

Funeral Arrangements

- Although there is a statutory obligation to comply with the written wishes of the decedent as well as for naming an agent for body disposition, a spouse is named in another statute with the primary right of disposition unless legally separated at the time of death. Until this conflict is corrected, there is a possibility that a cranky soon-to-be-ex may muck up your funeral plans.
- It is legal for a family or designated agent to handle everything without a funeral director. Or look for a home funeral guide:
<http://homefuneraldirectory.com/>
- If you will be using a funeral home, prices must be given over the telephone. You must be given a General Price List (GPL) if you visit in person and *before* discussing any services.
- You must be shown a Casket and Outer Burial Container Price List before selecting either.
- You must be given a Statement of Funeral Goods and Services Selected with the total cost before any services are provided.
- Cash advance items may not be marked up with a commission for the mortuary.
- There are three nonprofit Funeral Consumers Alliance groups that do price surveys from time to time:www.funerals.org
- **Do not sign any contract for more than you can afford to pay.** Indigent assistance is through the county and usually quite limited. There is no other organization that assists with funeral costs.

Autopsy

- If the death was unexpected or the cause of death uncertain, the state will probably require an autopsy.
- If you have questions about the death, you may request and pay for a private autopsy.
- If a viewing is planned, there will likely be extra charges to repair the body for embalming.

Organ, Body, and Tissue Donation

- If death occurs in a hospital, you are likely to be asked about organ donation. Only about 1% of the deaths are eligible for major organ donation. The organ procurement organization (OPO) will pay for any extra body preparation needed if you

plan a viewing. Decline any such charge you might find on the GPL.

- After-death donation of eyes, skin, and long bones may be considered. Ask the hospital social worker or the funeral director about this.
- Whole body donation to a medical school is one way to lower costs, but the donor's family pays for transportation if any distance from the med school in Tucson. After medical study, the school will pay for cremation and can return the cremated remains to the family if requested. You should have back-up funeral plans if your body cannot be accepted for any reason.
- There are also non-academic companies that accept whole bodies for research and education. Various body parts will likely be shipped around the country and possibly internationally. This state has no laws regulating these companies. Note that this is an entirely different category of body donation from the traditional cadaver donation to a medical school.
- To find the nearest body donation option, the cost if any, and the reasons for body rejection check: www.finalrights.org

Embalming and Other Requirements

- Embalming or refrigeration is required after 24 hours.
- If the body is to be shipped out of state, airlines prefer to have the body embalmed, but a sealed container can usually make that optional.
- Many funeral homes have a policy that requires embalming for a public viewing. Embalming does not protect the public health. It merely delays decomposition.

Caskets, Liners, and Vaults

- Neither is required by state law for burial. A rigid combustible container is required for cremation.
- A casket will not prevent natural decomposition.
- You may build your own or purchase from a casket retailer. Vault dealers rarely sell to the public.
- The purpose of a vault is to keep the ground from caving in. It facilitates maintenance for the cemetery. It has no preservative qualities regardless of how much you spend.

Burial

- There are no laws that specifically permit or prohibit burial on your own land. A good practice is 150 feet from a water supply and 25 feet from a power line with two or three feet of earth on top. You should draw a map of the land showing where the family cemetery will be and have it recorded with the deed *before* burial is planned as required for a disposition permit.
- If you purchase a lot in a commercial, town, or religious cemetery, you will also have the opening and closing costs in addition to the cost of the plot.
- Only cemetery personnel may open and close a grave in an established cemetery.
- Some cemeteries have restrictions on the kind of monuments or plantings and adornment permitted at the grave site.
- A disinterment permit must be obtained from the state registrar if the body is leaving that cemetery.

The Arizona Board of Funeral Directors and Embalmers has seven members. Three are consumer representatives, and four are funeral directors or embalmers. This board also regulates crematories. The Department of Banking shares regulation of preneed sales with the Funeral Board. Cemeteries are supposed to be regulated by the Real Estate Board.

Cremation

- A medical examiner's permit is required.
- A pacemaker must be removed.
- Some crematories will let the family witness the cremation.
- A crematory may not contract directly with the public.
- The cremation process takes about two-and-a-half hours for an average adult. The crematory will remove any metal fragments and pulverize the cremated remains to small particles, similar to white or gray coarse sand, about 5-10 pounds.

- Cremated remains may be kept at home, scattered or buried on private land with the landowner's permission, interred in a cemetery or memorial garden, or placed in a mausoleum niche. If scattering on public land or water, don't ask, don't tell. Be discreet. Park service people are concerned that some may want to create a shrine at the site and would prefer not to know your plans. The Environmental Protection Agency (EPA) says they must be scattered three miles out to sea. That's because the federal agency has no jurisdiction over the first three miles; the bordering state does. Most states have no restrictions on the disposition of cremated remains, and there are no "cremains police" in any state. Do as you wish.
- If flying with cremated remains, be sure they are in a non-metal container to pass through the scanner.
- Cremated remains may be sent only by U.S. Postal Service. Use Priority Mail Express and ask for delivery confirmation. FedEx and UPS will not knowingly accept cremated remains.

Veterans and Their Dependents

- You will need a copy of the DD214 discharge papers for gaining benefits.
- The VA cemetery in Prescott has limited space for casketed interments. There is space in the one in Phoenix where interment and marker are free for the veteran, spouse, and certain dependents. There are also two state veterans cemeteries: in Sierra Vista and Tucson. There is a nominal fee of \$300 for the non-veteran spouse or dependant.
- The U.S. Department of Veterans Affairs (VA) provides markers for veterans no matter where they are interred. Markers can be upright or flat, and they come in bronze, marble, and granite: (800) 697-6947.
- A free flag can be ordered from the U.S. Postal Service.
- A comprehensive list of veterans benefits can be found here:
<http://www.funerals.org/faq/60-veterans-funeral-and-burial-benefits>

Prepaying for a Funeral

- If the contract guarantees the price, the interest is supposed to cover funeral inflation. But many investments do not appreciate as fast as the prices climb. You have a right to insist on no extra charges if it is clearly identified in the contract as "price guaranteed." Any substitutions should be of equal *quality* to that described in the contract.
- Prices of third-party items such as the crematory fee or obituary usually cannot be guaranteed.
- Setting aside assets for Medicaid eligibility is the one time it makes sense to prepay for a funeral. There is no limit on the amount in an irrevocable trust. Be sure to ask if you will be getting an annual report of your prepaid funds and let those who will be handling your affairs know that you have prepaid and where.

- No refunds are available for unused cemetery merchandise paid for preneed.
- There is no guarantee fund to protect against embezzlement.

Social Security Death Benefit

- There is a \$255 death benefit for a surviving spouse. There is no similar benefit when that spouse dies.
- Dependent children are entitled to survivor benefits when a parent dies.

Complaints

- Valid complaints include dishonesty, misrepresentation, unprofessional conduct, negligence, breach of contract, violation of state or federal laws. For how to file a complaint, see: www.funerals.org/your-legal-rights/complaint
- Contact the Funeral Board here: www.azfuneralboard.us/

Much of the information for this brochure was taken from *Final Rights* (Upper Access, 2011)

www.finalrights.org

Additional information can be found at www.funerals.org

Your Funeral Consumer Rights in Arizona

Prepaying the Funeral Home

Pros

Cons

Pay on Death Savings Account or Bank CD

- ❖ You have total control of the funds.
- ❖ Can easily change plans or use for emergencies.
- ❖ Can make time payments easily.

- ❖ Asset for Medicaid purposes.
- ❖ You must declare interest on tax return.
- ❖ Penalty to cash CD prior to death.

Qualified Funeral Trust

- ❖ If irrevocable, it won't be an asset for Medicaid.
- ❖ The trust pays taxes on the interest.

- ❖ The funeral home may keep 15% if you move or cancel.
- ❖ There is no guarantee fund to protect against embezzlement.
- ❖ Taxes paid on interest that wouldn't be taxed if you're low-income.

Master or Simple Trust

- ❖ If irrevocable, it won't be an asset for Medicaid.
- ❖ You are supposed to receive an annual report of the interest earned which will serve as reassurance your funeral funds are safe.

- ❖ The funeral home may keep 15% if you move or cancel.
- ❖ You will have to declare the interest on your tax return.
- ❖ Can be converted to insurance without your permission. (See below.)
- ❖ No guarantee fund to protect against embezzlement.

Funeral or Life Insurance

- ❖ Easily portable.
- ❖ If the funeral home is the beneficiary, it won't be considered an asset for Medicaid eligibility.
- ❖ The insurance company pays the taxes.

- ❖ If you need to cancel, you may not get back more than half you paid.
- ❖ If paying over time, you may pay twice the face value.
- ❖ There may be a 30-day delay in receiving funds for which the funeral home may charge an extra fee.

Funeral Ethics Organization
87 Upper Access Rd.
Hinesburg, VT 05461
<http://www.funeraethics.org>