

Plain Talk

From the Funeral Consumers Alliance of Maryland & Environs (FCAME)

Home funerals need planning & assistance

Conducting a funeral at home can be a rewarding and memorable experience, but it helps to plan for it in advance and to have the participation of family members and friends.

Home funerals used to be the way we cared for our dead. That's when we had a more family-centered existence, multiple generations often lived in the same home, and life was less fast-paced than it is now.

Today, commemorating the life of a family member or friend in an intimate home environment is still possible. **Maryland, DC and Delaware law** support the right of the family to care for their own departed. However, in DC, disposition of the body must be by a licensed mortician or funeral director if the death was due to a contagious or infectious disease.

In a home celebration, friends and family have more time for visiting, story-telling, singing, music, ceremony, viewing the body, and finding closure than often is possible when a funeral establishment handles a funeral. Home funerals can have the added benefit of being much less expensive.

It helps to have envisioned what one wants for a home funeral ahead of time to lessen the number of decisions that need to be made after a death has occurred, and so that various responsibilities can be defined and delegated to different friends and family members. What follows are some of the tasks that need to be handled.

First off, decisions are needed concerning what activities will occur while the body is at the home, who should be invited to each activity, and what food and possibly music needs to be arranged for.

Once death occurs, the physician or

nurse practitioner in charge of the individual's care (or a medical examiner if a death is unexpected) must partially fill out the **death certificate** (indicating date, hour and cause of death) and sign it before a body can be released for transport.

When a death occurs in a nursing home, hospice or hospital, that facility will supply the death certificate. When a death occurs at home, the attending physician or nurse usually will provide the death certificate; the State Office of Vital Records can supply a blank death certificate, if needed.

In Maryland, the family member or friend with the **right to disposition** for the deceased who wants to do a home funeral can sign their name on the line

on the death certificate form that asks for the signature of the funeral service licensee. On the line that says "name and address of facility", the individual should write "Family with right to disposition." Page two of the death certificate provides the **burial transit permit** that must accompany the remains when being transported.

A body is supposed to be removed from a nursing home or hospice within 4 hours after death (as they have no provision for temporary storage of a body) and from a hospital within 24 hours. Such institutions are used to having a funeral establishment or body transport service hired by a funeral establishment pick up the deceased from their premises to transport the

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Attempts to weaken cemetery laws thwarted

Two legislative proposals introduced on behalf of the Maryland Cemetery, Funeral and Cremation Association that would have weakened consumer protections involving cemeteries went down to defeat at the urging of FCAME during the recently concluded session of the Maryland General Assembly.

One legislative proposal FCAME supported that would have increased consumer protections regarding sale or purchase of human remains unfortunately also was defeated.

The first piece of legislation FCAME opposed that was defeated, House Bill 553 / Senate Bill 535, proposed that a financial balance sheet from the most recent Federal tax return filed by each cemetery be submitted to the State's Office of Cemetery Oversight (OCO) every other year. This submission would be in place of the current requirement that a statement from a Certified Public Accountant (CPA) detailing the assets and liabilities of each cemetery along with an assessment of the financial stability of the business be submitted to OCO.

As FCAME Vice President Brian Ditzler explained in testimony presented at committee hearings in both the House of Delegates and Senate, the industry's proposal would have been bad for consumers. Here's why.

Cemeteries receive money from consumers often many years before the products and services paid for in advance will need to be provided to the purchaser. The Maryland General Assembly was well aware of past problems with missing pre-paid funds as well as mismanaged, neglected and abandoned cemeteries

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body to a funeral establishment, crematory, or possibly a private home.

However, if the family has the desire and ability to transport the body in a personal vehicle, the institution should agree to release the body as long as the family member has the paperwork to prove he/she has the legal right to disposition. A quick phone call to the State Board of Morticians and Funeral Directors may be necessary to allay the institution's concerns.

If the assistance of a funeral establishment is desired to transport a body to a private home and to pick it up afterwards, and possibly to help with the death certificate and other matters (such as a cremation), you may have to contact a number of establishments to find one willing to do this. A full discussion with the funeral home is needed beforehand, as is a **signed contract** that specifies the services agreed on and the total cost.

It is important to know that funeral establishments have the right to: decline to transport a body to and from a private home, decline to sign a death certificate for a body not in their possession, and decline to accept a body after a home funeral because they don't want the liability for a body that has not remained in their possession.

The individual acting in place of a funeral director will need to finish filling out the death certificate form within 72 hours after the death in Maryland, and within 48 hours in DC and Delaware. Information that must be written on the form includes the decedent's social security number, age at death, date and country of birth, address, citizenship, marital status, race, education completed, occupation, years served in the U.S. military (if any), as well as their father's and mother's full names.

The death certificate also must indicate how the body will be handled (i.e., buried, cremated, donated or sent out of state), and where the remains will go (i.e., to a cemetery, crematory or another place). In Maryland and Delaware, the

fully completed **first page of the death certificate must be filed** with the State's Office of Vital Statistics or the local Health Department within 72 hours after the death. In DC, the death certificate must be filed with the Registrar within five days after death and before final disposition of the body, which must occur within one week.

If a consumer encounters problems with any of the legal requirements relating to doing a home funeral in Maryland, the Executive Director of the State Board of Morticians and Funeral Directors is happy to provide guidance and answer questions (410 764-4792).

The **crematory or cemetery** that the consumer plans to use should be contacted as soon after the death as practical and agreement reached on: necessary arrangements (if this was not done beforehand), what the total costs will be, and when the body will be delivered to their premises. As with funeral homes, crematories and cemeteries have the right to decline to do business with anyone other than a licensed mortician.

A **container or casket** needs to have been purchased from a funeral establishment, cemetery or over the Internet, or built at home to hold the body once it's brought home. The advantage of having a simple covered box, or an unfinished wooden or cardboard casket is that it can be stenciled, written or drawn on by family members before and during the home funeral.

Dry ice needs to be purchased and put under the body to help preserve it if the body will be at home for more than 24 hours. **Embalming** (which is done at a funeral establishment) **is not required**. Maryland law specifies that un-embalmed bodies must be refrigerated/cooled at 44 degrees F. or under after 48 hours.

If desired, **home burial** is permitted in Maryland as well as in Delaware outside town limits in Kent and Sussex Counties. However, the county clerk

must be contacted beforehand to determine if there are any local ordinances and regulations that apply, and because the location where the body will be buried must be entered into the plat for that land (which may affect resale value of the property). A burial should be 150 feet or more from a water supply, with at least two feet of earth in top, and not be adjacent to a property line.

After the home funeral is concluded, those who used a private vehicle to transport the body home can transport the body to a cemetery or crematory. A cemetery will need to see the death certificate and the transit permit.

If total cost is a concern, it's important to know that burial in a cemetery will usually cost much more than a cremation, assuming the cremated remains will not be buried in a cemetery. *See articles on FCAME's website, www.mdfunerals.org, for more information on options available and their costs.*

For a **cremation** to occur in Maryland, the crematory operator must be provided the death certificate, the transit permit, and a cremation authorization form filled out and signed by the individual with the right to disposition and also signed by the crematory operator. In addition, the body must be identified by the individual with the right to disposition or that individual's designee. The operator also must document that at least 12 hours have elapsed from the time of death of the individual whose remains are to be cremated.

In DC and Delaware, a special cremation permit must be obtained from the medical examiner before a cremation can occur; it may take a number of days for the permit to be ready for pick-up. In Delaware, a report of cremation indicating the name of the deceased, their former address, the date and cause of death, and the date of the cremation must be signed by the person in charge of the crematory and
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Attempts to weaken cemetery laws thwarted (continued from p. 1)

when it created the OCO in 1997, and specified that each cemetery which sells burial goods and services must submit to OCO a statement from a CPA regarding its financial stability every other year.

Requiring a cemetery's bookkeeping to be reviewed by a CPA makes sense because he/she is an objective third party who must adhere to Generally Accepted Accounting Principles (GAAP) of the American Institute of Certified Public Accountants. A CPA review looks at an entire business operation including bank balances, accounts receivable (money owed by customers), accounts payable (money owed to somebody else), monthly income, expense and net profit statements, asset and liability schedules, and a number of other financial aspects of the business.

A CPA review essentially drills down two or three levels beyond what is shown on a balance sheet prepared for federal tax purposes. Other problems with the balance sheet approach proposed in HB 553 and SB 535 are that it can use reporting methods that are not in accordance with GAAP, and there is much less of an ability to verify solvency using a balance sheet generated for tax purposes than with a CPA review.

In addition, the industry-proposed approach would have put the burden on the small OCO staff to thoroughly examine the balance sheets submitted by all the cemeteries to hopefully determine if any are having problems with their financial stability. That approach would be far less likely to catch problems, and would lessen the time OCO could devote to routine oversight of the industry.

Fortunately, the **General Assembly agreed with FCAME** that the bill would hinder effective regulation of cemeteries in the state and would be bad news for consumers. The bill received an "unfavorable report" from the House Health and Government Operations Committee and no vote

was taken on the bill after the hearing on it in the Senate Finance Committee, thus killing it.

The second bill FCAME opposed that was defeated, House Bill 949 / Senate Bill 897, would have authorized a percentage of the principal of a cemetery's perpetual care trust fund to be loaned to various individuals associated with the perpetual care trust fund to be used for capital expenditures for the repair of mausoleum roofs and roads.

Currently, at least 10 percent of the actual selling price of each right of interment in a burial plot, crypt or niche must be deposited in a cemetery's perpetual care trust fund. That fund is intended to generate income to be used only for perpetual care of the cemetery including maintenance, repair and renewal of the cemetery grounds and buildings now as well as in the future when most or all burial plots have been sold and there is little money being generated for the cemetery owners.

As Ditzler's testimony on behalf of FCAME noted, **Maryland law clearly states that the perpetual care trust fund** "shall be a single purpose trust fund" and "**shall be retained intact to provide for the future maintenance of the cemetery**" in perpetuity so it doesn't become neglected or abandoned and a burden on taxpayers.

His testimony said that permitting any loan of the principal of a perpetual care trust fund would be totally contrary to the intent and purpose of such trust funds, was clearly a bad idea and definitely was not deserving of support by the legislature.

As happened with the previously discussed cemetery bill, HB 949 received an "unfavorable report" in the House of Delegates' Health and Government Operations Committee and the identical bill introduced in the Senate, SB 897, received no vote in

the Senate Finance Committee after the hearing on it.

The bill that FCAME testified in favor of at the recent session of the Maryland General Assembly was SB 721. It would have prohibited a person from purchasing or selling human remains, including the body of a deceased person or a body part removed from a living or deceased person, and would have provided penalties for doing so.

An Internet search on how much a human body is worth reveals that if all the parts were sold separately, a human body could be worth many hundreds of thousands of dollars or more. For example, a kidney reportedly can bring as much as \$160,000. Why? Every year, more than 90,000 people reportedly join the waiting list to receive human organs for transplantation. However, many die before a needed organ becomes available. Also, bodies and body parts are needed for scientific research and medical education.

With the demand for body parts exceeding the legal supply of such organs from donors, some individuals with access to bodies, including unscrupulous morticians and crematory operators, have been found to traffic in human remains. Body parts also are obtained from the living through coercion, abduction, deception and through sale by individuals desperate enough to sell their own organs for money.

SB 721 would have enabled much needed expansion in the empowerment of law enforcement and health department investigators in our state to look for and prosecute those who are trafficking or attempting to traffic in human remains.

Unfortunately, for some reason, the bill received an unfavorable report from the Senate Judicial Proceedings Committee that had the hearing on it, so was defeated.

Plain Talk is the newsletter of the Funeral Consumers Alliance of Maryland & Environs, the volunteer-run regional chapter of the national non-profit consumer education and advocacy organization, the Funeral Consumers Alliance (FCA). FCAME serves residents in Maryland, DC and Delaware.

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Your support of FCAME is vital

To join or remain a member of FCAME, we encourage a donation of \$25 or more at least every other year.

What you get for being a member of FCAME:

- Information and advice that enable you to make more informed choices when planning a funeral, burial, cremation, memorial service and other option for after-death care.
- Periodic newsletters with current information and advice that supplement what we provide on our website, www.mdfunerals.org.
- Results of periodic price surveys of the funeral industry in our area.
- Advocacy in regulation & legislation.

When did I last donate?

Mailing labels now show a date that indicates when your membership will expire. We request a donation from you on or before that date, or a note indicating you want to remain a member, or we will stop mailing you our newsletter and will feel we have lost a friend and valued supporter.

Home funerals need planning (continued from p.2)

filed with the state's Office of Vital Statistics within 24 hours after the cremation was completed. No similar requirement exists in Delaware for reporting burials.

In Maryland, the **burial transit permit** must be signed by the cemetery or crematory person in charge after stating where the body was buried or cremated, the date it occurred, and submitted to Vital Statistics within 10 days after final disposition. In DC, the completed form should be submitted to the Mayor's office at the close of the calendar month. In Delaware, the completed form should be retained by the cemetery where the body is interred, or if there was a cremation, retained with the ashes or by the person who acted as funeral director.

A notice of death is usually written by the family for placement in a local newspaper which will likely charge to print it. The total amount charged will be determined by the length of the article and the number of days you want it to appear. If the newspaper considers a death to be newsworthy, they may write and publish an obituary regardless of whether a death notice appeared.

Finally, a number of certified death certificates will need to be obtained from the state. A certified copy (and not a photo copy) is usually needed for each insurance policy, investment and bank account, property title transfer, pension claim, federal and state tax return, credit card, cell phone company, and the employer (if still working). It's often less expensive (and definitely easier) to order all the certified death certificates at one time vs. going back later for more copies.

More information on home funerals can be found at www.crossings.net, www.homefuneralalliance.org and www.finalpassages.org.