



Caring for the Dead in

New York

In New York a dead body becomes a hostage of the funeral industry, one of only eight such states that require the use of a funeral director (Connecticut, Illinois, Indiana, Louisiana, Michigan, Nebraska, New Jersey, and New York.). In no other situation is a private citizen forced to use a for-profit business to fulfill the interests of the state. Until there is a court challenge or other change in the laws, families and church groups in New York will be limited in caring for their own dead. Some statutes seem contradictory or defy logic; others are restrictive and intrusive.

Article 41 Vital Statistics Sec. 4140. Deaths; registration 2. . . . the registrar of the district in which the death occurred shall then issue a burial or removal permit to the funeral director or undertaker.

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

In addition, the Sanitary Code—"Practice of Funeral Directing" states:

77.7 (b)(1) In no case shall a dead human body be released from any hospital, institution or other place where the death occurred or from the place where the body is held by legal authority to any person not a duly licensed and registered funeral director or undertaker.

Later in the same code, however, is found:

77.7(f) Nothing contained in this section shall be deemed to require that a mere transporter, to whom or to which a dead human body has been duly released for the sole purpose of transportation or transfer, shall be a duly licensed and registered funeral director or undertaker.

So the State of New York has determined that there is no health problem with someone other than a funeral director transporting bodies. What, then, is the rationale that would require a licensee to pick up the accompanying paperwork and add his/her signature? The doctor fills out the medical portion; the family supplies the personal data. But the undertaker's signature

will cost the family a nondeclinable basic service fee of maybe \$2,000. Just for a signature!

But back to the statutes in 77.7 to see how the industry has literally promoted itself:

(a)(2) A licensed funeral director or undertaker shall be present and personally supervise the conduct of each funeral service.

(a)(3) Nothing herein shall be construed as prohibiting religious supervision of the funeral service by a member or members of the clergy designated by the family of the deceased person.

What about the Orthodox Jewish groups such as the Chevra Kadisha or the Muslims or Mormons who wish to bathe and shroud their dead? They aren't "clergy." It takes a stunning amount of arrogance to write a law—we're certain it was penned by industry—noting that clergy are not prohibited from supervising funerals. There will, of course, be an attending charge for the funeral director's services, regardless of whether the presence of a funeral director is wanted or needed.

Apparently, New York funeral directors—with a mere two years of mortuary school (that most likely did not include any training on religious funeral rituals and services whatsoever other than some cursory Christian components)—have now become pseudo-clergy, usurping a role that traditionally was religious in nature. From an e-mail to Carlson: "I am a Catholic priest. About three years ago, while still a seminarian, I was doing a feature story on the most prominent mortician in the diocese, a Catholic active in just about everything. In the interview, I asked him if the curriculum at mortuary school included courses about religious practices. I was floored when he said 'No'."

And an undertaker can keep the meter running with another bit of statutory help:

77.7(a)(4) A licensed funeral director or undertaker shall be present and personally supervise the interment or cremation

The undertaker isn't needed to transport the body, but the undertaker must be at a crematory when that method of disposition has been chosen. Rather strange.

Crematory operation is not included in mortuary curricula; crematory operation is not mentioned in the study guide for the national exam for funeral directors. What kind of supervision is the undertaker qualified to do at the crematory?

Oh, yes, if you are planning home burial as permitted in New York, you'll have to pay a funeral director to hang around under the apple tree. A Bruderhof Christian community in New York handles all aspects of the funeral for a member—the preparation and bathing of the body, as well as conducting the service and burial. “Oh, yes, the funeral director comes out and spends the day with us, has lunch with us, and sort of hangs around,” one member told Carlson, but she had no idea what the charge was, if any.

A movement is afoot to get the limiting statutes changed—through legislation or court action. In a 1909 federal case, *Wyeth v. Cambridge Board of Health*, the court ruled:

... the refusal to permit one to bury the dead body of his relative or friend, except under an unreasonable limitation, is also an interference with a private right that is not allowable under the Constitution of the Commonwealth or the Constitution of the United States.

Death Certificate

New York state is not yet using electronic death registration although New York City is. The doctor last in attendance, county coroner, or medical examiner will supply and sign the death certificate, 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 within 72 hours and before final disposition.

Fetal Death

A fetal death report is required for each fetal death and must be filed as above. If there is no family physician involved, the local medical examiner must sign the fetal death certificate. If gestation is more than 20 weeks, a disposition permit and the involvement of a funeral director will be needed.

Transporting and Disposition Permit

The local registrar will issue the burial and removal permit to a licensed funeral director only (until the statute has been challenged). New York City charges \$40. This authorization must be obtained within 72 hours of death and prior to final disposition. Once this permit has been obtained, a family may handle the moving of a body, although you will need a mortician at

the other end to oversee disposition if burial or cremation will occur in New York. Make sure that the undertaker you initially use will be willing to relinquish custody, however; more than one family has had difficulty when the undertaker did not understand the law. During transportation, the body must be obscured from public view.

Burial

Any person may dedicate land to be used as a family cemetery provided that it is less than three acres and not closer than 100 rods (1,650 feet) to a dwelling. Such land must be registered with the county clerk. Check with the county or town for local zoning laws regarding home burial. There are no state burial statutes or regulations with regard to depth. A sensible guideline is 250 feet from a water supply and at least two feet of earth on top. (Two towns do have the 250-foot distance from a water supply written into law.)

When a person is buried in a cemetery or other burial place where no person is in charge, the undertaker will sign the permit and write across the face of the permit, “No person in charge.” The permit must be filed within three days with the registrar of the district in which burial took place.

Cremation

No additional permit is needed for cremation. Authorization by next-of-kin or designated agent is required, and a pacemaker must be removed. One may not be cremated with a radioactive implant or battery. The crematory will file the disposition permit with the local registrar. If there is no licensed funeral director on the crematory staff, the family must arrange for a funeral director to be present at the time of delivery, a totally unnecessary and burdensome requirement. There are no laws regarding the disposition of cremated remains. You may do as you wish.

Other Requirements

New York has no embalming requirements. A body must be buried or cremated within a “reasonable time after death.” 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 New York at <www.finalrights.org>.

State Governance

The Funeral Directing Advisory Board, under the Department of Health, has ten members. There are three consumer representatives, one cemetery operator, and six undertakers.

The Bureau of Funeral Directing has two helpful web pages on preneed and funeral planning as well as the form for naming an agent for disposition of remains: www.nyhealth.gov/professionals/patients/patient_rights/

Cemeteries are governed by the Cemetery Board and the Division of Cemeteries. The board is made up of the Secretary of State, the Attorney General, and the Commissioner of Health or their designees. There is also a citizens advisory council composed of a member designated by the secretary of state, a member designated by the attorney general, a member designated by the commissioner of health, a member designated by the comptroller and a member designated by the commissioner of taxation and finance.

A model other states could copy —

Cemetery Customer's Bill of Rights

All New York Cemeteries are not-for-profit. This cemetery (name, address, telephone) is regulated by the NYS Division of Cemeteries. The nearest office is located at: (address, telephone number, e-mail address).

When you buy cemetery property, you are buying the right to interment, not an actual piece of land. When you sell cemetery property, it must first be offered back to the cemetery. The minimum price the cemetery must pay to buy back the property is set by law. You can also give your right to interment if you are the lot owner.

You can be denied the right to interment only for non-payment of the total purchase price, non-payment of interment price or non-payment of a tax authorized by the Cemetery Board.

Though New York law DOES require that a container or wrappings used for cremation be non-metal, it does NOT require embalming for interment (burial, entombment or placement of remains in a niche or grave). New York law does NOT limit the number of cremation urns that can be placed in a grave. New York law also does NOT require any particular type of casket or external wrappings for burial or placement in a mausoleum crypt. Nor does it restrict the type of container used to place ashes in a niche or grave.

New York law requires that rules and regulations of a cemetery be reasonable and that they have written Cemetery Board approval. [Any restrictions by the cemetery must be disclosed to the consumer

prior to any sale.]

[<http://www.dos.state.ny.us/cmtty/cemetery.html>](http://www.dos.state.ny.us/cmtty/cemetery.html)

Crematories are regulated by the Cemetery Board. One does not need to be a funeral director to run a crematory, but a funeral director must be present for cremation. Why?

Prior to 1998, a few funeral homes were permitted by the Cemetery Board to construct what are supposed to be not-for-profit crematories. That practice is no longer allowed.

Prepaid Cemetery and Funeral Funds

Cemeteries must be run not-for-profit and may not have any business ties with a funeral home. In the 1990s, both Service Corporation International (SCI) and Loewen (a now bankrupt chain bought up later by SCI) tried to get into the cemetery business in New York by purchasing cemetery mortgage certificates for which they have paid wildly-inflated sums compared to the face value. The Cemetery Board found that financial practices at these cemeteries had not always stayed within the law. Thanks to tight regulations and vigilant oversight, those practices were quickly corrected, and the corporations were finally booted out.

If a lot-owner wishes to sell a lot, it must first be offered back to the cemetery at the original sale price plus 4% per year.

Cemeteries may not sell monuments or vaults; they may sell grave-liners. If there is a religious objection to the use of a liner or vault, the cemetery may not require one but it may impose a "reasonable" maintenance fee for refilling a settling grave. The cemetery's schedule of fees must be approved by the Cemetery Board. Cemeteries must be available for interments six days a week and must now perform burials in winter according to state law. Cemeteries may charge you the actual costs of snow removal or penetration of frozen ground.

100% of all prepaid *funeral and cemetery* purchases must be placed in **trust**, with the **interest** to accrue. The purchaser must be notified within 30 days of the institution where the funds have been deposited.

The seller must **report** annually to the purchaser where the funds are held, along with the current total. Administrative fees may not exceed .75 of 1%. Although there is no guarantee fund to protect funeral consumers against default, the annual reporting should go far in enforcing the trusting requirement.

Prepaid funds are considered the property of the purchaser and may be withdrawn at any time for a full **refund** if it is a revocable contract. An irrevocable agreement may be **transferred**. The only time when the

contract can be made irrevocable is for Medicaid eligibility.

If a funeral home changes ownership, the owner of a preneed agreement must be notified. With the mad scramble of chains to purchase funeral homes, it would be interesting to see if they are obliging. The Bureau of Funeral Directing should be able to tell you who owns the one where you prepaid for your funeral: 518-402-0785. Be sure to file a complaint if you were not notified.

A preneed contract must specify whether or not it is a guaranteed-price agreement. It must “fully describe” the service and merchandise selected, but there is no clear provision for how detailed that should be. There might be a \$1,000 difference between the least expensive “20-gauge steel” and the highest. There is no statutory directive for **substitution** when selected merchandise is no longer available. Excess funds must be returned to the estate or the purchaser, if it is not a guaranteed-price arrangement.

A funeral home may not sell or be the beneficiary of funeral insurance. However, funeral homes are likely to ask you to sign over such a policy to cover the deceased's funeral expenses at a time of need. It's better not to let the funeral home even know how much the policy is worth. Otherwise, if there is a surplus of funds, you may not get a refund. The cost of the funeral has a strange way of rising to the amount of insurance available. Get the bill from the funeral home and then have the insurance company mail any check to you so you can pay the funeral bill from that.

Consumer Concerns

- The death rate in New York can support approximately 582 full-time mortuaries; there are, however, 1,878. Funeral prices tend to be higher in areas where there are “too many” funeral homes.
- Until the laws are changed, families and church groups may not care for their own dead without the use of a funeral director.
- There is no provision for an adequate description of funeral goods selected on a guaranteed-price agreement nor for a substitution of equal quality if the selected item is no longer available at the time of death. Substitutions should meet the approval of survivors.
- There is no requirement that low-cost caskets be included in any display.
- The format for pricing is in conflict with FTC requirements. New York requires a separate charge for *supervision* and another for *facilities* for viewing, for example. The FTC requires a single fee—*facilities and staff for viewing*. Consequently, many

funeral homes list prices both ways in order to be in compliance with both state and federal requirements. This clutters the General Price List (GPL) and is definitely confusing to consumers. New York may *certainly* require that additional options be offered on the price list—as does Vermont—but the standard pricing format of the FTC should be adopted.

- The New York GPLs are now required to include a statement, “The direct cremation prices do not include the crematory charge,” probably because most crematories are on the grounds of cemeteries and are not owned by funeral homes. This should be changed to require the inclusion of the crematory fee. How can you have a “direct cremation” without cremation? Who would think to ask if it were extra? For someone shopping over the phone, the disclosure will never be seen. If a funeral home uses more than one area crematory, and prices differ from one to the next, an appropriate disclosure would be, “There will be an additional \$50 charge if the crematory at Mt. Such-and-Such is used.”
- There is no requirement to identify and tag the body at the place of death before removal.
- Complaint procedures are unclear and inadequate.
- New York has some excellent laws for governing the body parts business but is not enforcing them for lack of staff and money. Companies are not being asked for prices or financial statements. A form for informed consent has not been developed.
- A New York State legislator helped defeat a 2008 bill that would have made alkaline hydrolysis—dissolving the body in an alkaline solution—a legal option for final disposition by branding it the “Hannibal Lecter Bill,” a reference to the serial killer from the popular book and movie, *The Silence of the Lambs*. Alkaline hydrolysis is touted as a more environmentally friendly option than cremation, as it produces no gaseous emissions. This kind of irrational sensationalism is just a modern re-enactment of the hysterical protests and legal bans that occurred when cremation was first introduced in the US in the 1870s.

Miscellaneous Information

- Educational requirements for becoming a funeral director or embalmer: mortuary college (60 semester credits) and one year of apprenticeship plus an exam on state laws.
- The law states, “Upon receipt of satisfactory evidence that a license or certificate has been lost, mutilated or destroyed, the department may issue a duplicate license. . . .” How does one prove something is lost?

- Cash advance items must be billed at the actual cost to the funeral director.
- Misconduct in funeral directing is defined in a fairly comprehensive listing, although additional factors will be found in the Appendix of this book.
- It is a misdemeanor to hold a body for debt.
- Although the Funeral Rule was not adopted by reference, statutes include almost identical requirements.
- Medical examiners are physicians who are appointed. Coroners are elected.
- You may name an agent for body disposition, helpful if you are estranged from next-of-kin.
- A disinterment permit must be obtained from the local registrar.

This chapter was sent for review to the New York Division of Cemeteries and the Bureau of Funeral Directing. Helpful corrections or information was provided by each.

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.