



Caring for the Dead in

Colorado

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

Title 25-2-110 (3) The funeral director or person acting as such who first assumes custody of a dead body or dead fetus shall be responsible for the filing of the death certificate.

Title 12-54-119 [re statutes regulating the funeral profession] (2) This part shall not apply to, nor in any way interfere with, any custom or rite of any religious sect in the burial of its dead, and the members and followers of such religious sect may continue to care for, prepare, and bury the bodies of deceased members. . .

Death Certificate

The family doctor or coroner will sign the death certificate within 48 hours, stating the cause of death. The remaining information must be supplied, typewritten or in black ink. The death certificate must be filed with the local registrar in the county where death occurred within five days and prior to disposition.

Money has kept Colorado from implementing electronic death registration, but that will surely be coming. When that happens, the procedures will change somewhat. If they follow the route other states have taken, a paper alternative will be available for the home funeral folks, and the local registrar or health department will type into the system the necessary demographic information. How to handle weekend and holiday deaths may be of concern.

Fetal Death

Fetal death must be reported if gestation is 20 weeks or greater. A physician's or coroner's signature is required.

Transporting and Disposition Permit

The county registrar or coroner will issue a disposition permit. The death certificate must be obtained first. The permit must be endorsed by the sexton or crematory and returned within five days to the issuing registrar.

Burial

In 2010, coroners rammed a bill through the legislature requiring that all burials on private property be recorded with the county within 30 days. The Coroners Association and the bill-sponsoring coroners failed to return Carlson's phone and e-mail messages. It would have been a fine opportunity to include guidelines such as 150 feet from a water supply, 25 feet from a power line or boundary, with two or three feet of earth on top. The "Private Burial Affidavit" form can be obtained from Vital Records or the local registrar.

Cremation

The disposition permit serves as the permit to cremate. No additional permit is required. Most crematories insist that a pacemaker be removed, and authorization by next-of-kin or the designated agent is required. There are no laws regarding the disposition of cremated remains. You may do as you wish.

Other Requirements

If disposition does not occur within 24 hours, the body must be embalmed or refrigerated.

If the person died of a contagious or communicable disease, the person acting as the funeral director must consult with the local or state health officer concerning disposition.

A body to be transported by common carrier must be prepared by a mortuary science practitioner and embalmed or shipped in a hermetically sealed casket.

Medical Schools for Body Donation

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

State Governance

The Colorado funeral board was eliminated by sunset laws in 1983, and funeral directors are no longer licensed in this state. The Colorado Funeral Directors and Embalmers Association, a trade organization, has established the Mortuary Science Commission. The Commission "certifies" those applying for recognition

who have successfully completed training and apprenticeship. The Commission has five members. Three are funeral directors, one represents the clergy, and one is a consumer representative.

In 2009, the Colorado legislature moved in a new direction which now requires the “registration” of all funeral homes and crematories with the Department of Regulatory Agencies (DORA). This seems little more than a ploy to gather funds for the state with new registration fees while clogging up files with useless paperwork. In addition, the legislation defined who may be called a “mortuary science practitioner” or “funeral director.” We suspect that, despite its denials, the Colorado Funeral Directors Association (which pushed the legislation) sees this as the first step back to full licensure to more efficiently restrict low-cost competition. COFDA described the bill as aiming for nothing more than “Title Protection.” Protection for the good ol’ boys, more likely, who will surely enjoy “grandfather” protection from any new requirements. One may not call oneself or engage in the activities of a “mortuary science practitioner” unless one has 2,000 hours of apprenticeship (one year), graduates from an approved mortuary school, and passes a national exam put out by the International Conference of Funeral Service Examining Boards (ICFSEB). That exam is now being declared irrelevant and 40 years out of date by both industry and consumer critics. A “funeral director” needs only the 2,000 hours of apprenticeship that includes at least 50 services.

Oh, and the legislation doesn't even require a test to see if a prospective funeral director understands state law or the FTC Funeral Rule. An “embalmer,” however, has the burden of 4,000 hours (two years) of apprenticeship involving 50 dead human bodies. With the average embalming taking about two hours, that would use up 100 or so of the required hours. Just what did the legislators think these embalmers would be doing for the other 3,900 hours? A cremationist must apprentice for 500 hours with at least 50 bodies involved. More odd math here, as a typical cremation is only about 2½ hours—125 hours total. EMTs—the ones who work to keep you alive—need less than half the training embalmers do, and embalmers only have make you look good, not feel good, when you're dead. (This gem was noted in a Funeral Consumer Society of Colorado newsletter).

Mind you, funeral directors or whatever you want to call them are still not licensed *or registered* in Colorado. Only the physical funeral or crematory establishment is

registered and at risk of losing its registration at the beck and call of DORA. Apparently the legislators forgot that when they wrote, “**12-54-405. Letters of admonition - funeral homes and crematories.** (1) When a complaint or investigation discloses an instance of misconduct . . .” And just how can a building be guilty of misconduct? Now they really screw things up: “**12-54-406. Cease-and-desist orders - procedure.** (1)(a) If it appears to the director, based upon credible evidence as presented in a written complaint, that a person is acting in a manner that creates an imminent threat to the health and safety of the public, or a person is acting or has acted without the required registration, the director may issue an order to cease and desist such activity. . . .” *But remember, persons are not required to be registered.* Because no industry practitioners are licensed or even registered, does DORA really have any authority to discipline them?

If the legislature wanted to regulate the activities of funeral industry practitioners, they certainly made a muddle of it this time. While there is a list of a few unlawful acts (discrimination is a no-no), there is no standard of unprofessional conduct, although states like New York have detailed such lists in their statutes. Indeed, in Colorado the director or administrative law judge “may consult with . . . an appropriate professional organization or association of businesses . . . weighing the appropriate standard of care . . .” when adjudicating a complaint. In other words, if someone has filed a complaint against a discount cremation service, the director can contact the Colorado Funeral Directors Association to see what those folks think the proper care should be. Many of the CFDA members run full-service establishments that may be suffering from low-cost competition. Oh, yes, the same business organizations may be consulted in the drafting of any rules, too. Impartial opinions? Why didn't the statute require the director to also consult with the Funeral Consumer Society of Colorado?

The Insurance Division regulates preneed sales for both cemetery and funeral purchases, and licenses preneed sellers who may or may not be funeral directors or cemetarians. With insurance usually a poor choice for funding a funeral (due to high cost and/or poor growth), one has to wonder why that was given to the insurance guys and gals instead of the Division of Financial Services, the Division of Banking, or the Division of Securities.

<<http://www.dora.state.co.us/>>

Crematories must be registered with DORA. One does not need to be a funeral director to run a crematory.

Prepaid Cemetery and Funeral Funds

Fifteen percent of the sales price of any grave and at least ten percent of the sales price of any crypt or niche must be put into an endowment fund in a state-authorized institution.

85% of *cemetery goods and services* must be placed in **trust**. “**Constructive delivery**” can bypass the trusting requirement. “Delivery” usually is accomplished by issuing a certificate of ownership and warehousing the vault and/or marker, although the state is not checking to see if the goods are actually there. Once “delivered,” it is almost impossible to get a refund even if the items and services have never been used.

Only 75% of prepaid *funeral* money is required to be put in **trust**, which—in effect—permits the seller of preneed funeral goods and services to pocket an up-front “commission” of 25%. “**Constructive delivery**” can bypass the trusting requirements for funeral merchandise, too. If you have a \$6,000 funeral contract of which \$1,000 is for a vault and \$2,000 is for a casket, the seller may give you a slip of paper promising those are in the warehouse. Then the seller deposits 75% of the remaining \$3,000 — or a mere \$2,250 of your original \$6,000. With that kind of immediate financial gain and the warehousing mischief, Colorado must be a paradise for preneed funeral merchants.

Once the amount of the trust exceeds the total that the buyer has paid, **interest** income is considered “excess funds” and may be withdrawn by the seller. If the full amount is deposited, the seller starts earning the interest right away. But who’s going to deposit that when they can pocket more than half of what you just gave them if they’ve told you your stuff is in a warehouse? Might be interesting to ask to visit. The state isn’t bothering to check on it for you.

The law is a little vague about what happens if you change your mind. A consumer may **cancel** a preneed contract and get a full refund within seven days. You may **cancel** (or, presumably, **transfer**) a preneed policy after seven days, “for **return** of consideration.” How much “consideration” you’ll get seems iffy but surely will be missing the interest and likely the 25% the seller pocketed to begin with. And write off the casket and vault if they’re in the warehouse. If you **default** on payments, the funeral home is permitted to keep 15% of the contract price (not 15% of what you actually paid) as

liquidated damages. The math doesn’t work very well here, as the seller may have already pocketed 25%. Perhaps that means forking over the other 10% whether it’s in the trust or not. A tip sheet from DORA says that heirs may **cancel** a preneed contract after death and get 100% refunded.

Not all those selling preneed funeral arrangements are morticians. Agents are required to make an **annual report** to the trustee holding prepaid funeral monies (such as a bank) so that the trustee or state can compare all accounts outstanding against funds being held. However, there seems to be no way for the state to check if all preneed sales are actually deposited and included in the report. In the case of one pair of agents, at least some money had been deposited, and—once the state had audited the account—they emptied the account, with over \$100,000 in prepaid funeral money now missing. The funeral homes named as the suppliers for these arrangements have been gracious enough to honor them. Not a nice situation, however, for anyone.

To its credit, the state of Colorado’s Department of Insurance has tackled the Neptune Society’s preneed racket which Carlson had reported to the SEC almost ten years earlier. Neptune routinely hands a consumer an over-priced planner booklet and maybe the selected urn, which makes these items “delivered.” So if Neptune is offering a \$1,500 cremation (there are usually less expensive options if one bothers to shop around), the Neptune sales person might write up the contract with the value of the items you’ve been given at \$800 or more. With Colorado’s lousy trusting requirements, only 75% of the remaining \$700 or \$525 — about one-third of what you paid — actually goes into trust. So, don’t move to or die in Vermont. No Neptune Societies here, and \$525 won’t cover the costs of what you planned in almost all other states, too.

Consumer Concerns

- The death rate in Colorado can support approximately 124 full-time mortuaries; there are, however, 186. Funeral prices tend to be higher in areas where there are “too many” funeral homes.
- Constructive delivery is permitted, and trusting requirements for both cemetery and funeral purchases are inadequate. 100% of prepaid cemetery and funeral goods and services should be placed in trust, with full right of cancellation or transfer. (Twenty-nine other states require 100% trusting for funeral preneed contracts. Preneed is alive and well in those states. Why doesn’t the legislature want the same protection for Colorado residents?)

- The requirement that preneed contracts must be printed in at least eight-point type is totally inadequate for anyone with failing eyesight; this should be increased to ten or twelve.
- There is no requirement that family approve any substitution of merchandise, although substitutions must be of equal quality.
- There is no requirement for an annual report to the consumer indicating the institution of deposit and value (purchase price plus interest) of all prepaid funeral monies. Such documents could be important to survivors who might not know about prepaid accounts otherwise and would help to “enforce” trusting requirements.
- There is no statutory provision to protect consumers against default of prepaid agreements if funds were never put in trust.
- Until the laws are amended, it is probably a terrible idea to prepay for a funeral in Colorado.
- There is no requirement to identify and tag the body at the place of death before removal.
- The requirement for embalming or refrigeration within 24 hours is unnecessarily restrictive and should be increased to 72 hours or eliminated to permit families to more readily care for their own dead and to honor individual preferences and religious tenets.
- Colorado has no way to put unethical practitioners out of business without licensing. (See Appendix for Ethical Standards.)
- The FTC Funeral Rule has not been adopted in the statutes which would make it more enforceable in this state.
- This state has no laws regulating the body parts business.

Miscellaneous Information

- Cash advance items may not be marked up with a commission for the mortuary. They must be billed to the consumer in the same amount the funeral home is billed. Anecdotally, however, there is evidence that this statute is being ignored.
- Coroners who have an interest in a funeral home may not, as a rule, direct business to their own establishments in the course of performing as a coroner unless there is an emergency. There is no code of ethics on the coroners’ association website, however, to guard against such a conflict of interest.
- You may name a designated agent to carry out your funeral wishes which may be important if you are estranged from your next-of-kin.
- A permit for disinterment and removal from a cemetery must be obtained from the state registrar in the Health Department.

This chapter was sent for review and fact-checking to the State Registrar, DORA, the Division of Insurance, and the Colorado Funeral Directors Association. Helpful corrections were given by the state registrar’s office. DORA’s response was, “I think that the Funeral Directors Association is going to take the lead on this.” What other state would imply that a trade organization is more competent than the state agency mandated with the regulation of that same trade? Colorado tax dollars are doing what for consumers?

Necessary Information

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 nonprofit 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 county 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.