



Caring for the Dead In Louisiana

Please refer also to the general introduction to state chapters—“Caring for the Dead: Necessary Information.”

In Louisiana, a dead body becomes a hostage of the funeral industry, one of only eight states that requires the use of a funeral director. (Connecticut, Illinois, Indiana, Louisiana, Michigan, Nebraska, New Jersey, and New York.) In almost no other situation is a private citizen forced to use a for-profit business to fulfill the interests of the state.

The laws are contradictory and invite a court challenge.

R.S. 8 Chapter 10 Human Remains § 655. Right of disposing of remains—A. The right to control interment . . . of the remains of a deceased person, unless other specific directions have been given by the decedent in the form of a written and notarized declaration, vests in and devolves upon the following in the order named: (1) The surviving spouse, if not judicially separated from the decedent. (2) A majority of the surviving adult children of the decedent . . .

In the public health statutes, the language is typical of most states:

RS 40: 49 A. The funeral director or person acting as such shall prepare and file the certificate of death

In 1986, however, the funeral industry influenced self-serving legislation to take away the rights granted above—and then some.

R.S. 40 Public Health and Safety § 32 Definitions—(17) “Funeral director or person acting as such” is a licensed funeral director or embalmer . . .

Parents may file a birth certificate if there is no doctor involved. What’s the big deal about death certificates?

After reading the Professions and Occupations statutes, one must wonder if clergy are allowed to conduct funerals in Louisiana:

R.S. 37 Chapter 10 Embalming and Funeral Directors § 831. Definitions—(23) “Funeral directing” means the operation of a funeral home, or, by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the purchase of caskets or other funeral merchandise, and retail sale and display thereof, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition.

R.S. 37 Chapter 10 Embalming and Funeral Directors § 848 Unlawful practice— . . . (5) Every dead human body shall be disposed of and prepared through a funeral establishment and under the supervision of a licensed funeral home or embalmer.

What about religious groups that routinely bathe and shroud the dead? Not in Louisiana? With the growing interest in home funerals, there is some work to be done to change the laws.

Death Certificate

The family doctor will sign the death certificate within 24 hours, stating the cause of death. If the death is a coroner’s case, the coroner may take 48 hours. The remaining information must be supplied, typewritten or in black ink. The death certificate must be filed with the parish registrar within five days and before final disposition.

Electronic death registration is still being worked on. A paper filing option should be available when that takes place.

Fetal Death

A fetal death report is required if death occurs after 20 weeks of gestation or when the weight is 350 grams or more (about 12 ounces). If there is no family physician involved, the local coroner must sign the fetal death certificate.

Transporting and Disposition Permit

Once the death certificate has been filed, the local registrar will issue a burial-transit permit which is a separate document, not attached to the death certificate, and for which there is a modest fee. This permit must be obtained prior to final disposition of the body.

Burial

Burial must occur in a duly authorized cemetery, so you'll have to jump through some hoops to set up a family burial ground. Check first with the parish registrar for local zoning laws. If there are no restrictions, here are links to the instructions and forms you will need to file with the Louisiana Cemetery Board to register your family burial ground, shared with us by Heath Gault, a helpful Louisiana resident:

<www.lcb.state.la.us/forms/fbg_app_instructions.pdf>

<www.lcb.state.la.us/forms/fbg_app.pdf>

<www.lcb.state.la.us/forms/aod_fbg.pdf>

The casket must have a covering of two feet of soil unless a burial vault or lawn crypt is used. Although not mentioned in the law, burial should be at least 150 feet from a water supply and 25 feet from a power line or neighbor's boundary.

When burial occurs, the burial-transit permit must be filed within ten days with the registrar of the parish where disposition takes place.

Cremation

A permit to cremate must be obtained from the coroner in the parish where death occurred. The charge for this is \$50. A pacemaker must be removed, and authorization by next-of-kin is required. The crematory will sign the burial-transit permit. This permit must be filed with the parish registrar within ten days. There are no laws regarding the disposition of cremated remains. You may do as you wish.

Persons with a religious need to witness or participate in the cremation may do so. (Anybody may ask to do so, regardless of religious need.)

Other Requirements

If disposition is not arranged within 30 hours of death, the body must be embalmed or refrigerated below 45°.

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 Louisiana at <www.finalrights.org>.

State Governance

The Louisiana Board of Embalmers and Funeral Directors has nine members. Four are licensed embalmers, four are licensed funeral directors, and one—over the age of 60—represents the elderly.

<www.lsbefd.state.la.us/>

The Louisiana Cemetery Board oversees all cemeteries in Louisiana. There are seven members, two of whom shall not have any direct or indirect interest in a cemetery or funeral business.

<www.lcb.state.la.us/>

There is a separate board—the Louisiana Unmarked Burial Sites Board—to preserve historical grave sites.

Crematories are licensed by the Funeral Board, but not represented on the Funeral Board. One does not need to be a funeral director to run a crematory.

Prepaid Cemetery and Funeral Funds

10% of the purchase price of a cemetery lot must go into a perpetual care trust fund. Only 50% of the money for prepaid *cemetery* merchandise, such as a vault or memorial, must be placed in trust. “Constructive Delivery” can bypass the trusting requirement. Therefore, it is highly unlikely that you would get any money back if you were to change your mind.

All prepaid *funeral* monies (100%) must be deposited in a separate savings or trust account for each purchaser with interest to accrue and a report filed annually with the state. Unless the account is made irrevocable, the purchaser may cancel the agreement and withdraw the funds at any time. There is no clear provision for transferring an irrevocable contract.

Substitution must be of “equal quality, value, and workmanship.” A full description of funeral merchandise is required. The word “value” might be a problem if the description is not detailed. A \$900 casket ten years ago was a pretty swell casket. Today, it might be the low-end casket.

Restrictive Casket Sales and an Attack on the Benedictine Monks

UPDATE, October 2013—*The US Supreme Court refused to hear the Louisiana funeral board’s challenge to a ruling that said anyone—not just licensed funeral directors—could sell caskets to the public. This means the state lost and the monks won. Anyone may now sell a casket in Louisiana without fear of harassment from the funeral board. We’re*

leaving the following section intact to illustrate what made the legal challenge necessary.

According to the definition in the statutes, retail sales and display of caskets is considered “funeral directing” for which one must be licensed as a funeral director, a little silly since a casket is just a glorified box. The FTC Funeral Rule states that all funeral homes must accept a casket supplied by the consumer, a painful reality for some funeral folks, as many depend on the casket sale for a significant portion of the profit. And while the Funeral Board wishes to make it illegal for retail casket sales in Louisiana, a funeral home must accept any casket that a Louisiana resident orders from another state, driving that money elsewhere if they succeed. Legislators are supposed to look at the fiscal implications of any law and might want to re-think this one.

The Board of Embalmers and Funeral Directors has harassed a Texas monument and casket company that advertises in Louisiana, even though the company is based in Texas. But most offensive of all is the “cease and desist” order sent to St. Joseph Abbey prompted by a complaint filed with the Board by a major Louisiana funeral home chain-owner, Boyd Mothe, Jr. Mr. Mothe’s style of doing business is described in a consumer complaint on the FTC site:

www.ftc.gov/bcp/rulemaking/funeral/comments/Comment063.htm

Monks at the Abbey in St. Benedict, led by Mark Coudrain, are building and selling attractive cypress wood caskets as a reflection of their commitment to spiritual simplicity: www.clcabbey.com. Efforts to change the law failed in 2008, but there will be new efforts in the coming year(s), Mark says. In mid 2010, the Abbey filed suit against the state of Louisiana and its funeral board, represented by the Institute for Justice, which had won a similar suit in Tennessee in 2000.

What does the Funeral Board think of the prisoners at the state penitentiary building (and selling) caskets? Two were purchased by the Billy Graham family for \$215 each. From the minutes of the April 28, 2010 Board meeting:

Discussion ensued in regards to the Board not receiving a response from LA Department of Corrections/LA State Penitentiary with the handling of services for inmates who pass away while incarcerated. A directive for the issuance of a subpoena was given in order to obtain the information requested.

Prisoner volunteers run their own hospice program, too.

Consumer Concerns

- The death rate in Louisiana can support approximately 171 full-time mortuaries; there are, however, 299. Funeral prices tend to be higher in areas where there are “too many” funeral homes.
- Church groups and individuals do not have the right to care for their own dead.
- Trusting requirements for cemetery merchandise are inadequate. The amount going into trust should be increased to 100% to permit consumers to withdraw the account—as would be needed if one moved to another geographic location and sold or did not use the lot.
- There is no annual report to preneed funeral consumers required. Consumers should get an annual report 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 the trusting law.
- There is no statutory provision to protect consumers against default of prepaid funeral agreements if funds were never put in trust. Consumers in other states have experienced a loss of funds in spite of trusting requirements.
- Although Louisiana laws are now better than some, it is probably a terrible idea to prepay for a funeral in this state unless one needs to spend down assets for Medicaid eligibility.
- The restrictive interpretation on who may sell caskets is a restraint of trade which subverts the FTC’s provision specifically permitting consumers to purchase *only* the goods and services desired from the funeral provider.
- There is no requirement to identify and tag the body at the place of death before removal.
- The regulations require that at least six adult caskets be on display, but there is no requirement that low-cost caskets be included in that display.
- Cash advance items may be marked up.
- The standards for ethical, professional conduct are inadequate. They should be strengthened to make it easier for a consumer to prevail when filing a valid complaint.

- The FTC Funeral Rule is not clearly adopted by statutory or regulatory reference. Although morticians must follow the laws of “any other federal . . . entity” and submit the required disclosures to consumers, the FTC Funeral Rule should be adopted by reference to make it easier to enforce in this state.
- This state has no laws regulating the body parts business.
- There is no provision for naming a designated agent for body disposition, helpful when one is estranged from next-of-kin or they don’t get along.

Miscellaneous Information

- Educational requirements for becoming a funeral director: one year of college (30 hours) and one year of apprenticeship. For an embalmer: mortuary science program (15 months) and one year of apprenticeship.
- When a funeral home changes ownership or more than 50% of the stock is sold, the state Funeral Board must be notified and a new license acquired.
- Wishes of the decedent will prevail if written and notarized.
- The Board of Embalmers and Funeral Directors employs an investigator to handle complaints and violations.
- Coroners must be physicians.
- A funeral home or crematory may not refuse to release a body.
- The written consent of the person with the right to control disposition is required for disinterment.



This chapter was sent for review to the Louisiana Board of Embalmers and Funeral Directors, the Cemetery Board, and the Department of Vital Statistics. No response was received, but some information was checked by telephone.



Necessary Information

This chapter summarizes the main issues to consider in caring for the dead, but be sure to also read the subsequent chapter for the specific state where the death occurred.

Many people over the years have asked for a checklist for performing a family-directed funeral. Would that it 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 to 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.

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 might be helpful in obtaining insurance benefits.

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.



Caring for the Dead in