

### Funeral Arrangements

- In New York, you may name an agent for body disposition if you want someone other than your next-of-kin to be in charge.
- New York is one of only eight states that requires a funeral director even for a home wake.
- The funeral home must give prices over the telephone if you call. You must be given a General Price List (GPL) if you meet 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.
- Some of the Funeral Consumer Alliance groups in NY have done price surveys:  
[www.funerals.org](http://www.funerals.org)
- **Do not sign any contract for more than you can afford to pay.** For indigents, NYC will pay \$900 toward a total cost of no more than \$1,700. Elsewhere there may be county funds, but services will be limited. 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 may have to pay for some or all of the transportation. After study, the school will usually 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 also are non-academic companies that accept whole bodies for research and education. Various body parts will likely be shipped around the country and possibly internationally. New York has some excellent laws regulating these companies but they are not being enforced for lack of money and staff. 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

- There are no embalming requirements in this state.
- Airlines prefer that a body be embalmed, but an airtight container may 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 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

- Any person may dedicate land to be used as a family cemetery provided it is less than three acres and not closer than 50 rods (1,650 feet) to a dwelling, but check local zoning first. Such land must be registered with the county clerk. A good practice is 150 feet from a water supply and 25 feet from a power line or boundary with two or three feet of earth on top. You should draw a map of the land showing where the family cemetery is and have it recorded with the deed.
- 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.
- Many cemeteries have restrictions on the kind of monuments or plantings and adornment allowed.
- If you wish to sell your cemetery plot, it must be offered to the cemetery first or get permission to sell to another.
- Cemeteries are required to post all prices.
- A disinterment permit must be obtained from the local registrar.

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

A coroner is elected and may be a funeral director with a potential conflict of interest.

### Cremation

- A pacemaker or radioactive implant 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 (with some religious exceptions).

- 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. 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.
- Most crematories in NY are on cemetery grounds. All crematories are regulated by the Cemetery Division.

### Veterans and Their Dependents

- You will need a copy of the DD214 discharge papers for gaining benefits.
- The VA cemetery in Brooklyn/Cypress Hills is closed to new interments. The ones in Elmira and Farmingdale are open for new interments of cremated remains only. The ones in Bath, Calverton, Romulus, and Schuylerville all have space for both casketed and cremated remains. Interment and marker are free of charge for the veteran, spouse, and certain dependents.
- 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.
- The funeral home may not be the beneficiary of an insurance policy but can accept assignment.

- Third-party items such as the crematory fee or obituary cannot be guaranteed.
- Setting aside assets for Medicaid or SSI eligibility is the one time it makes sense to prepay for a funeral and the only time the contract can be made irrevocable. There is no limit on the amount you can have 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.
- You have the right to a full refund plus interest if it is not irrevocable.

#### 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 Board of Funeral Directing complaint form is found here:  
[http://www.health.ny.gov/professionals/funeral\\_director/](http://www.health.ny.gov/professionals/funeral_director/)
- The Cemetery Division complaint form is found here:  
<http://www.dos.state.ny.us/forms/cemeteries/1483.pdf>

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 New York

### Prepaying the Funeral Home

#### Pros

#### Cons

	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 any interest on your tax return.</li> <li>❖ Penalty to cash CD prior to death or maturation.</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>❖ 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>❖ No guarantee fund to protect against embezzlement.</li> <li>❖ You will have to declare the interest on your tax return.</li> </ul>
<b>Life Insurance</b>	<ul style="list-style-type: none"> <li>❖ Easily portable.</li> <li>❖ The insurance company pays the taxes. (Funeral insurance is not permitted in NY, as of 2/12.)</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.funeralethics.org>