain such a form.

Burial

There are no state statutes that specifically permit or prohibit home burial. It is also unlikely that there are local zoning regulations regarding home burial, but you should review them before planning a family cemetery. If your land is in a rural area, draw a map of the property showing where the burial ground will be and have it filed with the deed. That may be all you have to do to establish your family cemetery. There are no state burial statutes or regulations with regard to burial locations or depth. A sensible guideline is 150 feet from a water supply, 25 feet from a power line, with two or three feet of earth on top. Plan your family cemetery away from boundaries with neighbors, too.

Landowners have a legal obligation to permit descendants and interested others to visit graves on private property. Cemeteries may be declared “abandoned” and the bodies moved to a new location after public announcement and notification of descendants when known.

Cremation

A permit for cremation must be signed by a local medical examiner or coroner. If no medical examiner is available, the county sheriff will secure a licensed physician for this purpose. There is a 24-hour wait prior to cremation. Most crematories insist that a pacemaker be removed. Next-of-kin can override the wishes of the decedent regarding cremation, even if the decedent had prepaid and pre-authorized his or her own cremation. In the case of surviving adult children, all children must agree, not just a majority. If the crematory will not permit the authorizing person(s) to witness the cremation, this must be disclosed prior to the cremation arrangements.

All crematories are affiliated with mortuaries. Some may resent your desire to bypass their other funeral operations. You may wish to get the assistance of your family physician in negotiating arrangements ahead of time if the crematory fails to acknowledge your rights.

There are no laws regarding the disposition of cremated remains. You may do as you wish.

Other Requirements

Embalming or cremation is required by statute before removing a body from the state unless the body will be used for medical research purposes. Off-the-record conversations with those in the industry reveal that funeral directors from neighboring states often pick up a body without embalming first, and some here have shipped a body with dry ice when there are religious objections to embalming.

There are no other circumstances that require embalming. Alabama has no requirements controlling the time schedule for the disposition of unembalmed bodies. Weather and reasonable planning should be considered.

If the person died of a contagious or communicable disease, the doctor in attendance should be consulted.

Medical Schools for Body Donation

Body donation to a medical school is another option for disposition. Find the information for Alabama at <www.finalrights.org>.

State Governance

The Alabama Board of Funeral Service has seven members; no more than four may be of the same race. There are **no** consumer representatives. Website (finally):

<www.fsb.alabama.gov/>

A legislatively-mandated audit of the Funeral Service Board in 2007 is, frankly, quite shocking:
<www.examiners.state.al.us/PDFs/Audit28S-0013.pdf>

Three people reported to the auditor that a staff person had solicited money (other than normal fees). The report of establishment inspections seems bogus, as it would be physically impossible to travel the miles between the facilities listed in a single day. The office is run with paper and pencil, without the benefit of any computerized efficiency; the office could not easily produce a list of licensees for the audit. Indeed, it seemed unaware (and unconcerned) that there are a number of unlicensed funeral establishments in the state. The board is failing a number of state-mandated tasks such as supplying a list of laws and regulations to licensees in a timely way.

Apparently, the audit shook things up, as the office now has a website and e-mail at least.

Crematories must be affiliated with a funeral establishment and are regulated by the Board of Funeral Service.

There is no state agency governing the day-to-day operation of cemeteries. According to state statute, cemeteries are required to post a complete list of prices for all burial services and merchandise offered.

The Department of Insurance regulates funeral and cemetery preneed sales.

<www.insurance.alabama.gov/>

Prepaid Cemetery and Funeral Funds

Unless the funeral home is using an insurance policy to fund the preneed, 75% of the funds for *funeral services and merchandise* must be placed in **trust**, 60% of the outer burial container cost, and 100% of cash advance items. A full **refund** can be requested during the first 30 days. No trust deposit is required until the account is paid in full, which might take quite a few years for some families. These new preneed laws passed in 2002 are probably worse than no laws at all, as they give funeral homes the right to keep 20% of what a consumer paid if the consumer moves and needs to change funeral plans. So the funeral home will have to ante up 5% of what it pocketed earlier in order to refund 80%, as required by the Insurance Department's standard contract. The seller may keep the **interest**. If funded by **insurance**, the cash value is all a consumer can reclaim, considerably less than what was paid. The full value is transferable, however.

Prepaid *cemetery merchandise* (markers) must be in **trust** at the rate of 110% of the wholesale cost. Sixty percent of *vaults and services* must be in trust. Constructive delivery (warehousing) can avoid all trusting requirements. There is no provision for a consumer to cancel cemetery purchases. This would be desirable if one were to change plans from body burial to cremation and no longer needed a vault. In fact, the Alabama law is particularly bad for the poor by permitting a cemetery to cancel a contract entirely and keep all funds paid if the purchaser comes upon hard times and is more than 90 days late with payments.

The model preneed contracts on the Insurance Department's web site is written in six-point type and nearly impossible for even a young pair of eyes to read. I found no requirement that a contract be written in a more legible type size.

Consumer Concerns

- The death rate in Alabama can support approximately 188 full-time mortuaries; there are, however, 460. Funeral prices tend to be higher in areas where there are “too many” funeral homes.
 - There is no state board governing cemeteries.
 - There is no consumer representation on the Funeral Board. Ideally, it should have majority consumer representation, and should also be expanded into a funeral-cemetery board.
 - Trusting requirements for prepaid funeral and cemetery purchases are inadequate and should be increased to 100%, with a full refund, including interest, if the purchaser needs to transfer or cancel the contract.
 - There is no requirement to provide consumers with an annual report of all prepaid funeral funds.
 - There is no state protection in the case of default on prepaid funeral monies.
 - Until the Alabama laws are changed, it is probably a terrible idea to prepay for a funeral or any cemetery merchandise and services, given the lack of adequate protection for consumers. Your own pay-on-death account in the bank will be safer.
 - Identification and tagging of a body is now required by state law, but the Board of Funeral Service has failed to promulgate a regulation to make this happen.
 - The standards for ethical, professional conduct are inadequate and should be strengthened. That would make it easier for a consumer to prevail when filing a complaint. (See Appendix.)
 - Complaint procedures are unclear and inadequate.
 - The executive director of the funeral board told Carlson ten years ago that he had no intention of enforcing the FTC Funeral Rule. If the feds are going to pass laws, let them enforce them, he said. When calling to update information for this chapter, Carlson asked if the Funeral Rule had been adopted yet in Alabama. The secretary said, “What’s the Funeral Rule?”
 - Current Alabama regulations require “a card or brochure in each casket stating the price of the funeral service using said casket and listing the services and other merchandise included in the price.” It does permit the funeral home to attach separate prices to each item on the list in the casket, but the total-funeral-per-casket package pricing is not in compliance with the FTC Rule; only the basic service charge may be included in the casket price in some instances. Alabama consumers, then, may not be getting a separate itemized list of funeral options from which to choose at every funeral establishment.
- If you decided not to have embalming, for example, how much would that save? If you chose to use your own vehicles instead of a limo to the church, how much would that save? The FTC permits a family to choose funeral goods and services separately, selecting only those options they want.
- The regulations require that at least eight adult caskets be on display, but there is no requirement that low-cost caskets be included in that display. With computer presentation, the consumer is likely to have a much wider choice, and the casket showroom could be eliminated altogether.
 - There is no provision either forbidding a mark-up on cash advance items or requiring the disclosure of how much the mark-up would be if permitted.
 - The law requiring embalming or cremation when crossing state lines is routinely ignored but, when enforced, it is an offense to some religious groups and is entirely unnecessary.
 - Coroners are elected. Some are medical people but, according to one report, nearly 75% are funeral directors or have an affiliation with a funeral home. When that is the case, there is a serious conflict-of-interest. Consumers should feel free to have a body moved to the funeral home of their choice if a coroner has sent the body to a funeral home that otherwise would not have been selected.
 - Alabama is one of the few states where crematories must be run by a funeral director. There is nothing on the study guide for the national funeral directors exam about running a crematory. There is nothing in the curriculum of most mortuary schools on running a crematory. To make sure that some price competition remains in the deathcare industry, crematories should be independently licensed.
 - The chairman of the Department of Surgery at the University of Alabama-Birmingham is authorized by law to regulate the acquisition of bones and tissue for study and transplant. This responsibility has been turned over to the Alabama Organ Center, which is doing tissue retrieval for certain biotech companies. Other body parts brokers are operating independently, however, arranging to have bodies shipped out of state, without any oversight or regulation.

Miscellaneous Information

- Educational requirements for becoming a funeral director: 18 years of age, two years of apprenticeship, and passing an exam. For an embalmer: mortuary college (2 years), two years of apprenticeship, and a passing exam grade of 70%.
- Casket manufacturers and casket dealers must pay a license tax.

- The FTC Funeral Rule has been adopted by reference in the statutes.
- Funeral directors may not hold a body for payment.
- You may name an agent to carry out the disposition of your body, either with or without specific instructions.
- It is unprofessional conduct to use “profane, indecent, or obscene language” in the presence of the family or a dead human body “not yet interred.” (After that, watch out?)
- The Board of Funeral Service is authorized to make sure that all licensees know how to properly enucleate eyes (safely remove for transplant). In practice, most simply call the Eye Bank.
- A notice of disinterment must be filed with the local Health Department or the state Health Department indicating the new location for burial.

This chapter was reviewed (and corrected) by the State Registrar of Vital Statistics in the Alabama Department of Health and the Alabama Insurance Department. It was also sent for review to the Anatomy Department at the University of Alabama, the University of Southern Alabama, the Alabama Board of Funeral Service, and the Alabama Funeral Directors Association. Review does not necessarily imply approval or agreement with all of the statements.

Update History—revised 12/20/2011 to reflect adoption of FTC Funeral Rule and body disposition agent law.



Many people over the years have asked for a checklist for performing a family-directed funeral. Would that were so easy! While the process is not excessively complicated, there are many things families need to contemplate and many differences in state laws, so it is impossible to distill the process into a sound-byte-style checklist.

There are, however, some basic components common every family-directed disposition:

1. A doctor, medical examiner, or nurse practitioner must certify the death by completing the medical information on the death certificate.
2. The death certificate must be completed and filed before the body is buried or cremated.
3. Most states require you to get a permit for transportation or disposition before moving the body and before final disposition.
4. You will need to do a walk-through ahead of time with all parties involved, from the local registrar of vital statistics to the cemetery, crematory, or medical school where the body will end up. Some of

these parties may need to be shown in advance that what you're doing is legal if they haven't experienced a family-directed funeral before.

Avoiding Careless Errors

Those who choose to handle death privately must take great care to follow all state and local regulations. The requirements are not complex, but failure to meet them can lead to unpleasant situations and create a climate in which professionals become less willing to work with families.

One crematory, for example, was sued for rejecting a body sent by a family. The case was thrown out of court, and rightly so, because the family had merely hired someone to deliver the body without a death certificate, transit permit, or authorization from next-of-kin for cremation. Another crematory will no longer accept bodies directly from families because in one case, the family had assumed that medical personnel would fill out the forms properly. While that seems like a reasonable assumption, in this case the cause of death as stated by the medical examiner on the permit to cremate was not written exactly as it had been on the death certificate, and the state later made an issue of it. In short, the procedures are quite simple and straightforward, but it is

necessary to pay close attention to the details and to be vigilant about errors that may be made by others.

Death Certificate

Great care must be taken in completing the death certificate. Whiteout or other corrections are not usually permitted. If an error is made, you may have to start over again with a new certificate. Most states have implemented an Electronic Death Registration (EDR) system, which doctors and funeral directors can log into rather than writing on a piece of paper. Private individuals will not be allowed to use the on-line system, but vital statistics departments should have a paper alternative for families who perform their own funerals. Check your state chapter and your local vital statistics office ahead of time for the proper procedure.

For all deaths, a death certificate signed by a doctor stating the cause of death must be filed—usually in the county or district where death occurs, or where a body is found, or where a body is removed from a public conveyance or vehicle.

If complicated laboratory work is needed to accurately determine the exact cause of death, the physician or medical examiner may write “pending” or a similar phrase for the cause of death and release the body for disposition. In those few cases, a delayed or corrected death certificate will be sent to the state registrar by the physician when the cause of death is known.

In addition to the medical portion, facts such as “mother’s maiden name” must be provided by the family. Unless the signature of a licensed funeral director is required by state statute, the family or church member who is handling the arrangements must sign the death certificate (or paper alternative in states with EDR) in the space marked “funeral director,” followed by his or her relationship to the deceased, immediately after the signature.

States vary in the time required for filing the death certificate with the local registrar, but this must usually be accomplished before other permits are granted and before final disposition.

Fetal Deaths and Miscarriages

A special death certificate or fetal death report is required in all but two states for fetal deaths. Eleven states seem to require registration of all fetal deaths. In a majority of states, a fetal death must be registered if it occurs after 20 weeks of pregnancy. In Hawaii, the requirement goes into effect after 24 weeks. Some states gauge pregnancy duration by fetal weight, e.g., 350 grams (12½ oz.), and because any unattended death—including fetal death—could require a coroner’s investigation, a physician should be called.

Even if there is uncertainty as to whether reporting requirements are applicable, reporting a fetal death may be helpful in obtaining insurance benefits in some situations.

Autopsies: Dealing with a Coroner/ Medical Examiner’s Office

Autopsies are generally required when cause of death is violent, unexpected, uncertain, or “unusual,” including suicide. For this reason, the police should be called when death occurs outside a hospital or nursing home, is “unattended,” and falls into one of the categories above. But it is not necessary to call 911 for an ambulance or police if the death is not unusual. For example, it wouldn’t make sense to call 911 if Grandma died in her sleep at 85, and doing so would bring on unnecessary commotion.

Death from a contagious or infectious disease may also necessitate involvement with a coroner or local health officer.

When donating the body to a medical school, a family should request that no autopsy be performed. The decision will depend on circumstances surrounding the death, and the state may order an autopsy in suspicious cases.

The practices in coroners’ offices vary widely. In California, it is legal for medical examiners to amputate fingers for identification and remove tissue and organs for study. One woman discovered that her father had been buried without his heart when she arrived at a workers’ compensation hearing and saw the heart presented as evidence.

The condition in which a medical examiner or coroner returns an autopsied body varies considerably. We’ve had reports from families and home funeral guides stating the body was barely tacked back together, and work had to be done to better sew up the incisions. Some families planning a home funeral might wish to engage a funeral director for this. On the other hand, we’ve heard from several families who did this work themselves.

The term *medical examiner* is usually reserved for those with medical training, and the person in such a position is often appointed by the department of health. In a few states, the word *coroner* is used interchangeably with medical examiner. Generally, however, the term coroner implies an elected position. In California, a medical degree is required for a candidate to run for coroner. In many other states, however, anyone may run for the office, with or without medical training. A coroner may be a practicing funeral director or have a direct relationship with a funeral home. In Pennsylvania, more than half the coroners’ offices have a

funeral director on the staff. To avoid any appearance of impropriety, a coroner or medical examiner may rotate pick-up calls among all funeral homes within the jurisdiction, but this is not always the case. Funeral directors from various states have complained that a local coroner-funeral director ends up getting more business when he's on duty as the coroner. This is unethical, and consumers have no obligation to use the funeral home whose director is acting for the state as a coroner.

Home Death, Home Visitation

With hospice support, many people are able to die at home in familiar surroundings, near familiar faces. In some states, an "expected" death can be certified by an attending nurse. A home death can allow the family time to obtain permits and make necessary arrangements. Turning off the heat in a room or turning on an air-conditioner can make it reasonable to contain a body without further action for 24 to 72 hours or more. People often ask, "Doesn't the body smell?" No, not usually for the first two or three days, at 70 degrees or less, but each situation must be considered individually. Often in waning days a failing person stops eating and drinking, so the body will become somewhat dehydrated before death. Noxious odors are therefore unlikely during the next few days. The robust body of someone who finished a meal of corned beef and cabbage just prior to death, however, might produce telltale odors.

For some, there is therapeutic value in keeping the body at home for at least a brief period, allowing the family a chance to congregate and deal with the death, as often occurred in the front parlor two or three generations ago.

Nursing Home Death

When death is anticipated in a nursing home, it will be important to work out your plans with the nursing home staff ahead of time. If the deceased has had only a semi-private room, for example, the nursing home may have no other location to hold the body while paperwork and other errands are done. Staff members are accustomed to calling a funeral director, regardless of the hour, for quick removal. Out of consideration for other residents, it may not be feasible for the nursing home personnel to allow a long delay while permits, a container, and vehicle are obtained.

When Carlson's Uncle Henry died at a care facility, she didn't have a dignified way to move the body out. She called a friendly funeral director to pick up and bring the body to her home where it was placed in a cremation box. She and her husband drove it from there to the crematory.

Hospital Death

Disposition of a fetal or infant death can be handled entirely by the hospital as a courtesy if a family so chooses. When other deaths occur in a hospital, the relative on hand should ask the nursing staff to remove any life-support articles such as catheters, IV needles, and feeding or breathing tubes. A catheter is held in place by a "balloon" and is not as simple to remove as an IV needle. Some of the nasal tubes appear especially disfiguring after death and may be of concern to other family members who are expected later to help with the death arrangements.

Some hospitals may be reluctant to release a body directly to a family without the use of a funeral director. If the death is expected, you should alert the hospital staff of your intentions ahead of time. If hospital personnel are confused or believe incorrectly that they can refuse to release the body to the family, a telephone call from your lawyer (or Funeral Consumers Alliance) may be in order. It is also important for families to recognize the legitimate needs of hospitals. Some hospitals may have no storage facilities for dead bodies while permits are obtained and may insist on calling a funeral director for immediate removal after death if there is to be any significant delay.

Body and Organ Donation

Donation of eyes and other organs must be done under sterile conditions and usually within a short time after death. Because organ-donor cards may not be immediately available to hospital personnel, next-of-kin should make the decision to donate known to attending staff at the earliest time possible. Hospital employees are often reluctant to approach a grieving, distressed family. Anyone who can find emotional healing in a gift of life or sight is encouraged to take the initiative in making such an offer even if the time of death is uncertain. The corneas of elderly persons can usually be used, and eyes (and sometimes skin) may be donated even if total body donation to a medical school is subsequently planned.

With the increasing success of organ transplants, consideration should be given to whether organ donation takes priority over body donation. There may develop a competition between those needing body parts and those who need whole bodies. Loss of a major organ involving a thoracic incision usually makes a body unacceptable for a teaching donation because of the difficulty in embalming a system interrupted by recent surgery. Carlson and her husband, Steve, have written in on the body donation cards they carry that organ donation is to be considered first. If organ donation is not needed, only then should their bodies be considered for body donation to a medical school. If their bodies are not accepted,

they want a plain pine box send-off.

Body donation to a medical school may be an option even if the deceased has not enrolled in such a program. For up-to-date information about the needs and requirements of medical schools, as well as for-profit and non-profit companies that accept body donations, check our website: <www.finalrights.org>

Embalming

No state requires routine embalming of all bodies. Special circumstances—such as an extended time between death and disposition—may make it necessary under state law. Interstate transportation by a common carrier may also necessitate embalming, although most airlines will waive that requirement if there are religious objections. Refrigeration or dry ice can take the place of embalming in many instances. Check the Yellow Pages (or the on-line equivalent) for a source of dry ice. Frozen gel packs such as those used for picnic coolers can also work, though you will need enough to swap out when one set gets warm. In some states, embalming may be required by law if the person has died of a communicable disease, although this is a seriously flawed requirement.

Moving A Body

Never move a body without a permit (or without medical permission if your state allows that in lieu of a permit)! Always call ahead before moving a body even if you have a permit. A medical school, cemetery, or crematory staff member who is unprepared, or a town clerk who just isn't sure about family burial plots may need some time and help in doing his or her job. By calling first to make arrangements at the destination, you will be expected and prepared. Remember that even if your state permits families to perform their own funerals, crematories, cemeteries, and medical schools are not legally required to work directly with consumers. You will want to know in advance whether the staff will accept the body directly from you (and you may be able to persuade them to do so by explaining your plans in advance).

The use of a simple covered box allows some dignity for all involved in the handling and moving of a body, regardless of final disposition. If a family chooses to build the container for delivery of a body for cremation, they should consider the size. A standard cremation chamber opening is 38 inches wide and 30 inches high. A container two feet wide and 14 to 18 inches deep is usually sufficient for most bodies, however. One crematory mentioned that most home-made boxes tend to be too large. Simple cardboard containers (or caskets) can

be purchased from funeral homes (though some will refuse to sell the box only). Or check the internet; the FCA site at <www.funerals.org> has a listing of casket sellers in many parts of the country, and many will ship a simple cardboard or wood casket in knockdown form, ready to assemble. Some boxes are more expensive than others because of construction. Some are paraffin-coated, others plastic-lined, and some have plywood bottoms.

You should also consider the length of the box when you choose the vehicle for transportation. Most states require a permit for transportation or disposition. The death certificate must usually be completed first, and often a special permit-to cremate is needed prior to cremation. In many states, funeral directors serve as deputy registrars. If death occurs when local municipal offices are closed, a funeral director may be needed to furnish or sign the disposition or transit permit, especially in states using electronic death registration (EDR) widely. As a deputy of the state in this function, the funeral director should not charge for this service unless such a charge is set by the state.

Body Fluids

After death, the blood in a body settles to the lowest points, leaving the upper portions pale and waxy, with purple mottling below. Some parts of the body may swell a little. Fluids may be discharged from body orifices. It will be helpful to use absorbent material—such as towels or newspapers—underneath. A sheet can help with wrapping and moving the body. If the person has died from a communicable disease, it will be important to take all health precautions. Use a pair of latex rubber gloves. Your state may require the use of a funeral director in such a case. Consult your family doctor for instructions if the information for your state is not specific or if you are concerned.

When an autopsy has been performed or death occurs from trauma, the body may be wrapped in a vinyl body bag—available from a funeral director—to prevent additional leakage or seepage. A plastic, zippered mattress cover might work as well. However, if you plan on cremation, avoid any such materials whenever possible.

Out-of-State Disposition

All states honor properly acquired permits of other states when a body is to be moved interstate. There may be local regulations for disposition, however. Check by telephone before setting out for the destination.

Burial

In some states, when burial will be outside the coun-

ty or town where death occurred, you will need an additional permit to inter (whether on private land or in a cemetery) from the local registrar in that area. The statutes and regulations of some states include depth requirements for burial; these are listed in the state chapters in this book. Standard practice in many states is to place the top of the coffin at least three feet below the natural surface of the earth. A burial location should be 150 feet or more from a water supply and outside the easement for any utility or power lines.

Cremation

When cremation is chosen, an additional permit is often required from the local coroner or medical examiner. There is a fee for this which varies by state; the highest we know of is Oklahoma's \$150 charge. If the deceased did not sign a cremation authorization prior to death, authorization from next-of-kin or a designated agent is required by most crematories. Usually this can be obtained by fax, Western Union, or overnight mail if family members live out of state.

Next-of-kin is determined in this order (although it varies slightly from state to state):

- (1) surviving spouse
- (2) adult sons and daughters
- (3) parents
- (4) adult siblings
- (5) guardian or "person in charge"

That is, if there is a surviving spouse, his or her permission is all that is required. If there is no surviving spouse but several children, all adult sons and daughters may be required to grant permission for disposition by cremation (though some states require only one adult child to consent). Adult siblings must assume responsibility if no spouse, offspring, or parents survive.

Be sure to check the chapter for your state to see if the law allows you to designate an agent to carry out your wishes for final disposition. "Designated agent" laws allow a person to choose anyone (it need not be a family member) to have the sole legal authority to direct the cremation or other form of disposition. It is extremely helpful to name an agent ahead of time so that family disputes will not hold up the arrangements or wind up in probate court. Gay, lesbian, and transgender people should take special care to designate an agent if their state has a designated-agent law. We have seen some terrible problems with blood families swooping in to take the body away from the decedent's same-sex partner. (This problem can also be averted, of course, in the increasing numbers of states with same-sex marriage.)

A pacemaker must be removed before cremation. The services of an attending physician, the medical

examiner, or a funeral director can be requested for this. On the other hand, one funeral director told Carlson, "Anyone can do it." A pacemaker is about the size of a silver dollar, embedded just under the skin, usually near the neck or lower on the rib cage. A shallow incision with an X-Acto knife would make it readily accessible, and the wires to which it is attached should be snipped. If a pacemaker is not removed and explodes during the cremation process, repairing damage to the cremation chamber may be the liability of the person delivering the body.

Selecting a Crematory

There is no consistency among the states when it comes to the operation of crematories. Some states allow only cemeteries to run crematories, barring funeral homes from owning them. A few other states allow only funeral homes to operate crematories, and bar freestanding crematories from doing business directly with the public. Still other states permit crematories to operate independently and do business with consumers directly. Generally, crematories run by funeral homes are less likely to work directly with a family, as they want consumers to pay them to do everything. At Cook-Walden funeral home in Austin, Texas (owned by SCI), the staff told an FCA board member that they would accept the body and the death certificate directly from the family, but the direct cremation price was the same (\$2,400!) even though the family would be doing almost all the work.

As with all entities involved in a family-directed funeral, you may need to contact several crematories ahead of time to find one that will work with you. Carlson took Uncle Henry to a crematory an hour and a half away where the cost was \$225. The nearby crematory would not take a body from a family, and lists prices close to those in Austin.

Obituary (Death Notice)

Traditionally, an *obituary* is a news article published when a well-known person dies. A *death notice* is called in by the family or funeral director and published, usually at a price, to inform others that death has occurred. However, in current usage, the terms are generally interchangeable.

When a death occurs, it is almost impossible to personally notify everyone who knew or cared about the deceased. Close friends and relatives, of course, should be informed by phone before they read about the death in the newspaper. But a death notice may help assure that the news reaches a wider circle of acquaintances in a timely manner. It should mention any services planned, even if a memorial gathering is scheduled for a

later date.

More people are learning about the deaths of friends and acquaintances on-line than ever before. As newspaper readership declines, putting a notice of death on your—or the decedent's—Facebook page (or other social media) may spread the news more quickly than relying on a newspaper obituary alone. While e-mail is considered by some to be the most impersonal form of communication, many people are grateful to be notified quickly by e-mail, especially if they spend a lot of time on-line.

If you do choose an obituary, call the paper to learn its policies and any costs. Your local paper may have a standard format for obituaries or expect certain information to be included. An obituary can generally be phoned in or e-mailed. If there is no funeral director involved, the person at the paper may ask for a copy of the death certificate just to be sure that the obit is not a practical joke (as has happened from time to time).

The cost varies a lot but can be quite high; it's not uncommon to see obituary charges of \$500 or more. Of course, most people want the obituary to tell the story of the person who died, and the longer it is, the higher the price. When Slocum's close friend died in 2010, the obituary Slocum wrote would have cost \$700 to put in the *Syracuse Post-Standard* (and it wasn't that long). The funeral director suggested putting only the necessary details about the time and place for Michael's memorial service in the paper, and publishing the longer obituary on the funeral home's website, which they offered free. Thank you, Newcomer Funeral Home. Lisa's Uncle Henry was a colorful character—a friendly, witty street person who got to know almost everybody he met. A long obit with several of his life stories was the only practical way to get the word out to everybody. It was expensive, but was the one costly item that seemed important.

Miscellaneous but Still Important

- It is not uncommon for family members to forget to remove jewelry at the time of death.
- A family using the time of a mortician for advice should find it reasonable to pay a consultant's fee.
- If a person who works in a funeral home or crematory offers to file a death certificate, you should expect to pay for the service.

When private death arrangements are made in an area of the country where the practice is still uncommon, you can expect some hesitancy on the part of involved persons such as registrars and town clerks. Some hospitals may even be reluctant to release the body to a family.

We have tried to include in each state chapter relevant legal citations enabling family disposition. People in authority, accustomed to delegating their duties to funeral directors, may have to be informed of their responsibilities. That can be frustrating, particularly when you are enduring a time of loss and grief. The majority of these people will probably be concerned with performing their duties appropriately. Few will intentionally want to hinder your choice if you have followed all required procedures and if you seem well-informed.