

## Funeral Arrangements

- There is no law that allows you to name an agent for body disposition if you want someone other than your next-of-kin to be in charge, although the written wishes of the deceased may sometimes prevail.
- It is legal for a family or designated agent to handle everything without a funeral director. To find a home funeral guide, check: <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.
- **Do not sign any contract for more than you can afford to pay.** Indigent assistance is by county, and may range from a few hundred dollars to just over \$3,000. There is no other organization that assists with 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 the 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 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 although the family must pay for transportation and embalming over \$275. After study, the school will cremate the body and 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. The 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](http://www.finalrights.org)

## Embalming and Other Requirements

- Embalming is required if a body will not reach its destination within 24 hours or disposition has not occurred within 48 hours, an unfortunate requirement that does not account for refrigeration, a sensible alternative.
- When death is from a contagious disease, the body must be embalmed, the worst possible circumstance for embalming.
- Many funeral homes have a policy that requires embalming for a public viewing. Embalming does not protect the public health. It merely delays decomposition.
- Disposition must be within eight days.

## Caskets 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

- Burial must be in a “properly registered cemetery or in some other place requested by the relatives and friends of the deceased if the same is authorized by the state department of health.” For home burial, check with a local health officer, then have the land surveyed and recorded with the deed. A good practice is 150 feet from a water supply and 25 feet from a power line or boundary. There must be three and a half feet of earth on top if no vault is used.
- If you purchase a lot in a commercial, town, or religious cemetery, you will have the opening and closing costs in addition to the cost of the plot.
- Some cemeteries have restrictions on the kind of monuments or plantings and adornment allowed.
- A disinterment permit must be obtained from the state registrar.

The North Dakota Board of Funeral Service has three members plus the state health officer. There are no consumer representatives. This board regulates crematories.

Cemeteries are regulated by the Department of Health.

The Securities Commissioner regulates preneed sales.

Some coroners are funeral directors with a potential conflict of interest.

## Cremation

- A pacemaker must be removed.
- Some crematories will let the family witness the cremation.
- The cremation process takes about two-and-a-half hours for an average adult. The staff will

remove any metal and pulverize the bone fragments to small particles, similar to white or gray coarse sand, about 5-10 pounds.

- The cremation authorization must indicate the destination planned for the cremated remains. They may be kept at home, scattered or buried on private land with the land-owner’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. Park service people are concerned that some may want to create a little shrine at the site and would prefer not to know your plans. Be discreet. 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 (except for California and South Dakota) have no restrictions on the disposition of cremated remains, and there are no “cremains police” even in those two states. 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 with 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 state-run veterans cemetery is in Mandan. Interment and marker are free of charge for the veteran. There is a fee of \$550 for a 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 through 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.
- Third-party items such as the crematory fee or obituary cannot be guaranteed.
- Warehousing can avoid any trust requirements for funeral and cemetery merchandise, making a refund impossible.

- Setting aside assets for Medicaid eligibility is the one time it makes sense to prepay for a funeral. There is a limit of \$6,000 in an irrevocable preneed account. 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.

### 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](http://www.funerals.org/your-legal-rights/complaint)
- The Securities Commissioner regulates preneed sales:  
[www.ndsecurities.com/department-info/default.asp](http://www.ndsecurities.com/department-info/default.asp)
- The Board of Funeral Service website:  
[www.nd.gov/funeral/](http://www.nd.gov/funeral/)
- The Department of Health:  
[www.ndhealth.gov/DoH/contact.htm](http://www.ndhealth.gov/DoH/contact.htm)

Much of the information for this brochure was taken from  
*Final Rights:*  
*Reclaiming the American Way of Death* (Upper Access, 2011)  
[www.finalrights.org](http://www.finalrights.org)

Additional information may be found at [www.funerals.org](http://www.funerals.org)

# Your Funeral Consumer Rights in North Dakota

Prepaying the Funeral Home		
	Pros	Cons
<b>Pay on Death Savings Account or Bank CD</b>	<ul style="list-style-type: none"> <li>❖ You have total control of the funds.</li> <li>❖ Can easily change plans or use for emergencies.</li> <li>❖ Can make time payments easily.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Asset for Medicaid purposes.</li> <li>❖ You must declare interest on tax return.</li> <li>❖ Penalty to cash CD prior to death.</li> </ul>
<b>Qualified Funeral Trust</b>	<ul style="list-style-type: none"> <li>❖ If irrevocable, it won't be an asset for Medicaid.</li> <li>❖ The trust pays taxes on the interest.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Warehoused merchandise is not refundable if you move or cancel.</li> <li>❖ There is no guarantee fund to protect against embezzlement.</li> <li>❖ Taxes may be paid on interest that otherwise wouldn't be taxed if you are low-income.</li> </ul>
<b>Master or Simple Trust</b>	<ul style="list-style-type: none"> <li>❖ If irrevocable, it won't be an asset for Medicaid.</li> <li>❖ You are supposed to receive an annual report of the interest earned which will serve as reassurance your funeral funds are safe.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Warehoused merchandise is not refundable if you move or cancel.</li> <li>❖ You will have to declare the interest on your tax return.</li> <li>❖ Can be converted to insurance without your permission. (See below.)</li> <li>❖ No guarantee fund to protect against embezzlement.</li> </ul>
<b>Funeral or Life Insurance</b>	<ul style="list-style-type: none"> <li>❖ Easily portable.</li> <li>❖ If the funeral home is the beneficiary, it won't be considered an asset for Medicaid eligibility.</li> <li>❖ The insurance company pays the taxes.</li> </ul>	<ul style="list-style-type: none"> <li>❖ If you need to cancel, you may not get back more than half you paid.</li> <li>❖ If paying over time, you may pay twice the face value.</li> <li>❖ There may be a 30-day delay in receiving funds for which the funeral home may charge an extra fee.</li> </ul>

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