

Details

of my final arrangements

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Introduction

Information contained within this document is **not** required by law but has been prepared as educational material for your consideration as you prepare your advance directives or other life directing documents. You may make as many copies of this material as you like and you may share it with family and friends.

This information has been made available as a courtesy of the Georgia Department of Human Services Division of Aging Services. For additional copies of this document, contact the Division at the following address or phone number:

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My final arrangements

Listed below are questions that, when answered, should help you and your loved ones think through some important issues as you consider and put in place your final arrangements.

A. Last Will & Testament

1. Where exactly can your will be found?

2. Have you designated an executor or executrix in your will? Is that person still available?

B. Insurance Policies

1. Do you have any life insurance policies?

2. List the names of any insurance companies from which you have bought a policy, the policy numbers and the beneficiary on each policy:

3. Where exactly can your policy be found? (i.e. in file drawer at home, a safe deposit box, etc.)

C. Bank Accounts

1. If you have no insurance policy, do you have a burial fund set aside in a bank?

2. If you have a burial fund, at what bank is it located, what is the account number, and to whom is it payable upon your death?

3. Do you have any other bank accounts? What names are on the accounts?

4. What kind of accounts are they (checking, savings, certificates of deposit, mutual funds, stocks/bonds)?

5. Where can the account numbers be found?

D. Cost of Funeral Arrangements

1. If you do not have a burial account set aside, do you already have a pre-arranged, pre-paid funeral or preneeds contract?

If so, who is it with and where do you keep your copy of the contract?

2. If you have not set aside a burial account and have no pre-paid contract, how have you prepared to pay for your final disposition?

E. Choice of Arrangements

1. Do you want a funeral, a memorial service, a graveside service or do you want a cremation?

2. Where do you want your service held?

3. Who do you want to give your eulogy? Who else do you want to speak at your service?

4. Is there any special music to be played, readings to be read or songs to be sung at your service?

5. Is there any special person(s) who you want to play, read or sing at your service?

6. How soon after you die do you want your service held? (as soon as possible, as soon as particular relatives / friends arrive ...)

7. Do you want flowers at your service? If not, what do you prefer instead?

8. Do you want a wake?

9. If cremated, what should be done with your ashes?

F. Burial Arrangements

1. What kind of casket do you wish to be buried in (e.g. pine box, the most expensive you can afford, the cheapest money can buy)?

2. Do you want your casket placed in a vault?

3. Do you have a burial plot?

4. Where is your plot and the deed or paperwork for your plot?

5. If you don't have a burial plot, where do you want to be buried?

6. Do you want any particular type of headstone or monument?

7. Is there something you want carved/engraved on your headstone or monument?

G. Funeral / Memorial Service Attendees

1. List the names and telephone numbers of family and friends you want to make sure are contacted for your service.

2. List the names of the individuals or groups that you want to serve as pallbearers and flower attendants at your funeral or memorial services.

3. Is there anything you want said to your survivors?

4. Are there any special requests you would like to be made known?

5. If not specified in a will, how would you like to identify your preference for the distribution of your personal items?

Legal Right to Control the Body of the Deceased

During the 2009 legislative session, House Bill 68 created a “prioritized right to control the disposition of the decedent’s body or remains.” This is partially based upon conflicts that have arisen when an individual enters into a preneed contract and dies, and a survivor (usually a family member) attempts to change or break the contract as the right of the “next of kin.”

Title 31 of the Official Code of Georgia Annotated establishes that the decedent (the person who dies) must have named someone to cancel or revise the terms of the preneed contract or there is no right to cancel it or substantially revise it unless there are insufficient funds set aside for the contract to carry out the terms and instructions of contract. [O.C.G.A. §31-21-7(a)]

Priority of Persons Authorized to Control the Body/Remains

Under subsection (b) of the same section of the code, the order of persons authorized to control what happens to the remains of a deceased person, the location, manner, and condition of the disposition, arrangements for funeral goods and services to be provided are given to the following in the order named, provided that the individual is at least 18 years old and is of sound mind:

1. Health care agent
2. Designee (Form to appoint a designee is on Page 12)
3. Surviving spouse
4. Sole surviving child; or, if more than one child, the majority; or, less than half of the surviving children if the rest cannot be reached or no opposition is known
5. Surviving parent(s); if one is absent, the remaining parent may decide if unsuccessful in locating the missing parent
6. Sole surviving brother or sister; or, if more than one, the majority; or less than half of the surviving brothers and sisters if the rest cannot be reached or no opposition is known

7. Surviving grandparent(s); or, if more than one, the majority or less than half if the rest cannot be located or no opposition is known
8. Legal guardian at the time of decedent's death
9. Personal representative of the decedent's estate
10. Next degree of kin; if more than one of the same degree, either can make decisions
11. If disposition is to be made by state or political subdivision, the person tasked with making final arrangements
12. If neither person from numbers 1-10 exists, then whoever is willing to assume the responsibility to act and arrange the final disposition, including the funeral director with physical custody of the remains as long as he or she:
 - Makes a good faith effort to contact individuals in numbers 1-10
 - Is willing to attest (certifying in the presence of witnesses) that this has been done and that all attempts have been unsuccessful
 - Commits this attestation to writing

Persons Who Die While Serving in the Armed Services

If the deceased person died while serving in any branch of the United States Armed Forces as defined in 10 U.S.C. Section 148, the person, if any, designated by the deceased person as authorized to direct disposition as listed on the deceased person's United States Department of Defense Record of Emergency Data, DD Form 93, or any similar successor form adopted by the Department of Defense is the person authorized to control the disposition of the deceased service member's remains.

Form to Authorize Another to Control the Disposition of Remains

Under O.C.G.A. §31-21-7 (b) (2) (B) a person 18 years of age or older and of sound mind may legally authorize another person to control the disposition of his or her remains by use of an affidavit that substantially complies with the following format:

State of Georgia

County of _____

I _____, do hereby designate _____
with the right to control the disposition of my remains upon my death. I
have / have not attached specific directions concerning the disposition of
my remains with which the designee shall substantially comply, provided
that such directions are lawful and there are sufficient resources in my
estate to carry out the directions.

Subscribed and sworn to before me the _____ day of the month of
_____ of the year _____.

Affiant (signature of affiant)

Notary Public (signature of notary public)

Forfeiture of the Right of Disposition

The right of disposition is forfeited for any person listed above:

- When that person is charged with murder or voluntary manslaughter of the decedent and the funeral director knows about the charges; if the charges are dismissed or the person is acquitted of the charges, the right of disposition is restored
- If the right of disposition is not exercised within two days of the notification of the death of the decedent or within three days of the decedent's death, whichever comes first
- If the person and the decedent are married and a petition to dissolve the marriage was pending at the time of decedent's death; or,
- If the probate court upon petition for a determination, rules that the decedent and the person entitled to the right of disposition were estranged at the time of the decedent's death.

Funeral Home's Responsibilities in "Right of Disposition" Disputes

- A funeral home is allowed to rely on the word of whoever signs the authorization to dispose of the remains, provided that
 - They have the required authority claimed
 - The identity of the deceased is correct
 - The signer has the right to authorize the instructions given.
- There is no civil or criminal liability for the funeral home or staff if they acted in good faith.
- The funeral home has the right to refuse to accept remains where there is a dispute about the right of disposition.
- If the funeral home has possession of the remains and a dispute occurs, the funeral home is authorized to embalm, refrigerate or otherwise shelter the body to preserve it until the final decision is reached; costs may accrue and be added to the final disposition costs.
- The funeral home has the right to refuse to inter or otherwise dispose of the remains until either a court issues an order or until the parties present a written agreement with a united decision.
- The fact that one pays for, offers to pay for or has paid the funeral home

for any arrangements for the deceased gives them no greater priority than they would ordinarily have under the law to authorize disposition of the remains.

- The fact that one is the personal representative of the estate gives him or her no more priority or preference than he/she would ordinarily have under the law.

Petitioning Probate Court for a Determination of Right of Disposition

Two or more persons with equal rights to make the decision about the disposition of the decedent's body or remains or the funeral home in possession of the remains may file a petition asking the probate court to decide the matter.

The probate court shall consider the following in making a determination:

- The reasonableness and practicality of the proposed funeral arrangements and disposition;
- The degree of the relationship between the decedent and each of the persons claiming the right of disposition;
- The desires of the person or persons who are ready, willing and able to pay the cost of the funeral arrangements and disposition;
- The convenience and needs of other families and friends wishing to pay respects;
- The desires of the decedent; and,
- The degree to which the funeral arrangements would allow maximum participation by all wishing to pay respect.

Consumer Preneed Bill of Rights

Prior to purchasing any funeral goods or services or signing a preneeds funeral contract, consumers are urged to ask any and all questions regarding plans and proposed purchases. There are certain things that you should expect the funeral home, with which you are planning to conduct business, to provide to you and/or put in the contract. These things include but are not limited to the following:

- Detailed price list of services and merchandise before you make any selections.
- And should you decide to contract with that funeral home, you should be given a written preneeds funeral contract explaining, in plain language, your rights and obligations.
- An explanation of the geographical boundaries of their service area and under what circumstances you can transfer the preneeds contract to another funeral home if you were to relocate or if the death were to occur outside their service area.
- A written guarantee in the contract that if any of the merchandise or services you selected are not available at the time of need, merchandise or services of equal or greater value will be substituted by the funeral home at no extra cost to you.
- Information in the contract regarding whether and to what extent the funeral home is guaranteeing prices of the merchandise and services you are purchasing. If the prices are not guaranteed, they should explain to you in the written preneeds contract who will be responsible for paying any additional amounts that may be due at the time of the funeral.
- A statement in the written preneeds contract about where and how much of the funds you pay to them will be deposited until the funeral is provided.
- An explanation in the contract of who will be responsible for paying taxes on any income or interest generated by the preneeds funds that are invested.
- An explanation in the contract of who will receive any excess funds that

may result if the income or interest generated by the invested preneeds funds exceed future price increase in the funeral merchandise and services you select.

- An explanation in the contract about whether and under what circumstances you may cancel your preneeds contract and how much of the funds you paid will be refunded to you.
- At the conclusion of the funeral arrangement conference or meeting, you should receive a listing of all of the services and merchandise you purchased and their prices.

Source: The Federal Trade Commission

Tips for Dealing with Funeral Homes

- You should receive a General Price List before you get down to business.
- Make sure you receive a casket price list before you purchase your casket at the funeral home.
- Yes, you are allowed to purchase a casket from somewhere other than the funeral home, such as a casket outlet or even from the internet and still do business with the funeral home.
- Casket models generally come in other colors or prices and are usually readily obtainable.
- The lower priced caskets should be displayed with just as much dignity as the more expensively priced ones, although, they may not be displayed at all.
- Lower priced caskets should not be discouraged or referred to in derogatory terms such as “morgue boxes” or “welfare or poverty caskets.”
- If you are told that “the law requires” or that “the state requires,” such information should be provided to you in writing.
- Ask if something is required before allowing yourself to be pressured into purchasing it, such as vaults, outer containers, sealer caskets, or grave liners.
- You should have a clear understanding of what is “included in the regular services” of the funeral home and what has to be paid for separately.
- If you decided to do business with the home, you should receive an itemized Statement of Goods and Services Selected prior to the funeral so that you know what the full cost of the funeral will be.

What to do when a loved one dies

When a loved one passes away, it is an understandably stressful time. It can be even more stressful and/or traumatic trying to remember all of the details that must be taken care of related to a person's death. If you are in charge of handling the affairs of the decedent (the person who has died), here is a checklist of some of the more important considerations:

- **Place of Death.** If the individual dies in a hospital or hospice, the medical personnel will take the lead on "next steps," although they will want to know which mortuary or funeral home should be called at the appropriate time. If the individual dies at home, call the paramedics or the police so that the proper pronouncement of death can be made.
- **Organ Donation/Anatomical Gifts.** If the deceased has consented to be an organ donor or the family is willing to consent to organ donation and the individual dies at home, the paramedics should be called immediately. Be sure to let the dispatcher know that the person is a potential organ donor, as time is of the essence. If consent has been given for the body of the deceased to be an anatomical gift, follow the instructions provided by the institution or organization receiving the gift.
- **Notify Immediate Family.** As soon as possible and practical, notify immediate family and friends about the death of the loved one. This will allow them to make arrangements quickly. If a family member or close friend can be designated to make these contacts, this could relieve you of a great deal of stress. In order to assist them, have prepared an accurate listing of the names, addresses and telephone numbers of family members and/or friends to be notified in the event of such emergencies.

There are a number of tasks with which family and friends can lend a hand, such as:

- Answering the phone
- Collecting mail

- Caring for pets
- Locating important items such as keys, insurance policies, claims forms, addresses for magazine subscriptions, etc.
- Staying at the home during the wake, funeral, and/or memorial services to guard against break-ins that commonly occur during that time
- Organizing food for family and friends after the services
- **Notify the Clergy.** Contact the deceased's pastor, rabbi, priest, imam or other designated religious leader if there is one in order to facilitate counseling for family members and members of the deceased's congregation, synagogue or parish. They will also be involved in making arrangements for any final religious services.
- **Funeral Home/Mortuary and Cemetery/Mausoleum.** If no arrangements have been previously made, contact the funeral home or mortuary of your choice to carry out the final preparations and/or burial instructions. Any advance preparation in this area alleviates a lot of stress during an already stressful period. Most funeral homes and/or mortuaries are happy to talk with individuals to provide helpful preneeds information and arrangements. Someone will have to be authorized to make the decisions concerning the disposition of the remains of the deceased. A final resting place should have already been secured and the proper person will need to be notified of the date of interment as soon as a date is set.
- **Obtain Death Certificate.** A death certificate must be completed and signed by either an attending physician, the medical examiner/county coroner or, in the case of persons dying in a hospice program, a registered professional nurse employed by the hospice within 72 hours unless there is an official investigation. The death certificate is filed with a local registrar and transmitted to the vital records registration system for recording in the state's official records. If a death certificate has not been returned to the funeral director or other person in charge within 30

days of the person's death, the funeral director is authorized to report the physician to the State Composite Medical Board (O.C.G.A. §31-10-15(c)(1). Certified copies of the death certificate can be obtained after the death certificate has been filed with the local registrar. Certified copies will have printed upon them the following language:

- "This is an exact copy of the death certificate received for filing in _____ County." The certified copy must display an official seal.

- **Copies of the Death Certificate.** Once the death certificate is available, copies need to be sent to all insurance companies, in order to receive the proceeds from any insurance policies.
- **Notifying Employer, Social Security.** Notify the employer of the deceased so that the proper paperwork can be completed. This may affect payroll and benefits, as well as the general morale and work schedule of the deceased's co-workers. Also notify the local office of the Social Security Administration and any other income sources immediately. Any benefits received after the date of death will need to be returned to Social Security. The surviving spouse who was living with the deceased person or surviving spouse or child who was receiving benefits on the deceased's record is entitled to a one-time \$255 death benefit from Social Security. Pensions, annuities and other income sources will have different rules. Check the plan or contact the administrator of those plans for further details.
- **Notifying the Guardian/Agent.** If there is a guardianship, a power of attorney or a durable power of attorney for healthcare, those persons need to be notified that their responsibilities are at an end.
- **Bank Accounts.** If there are bank accounts on which someone is a "surviving owner", (the account may read "POD" for payable upon death or joint owners with "ROS," for right of survivorship) a death certificate needs to be provided to the bank so that the surviving owner can now take ownership. Otherwise, access to the accounts may be blocked until someone is appointed as an official representative on behalf of the estate.

- **Wills.** If there is a Will, when the person dies, the law requires that it be filed (the law does not require that it be probated) with the probate court in the county where the decedent lived. The clerk will provide the executor or executrix of the Will with the necessary paperwork. Expenses of the last illness and funeral should be paid from the estate before any additional disbursements are made. All remaining assets and properties can be disbursed through the probate process.
- **When there is no Will.** If there is no Will, and an administration of the estate is desired, this is also done in the county probate court. Expenses of the last illness and funeral or final arrangements should be paid from the estate before any additional disbursements are made. All remaining assets and properties can be disbursed through the administration of the estate.
- **Creditors.** Letters should be sent to all creditors informing them of the person's death. If any life insurance coverage exists on open accounts to pay off the remaining balances, a copy of the death certificate will be required. Do not agree to be personally responsible for paying the balances on any outstanding account, if you are not named on the account. The estate is liable, not individual family members unless that family member was a named account holder, regardless of the insistence of the creditors. If nothing remains in the estate to pay off debts, then creditors should be so informed.
- **Utility Companies.** Local utilities (telephone, gas, electricity, cable) should be notified only if someone else wants to be substituted on the accounts. Otherwise wait until you decide whether or not and when the utilities are to be discontinued. In any event, the utility bills must be paid in order to keep the utilities on.
- **Newspaper and Mail.** The newspaper subscription will need to be discontinued if no one else resides at the home of the deceased, and the Post Office may need to be contacted about a forwarding address for mail, if no one will be at the home to receive it.

- **Tax Refunds.** Any tax refunds that arrive after the decedent's death will be a part of the estate and will have to be distributed according to the Will or the Administration process.
- **Taxes Owed.** Any taxes owed will have to be paid out of the estate or voluntarily by a surviving family member.
- **Homestead Exemptions.** Any homestead exemptions are generally going to be tied to the individual if that person was a senior or otherwise qualified for an exemption. The exemption may no longer be applicable unless the new homeowner meets the requirements.
- **Personal Property.** Things like titles to automobiles, automobile insurance and house insurance will have to be changed eventually. Homeowner's insurance policies should be reviewed carefully for instructions concerning coverage of unoccupied premises.
- **Out-of-State Property.** If property is owned out of state, the Will should be probated or the estate administrated in the state of residence first and the Letters Testamentary or Letters of Administration (they may be called something else in another state) used to handle the property in the other state.
- **No Property.** If there was no property left in the decedent's name and no other assets that need to be transferred, then there are probably very few estate matters to be handled. Georgia requires that a Will, if there is one, be filed with the court whether or not it is probated.
- **Right of Survivorship Property.** If property or accounts were in the name of the decedent and another person as tenants "with the right of survivorship," then ownership automatically passes to the surviving person(s) without the need for probate or administration of the estate.
- **Disposing of Personal Items and Clothing.** Although it is one of the most heartbreaking tasks when a loved one dies, as soon as emotionally possible, every effort should be made to dispose of those items which will no longer be used by the survivors. The timing of this is handled

differently from person to person. If too soon, it may prevent survivors from having adequate time to grieve, while if it takes too long, it may seriously delay the ending of the grieving process, acting as a very painful and constant reminder of the person's death. Only a few items should be retained as mementos.

- **No items should be moved, sold, given away or otherwise disposed of if they have been identified in the person's Will as items to be distributed as a part of the estate.** Only the legally appointed executor or administrator of the estate is entitled to make the decision as to their disposal or distribution.
- **Documents to locate.** Some documents may be needed or at least helpful in settling the estate of the deceased. These documents should be located and kept together in one place until they are provided to the person in charge of carrying out this part of the affairs of the deceased. Included in the list of documents to be sought:
 - Funeral and burial plans/contracts
 - Safe deposit rental agreement and keys
 - Trust agreements
 - Nuptial agreements/marriage licenses/prenuptial agreements/divorce papers
 - Life insurance policies or statements
 - Pension, IRA, retirement statements
 - Income tax returns for the past three years
 - Gift tax returns
 - Birth and death certificates
 - Military records and discharge papers
 - Budgets/bookkeeping records

- Bank statements, checkbooks, check registers, certificates of deposits
 - Deeds, deeds of trust, mortgages and mortgage releases, title policies, leases
 - Motor vehicle titles
 - Stock and bond certificates and account statements
 - Unpaid bills, notes
 - Health/accident and sickness policies
 - Bankruptcy papers: filings and releases
- This is certainly not intended to be an exhaustive list of every detail to which attention must be given, nor does this alleviate the need to ask questions about topic areas that may not have been mentioned. It is an attempt to provide some initial guidance to those in the position of having responsibility for handling the affairs of a deceased loved one. These are just some of the more fundamental core items. The emotional issues will have to be dealt with, and special care should be taken when a loved one dies leaving young survivors or elderly survivors. Support groups and counselors should be contacted at the initial signs of depression.



Georgia Department of Human Services

This information has been prepared as a source of education and it was prepared according to the laws and practices of Georgia. Although it may be helpful to people in other states, where specific laws are concerned, others are urged to seek legal advice from attorneys licensed to practice in their state. If there are questions about anything in these materials, please feel free to contact Natalie Thomas, State Legal Services Developer, at 1-866-552-4464 or (404) 657-5328.