

A GUIDE TO



Funeral

Homes,

Crematories



and

Cemeteries

This educational publication from the Georgia Department of Human Services' Division of Aging Services is not intended as legal advice, nor is it an attempt to cover every aspect of these subjects. For specific advice, please contact the agencies that regulate these entities or seek legal advice from an attorney.

For additional copies or additional information, mail your request to the Division of Aging Services, 2 Peachtree Street, NW, Suite 33-384, Atlanta, Georgia 30303-3142; or call 1-866-55AGING (1-866-552-4464) to request a copy.

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GENERAL INFORMATION

1. Who regulates funeral homes, crematories and cemeteries in Georgia?

- The Georgia *State Board of Funeral Services*, under the State of Georgia Secretary of State's Office, has administrative authority over Funeral Homes and Crematories. The Board can be contacted at 237 Coliseum Drive, Macon, Georgia 31217-3858; Telephone No. (478) 207-2440.
- **The State Board of Cemeterians**, under the State of Georgia Office of the Secretary of State, is given the administrative authority over **Cemeteries**, except for those owned by the government, churches or families; **Pre-Need Agents; Pre-Need Dealers and Pre-Need Contracts**. That Board is located at 237 Coliseum Drive, Macon, Georgia 31217-3858; Telephone No. (478) 207-2440.
- The Securities and Business Regulation Office of the State of Georgia Secretary of State's Office is the state agency with sole authority to regulate funds, trust funds, escrow accounts, accounting and investigations concerning them. For assistance, call (404) 656-3920.
- The Secretary of State, by rule, is authorized to adopt minimum standards for interment of human remains, including, without limitation, standards for depth of burial, composition of vaults, caskets, and other containers, siting and marking of burial lots, and minimum standards for construction of mausoleums and columbaria. In addition, the Secretary of State may, by rule, provide for the minimum standards for or prohibition of aboveground burial containers.
- The Federal Trade Commission accepts complaints on Funeral Homes. File a complaint over the Internet at www.ftc.gov

2. What is the Funeral Rule?

The “Funeral Rule” refers to the federal requirements for the practice, goods and services provided by the funeral industry. The “Funeral Rule” prohibits misrepresentations about various aspects of the funeral industry and is enforced by the Federal Trade Commission, which receives complaints from consumers about the funeral industry.

3. To whom does the “Funeral Rule” apply?

It applies to anyone who offers to sell both funeral goods and funeral services. For example, it may not apply to a casket warehouse because it only sells caskets and does not sell funeral services.

4. What should I expect from a funeral home when I walk in?

Once you ask for any information about the type of funeral, prices or products offered, this triggers the Funeral Rule and requires that you be **given** a General Price List (GPL) to keep. If the GPL is provided any later in your discussion, such as after you begin viewing products, services and activities the funeral home provides, discussing preferences of the person to be buried, or how to coordinate with other service providers like the pastor of the loved one, the crematory or the cemetery, a violation of the law has already occurred.

5. What type of information is on the General Price List?

There should be specific disclosure information about six areas:

- Right of selection
- Embalming
- Alternative container
- Basic services fee
- Casket prices (if these are not on the GPL, a separate “casket price list” is required)
- Outer burial container price list

6. What if the consumer is unable to read or does not read well, does the law require that the funeral director make sure that the consumer understands the General Price List?

Yes. A failure to do so is a violation of the law.

7. What prices are required to be itemized?

- ◆ Forwarding of remains to another funeral home
- ◆ Receiving remains from another funeral home
- ◆ Price range for direct cremation
- ◆ Price range for immediate burials
- ◆ Transfer of remains to funeral home
- ◆ Embalming
- ◆ Other preparation of the body
- ◆ Use of facilities and staff for viewing
- ◆ Use of facilities and staff for funeral ceremony
- ◆ Use of facilities and staff for memorial service
- ◆ Use of equipment and staff for graveside service
- ◆ Hearse
- ◆ Limousine

8. Can our family request that an autopsy be performed on our loved one?

Yes. If an autopsy is not performed under the Georgia Death Investigation Act for unnatural cause of death, a family may request a private autopsy.

Families with questions about their loved one's health or cause of death may seek answers to their questions through an autopsy. The individual requesting the autopsy must have written, verifiable permission from the deceased's next of kin.

To request a private autopsy, contact a pathologist with experience performing autopsies. Private autopsy services are available or a referral

should be requested from your local medical examiner's office. The family is responsible for the costs + associated with the autopsy.

While experienced pathologists work for the Medical Examiner's Office, the pathologist is working as a private professional when conducting a private autopsy, not in his/her duties as a Medical Examiner and this expense would not be covered unless the autopsy was required by law.

Private autopsy costs can range from \$2,000 - \$5000 depending upon what is involved and whether exhumation is required. There are usually additional costs for travel for the professionals used.

9. How do I have my loved one's casket exhumed?

On occasion, a reason may arise to disinter, exhume or otherwise relocate a loved one or cemetery "resident". In these instances, the casket is removed from its resting place to be relocated or for further examination of the remains.

O.C.G.A § 45-16-45 authorizes coroners to disinter any body already buried and the coroner, like the county sheriff, commands the power of the county for that purpose.

Medical examiners, other than local medical examiners, may also exercise this authority in any case where the judge of the superior court of that county has issued an order for exhumation. Superior court judges may, at their discretion, grant such orders any time a medical examiner other than a local medical examiner, petitions the court for this purpose.

10. How do I get the death certificate?

The funeral home or crematory with which you are working will include this task in the services that are conducted for you. There will be a fee for the first certified certificate (\$25 in 2011) and an additional fee for each copy requested (\$5.00 in 2011).

11. How long does it take to get the death certificate?

The physician who had been in charge of caring for the individual before his or her death must complete, sign and return the certificate to the funeral director within 72 hours of the person's death. If there is a question about the person's death, the 72 hour rule does not apply. If there was no physician involved in the care of the person, the coroner or medical examiner may be the one completing the cause of death section on the death certificate and has up to 30 days to complete the death certificate. The funeral director must file the death certificate with the county registrar within 72 hours of receipt. Once the county registrar certifies and files the death certificate, it can be made available to the funeral director to provide the requested number of copies and any additional copies needed.

12. What if I misjudge and do not request as many death certificates as I need; should I just make copies of the one I have?

Not if you need an "official certified copy". That must come from the local county registrar or the Office of Vital Records within the Georgia Department of Community Health, Division of Public Health. www.dch.georgia.gov or <http://health.state.ga.us/programs/vitalrecords/death.asp> (On July 1 2011, the state agency name will be the Georgia Department of Public Health.)

13. How do I correct errors on my loved one's death certificate?

Contact the Legal Section of the state Vital Records Office at (404) 679-4701. Ask for instructions for correcting a vital record.

14. Does the body always have to be embalmed?

No. There may be a requirement for the body to be embalmed in the event of certain infectious diseases; and funerals with viewing may require that the body be embalmed. Embalming is not required for cremation or immediate burials.

15. When a person dies who had sufficient resources to pay for their funeral, burial and/or cremation but did not prepay those expenses, how are those expenses paid? Who has the right to make the decisions?

Georgia law places the expenses of funeral, burial, etc., in high priority of the debts of the deceased. The only higher priority is a Year's Support to provide financial maintenance for the surviving spouse and/or minor children.

Funeral expenses are now separate and rank higher in priority than the expenses of a person's last illness. (In some instances, for particular government programs, there may be limitations on the amount that is allowed for priority status for funeral expenses.)

An executor, administrator or other fiduciary appointed and qualified by a Last Will and Testament may apply for all or a portion of the funds held by a Building and Loan Association or Savings and Loan Association within 90 days of the death of the depositor. If no such application is made, then up to \$1,000 can be released to a funeral director upon the presentation of an itemized statement of expenses and an affidavit of the funeral director indicating that the statement is true and the expenses had not been otherwise paid.

Generally, a close family member who pays the expenses of funeral, burial, or cremation for the decedent is entitled to seek reimbursement of those expenses from the decedent's estate. Qualified personal representatives of estates are the proper parties to bring actions for funeral and burial expenses for decedents.

16. What happens when a person dies and there is no one or no money to pay for burial or cremation?

The State of Georgia has a system in place to ensure that every person who dies in Georgia has access to an appropriate final disposition.

In Georgia, whenever a person dies without the ability to pay for burial, the county may cover those expenses, if:

- ♦ the family and immediate kin are indigent and unable to provide for the decent interment of the decedent, and

- ♦ the decedent is a pauper and destitute of the means of paying for decent interment.

Then the governing authority of the county where the death occurred shall make available from county funds a sum sufficient to provide a decent interment for the deceased pauper, or to reimburse such person as may have expended the cost voluntarily. The governing authority of the county will determine the amount.

To obtain assistance with a pauper's burial or cremation,

- Contact the Department of Family and Children Services for the county where your loved one resided.
- Ask to be directed to the Indigent Burial Department.
- A DFCS staff person will begin an investigation to verify eligibility for state burial. Items such as insurance status, property ownership, bank accounts, and other assets may be considered in the eligibility analysis.

If your family qualifies, the DFCS Officer will discuss the options the state provides. You may have your loved one buried or cremated. There is no funeral service. Usually, there is only a graveside service, burials take place on limited dates, and at the office's designated funeral home.

17. Veterans

All veterans, and their spouses and dependent children, are entitled to a free burial in a national cemetery. Contact the U.S. Department of Veterans Affairs at 800-827-1000 or through the VA [web site](#) for more information.

Burial benefits available to Veterans include a gravesite in any of the 131 national cemeteries with available space, opening and closing of the grave, perpetual care, a government headstone or marker, a burial flag and a Presidential Memorial Certificate, at no cost to the family. Some Veterans may also be eligible for burial allowances. Cremated remains are buried or inurned in national cemeteries in the same manner and with the same honors as casketed remains.

Burial benefits available for spouses and dependents buried in a national cemetery include burial with the Veteran, perpetual care, and the spouse or dependent's name and date of birth and death inscribed on the Veteran's

headstone, at no cost to the family. Eligible spouses and dependents may be buried, even if they predecease the Veteran.

For Burial in a Private Cemetery

Burial benefits available for Veterans buried in a private cemetery include a government headstone or marker, a burial flag and a Presidential memorial Certificate at no cost to the family. Some Veterans may also be eligible for burial allowances. **No benefits are available to spouses and dependents buried in a private cemetery.** (<http://www.va.gov>)

When the body of a veteran without next-of-kin is unclaimed from a VA facility and the estate is without sufficient assets, the VA will assume responsibility for the final arrangements and disposition.

18. If I do not have all of the money to pay for a funeral or cremation of my loved one, can the funeral home or crematory refuse to release the remains?

No. It is not lawful for the remains of a deceased to be held as collateral or security for payment of a debt.

RESPECT AND CARE FOR THE DECEASED

1. Board for the Distribution of Cadavers

The law provides for a Board to make decisions, receive, distribute and expedite the delivery of dead bodies that might otherwise go unclaimed. The members of this Board are the academic deans of medical, osteopathic, medical, and dental colleges or representatives who have been appointed by the president of such schools. The Board is to be notified of any deceased human who did not die as a result of a contagious or infectious disease and is to be buried at the expense of the public for whom no relative or kin has come forward. Such bodies shall be allowed to be used for medical science purposes. Bodies shall be held in every instance for at least 24 hours after death, before delivery to such board or its agent for distribution, during which

period notice of the death of such person shall be posted at the courthouse door of the county in which such body is held.

If the deceased person was a traveler who died suddenly, the next of kin shall be notified concerning the disposition of the dead body. If no next of kin is located, or no replies from next of kin are received, or the body is unclaimed within 72 hours, the procedure indicated in this chapter shall apply.

PRISON INMATES

- Who die while incarcerated and whose remains are unclaimed will be identified by a notice, which will be posted on the courthouse door for 24 hours.
- If the body of the inmate is still unclaimed, notice will be given to the board and the body will be delivered according to the board's instructions.
- An inmate whose body is claimed by someone related by blood or marriage but who is in financial straits can be buried at public expense, if the relative makes that request and provides consent.
- If the consent is provided, the board is notified and the relative may negotiate with the school or college that has received the body.
- If an inmate left instructions in a will for the donation of his/her body, the courthouse notice procedure will still be used if the body is unclaimed and the board will notify the school or college named in the inmate's will.
- If an inmate left instructions in a will for the donation of his/her body and a relative comes forward to claim the body, the relative will be informed of the inmate's wishes and the procedure of burial at public expense if the relative gives consent.
 - If the relative does not give consent, the inmate's body should be buried at either the expense of the relative or at public expense, regardless of the wishes the inmate expressed in his/her will.

WHEN OTHER PERSONS DIE

- Any relative by blood or marriage, or anyone who is socially or otherwise connected with and interested in the deceased person may legally claim the body for burial, cremation or other proper disposition and the body must be immediately surrendered. The body may then be buried at public expense at the request of the

relative claiming the body if he/she is financially unable to provide burial, cremation or other proper disposition.

IF NO ONE CLAIMS THE BODY

- It must be held for 24 hours by whoever has charge or control of it and during this 24-hour period, notice of the person's death must be posted on the courthouse door of the county in which the body is being held.
- If no one comes forward, the board is notified and the body is delivered in accordance with the board's instructions.

BODIES OF TRAVELERS DYING SUDDENLY

- Will be held for 72 hours and no notice will be given to the board during this time and the body will not be delivered anywhere during this time. Attempts will be made to notify the next of kin concerning the person's death so that arrangements can be made for final disposition. If no next of kin is located, or no replies from the next of kin are received or the body goes unclaimed for 72 hours, the board will be notified and the body will be delivered in accordance with the board's instructions.

2. Is there a law to stop crematories, funeral homes, and cemeteries from just throwing away bodies that are supposed to be cremated, buried, or otherwise disposed of?

Yes. It is a felony for any person to throw away or abandon any dead human body or portion of a dead body. To do so will constitute the crime of abandonment of a dead body. Anyone convicted of this crime can be punished by imprisonment of 1-3 years.

3. What assurance is there that all bodies to be disposed of by burial or cremation are properly identified?

The law requires that the funeral director or person in charge of final disposition of a dead body place a tag securely on the ankle or wrist of the deceased person. The tag must be made of non-corroding material that has

been permanently marked with the county and state of death, the name, date of death, and social security number of the deceased person.

4. Whose legal right is it to make decisions concerning the final arrangements of the deceased?

The law lists those who may legally make such decisions [O.C.G.A. §31-21-7(a)] about the remains of a deceased person. They are in the order of priority:

- a. health care agent
- b. designee (**Form to appoint a designee, page 14**)
- c. surviving spouse
- d. 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
- e. surviving parent(s); if one is absent, the remaining parent may decide if unsuccessful in locating the missing parent
- f. 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
- g. 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
- h. legal guardian at the time of decedent's death
- i. personal representative of the decedent's estate
- j. next degree of kin (i.e., aunts, uncles, cousins, etc); if more than one of the same degree, either can make decisions
- k. if disposition is to be made by state or political subdivision, the person tasked with making final arrangements
 - 1) if neither person from (a) – (k) 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 (a) – (k)
 - 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

The following applies to any deceased person who dies while serving in any branch of the United States Armed Forces as defined in the United States Code, Title 10, Section 148. The person, if any, designated by the deceased is authorized to direct disposition if 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. This is also the person authorized to control the disposition of the deceased service member's remains.

Form to Authorize Another to Control the Disposition of His/Her Remains

Under O.C.G.A. §31-21-7 (b) (1) (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 whomever signs the authorization to dispose of the remains that they
 - Have the required authority claimed
 - That 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

FUNERAL HOMES

1. What are some different types of funerals?

- Self Directed Home Funeral – funerals planned, arranged and to the extent possible, carried out by an individual(s) (i.e., filing the required paperwork, arranging for the transportation of the body to a cemetery or crematorium, holding a home vigil and purchasing any burial items such as a casket or urn from a retailer)
- Traditional Funeral – a service with the deceased present in an open or closed casket where family and mourners gather to pay tribute or last

- respects ending with a processional to the cemetery for burial of the deceased's remains.
- Memorials – a service to commemorate the life of the deceased, usually without the presence of the body of the deceased following an earlier burial or cremation or sometimes after one has been declared dead and no body has been recovered.
 - Graveside – usually an abbreviated service held at the cemetery in either the chapel or at the site of the grave of the deceased followed by an immediate burial, typically without any formal viewing.
 - Non-commemorative – a direct disposition without any service to recognize or remember the life of the deceased; from point of death straight to cremation, burial or donation to medical science.
 - Funeral and Body Disposition in Separate City/State – combination of a traditional funeral or memorial with the body of the deceased transported to the site of the final disposition.

2. What is the average cost of a funeral?

The average cost of an adult funeral, as of 2010, was \$7,755. That cost included an outer burial container, but not cemetery costs which could average \$1,400 - \$2,500.

- National Funeral Director's Association
- <http://www.nfda.org/media-center/statisticsreports.html#fcosts>
 - www.funeralwise.com/plan/costs

Typical funeral costs

- \$2,295:** Casket (metal)
- \$1,817:** Professional services (non declinable basic services)
- \$1,195:** Burial vault
- \$628:** Embalming
- \$450:** Funeral at funeral home (facilities and staff)
- \$395:** Viewing time (also sometimes referred to as visitation or “wake”) (facilities and staff)
- \$275:** Hearse (local)
- \$250:** Transfer of remains to funeral home
- \$200:** Cosmetology, hair, etc. (other preparation of body)
- \$125:** Service car or van (transports flowers)

\$125: Acknowledgement/Thank you/Remembrance cards/Register Book & Pen (basic memorial printed package)

Average Total: \$7,755.00*

*Does not include price of a grave site or other cemetery costs.

Source: National Funeral Directors Association 2010 General Price List Survey of 3,000 member funeral homes with a 21% response rate.

3. What are the different types of caskets and how affordable are they?

Caskets may be made of metal, wood, natural marble, fiberglass or plastic, composition board and even compressed paper.

- Cloth covered caskets are not necessarily purchased for durability yet may be more visually appealing. These are made from corrugated fiberboard, pressed wood or softwoods covered with cloth and have finished interiors. They may be priced as low as \$550.
- Metal Caskets are steel and are sold in gauges (i.e., 20 gauge, 18 gauge, 16 gauge); the lower the gauge, the thicker the steel and the higher the price. Some merchants are now trying a 22 gauge casket which is the thickness of the panels of automobiles. Metal caskets can range in price from as low as \$800 to more than \$18,000.
 - They also are available in copper and bronze which are measured by weight rather than gauge (32 oz – 48 oz).
 - Stainless steel covered with veneer finishes are priced in between wood caskets and metal caskets. They are becoming more popular and remain competitively priced.

Metal caskets can come with or without sealers. A sealer casket is always going to be more expensive than a non-sealer.

“Gasketed,” “protective,” and “sealer” are terms used to describe metal caskets that have a rubber gasket or other feature that delays the penetration of water and prevents rust. A sealer does not preserve the body.

- Wood caskets are more expensive because they require more hand labor. They can be as low as \$700 for the hardwoods to more than \$10,000 for some of the finer woods. They are generally not gasketed like metal caskets. They are available in hardwood, softwood and plywood, and can be covered with veneers. Wood caskets are more expensive and include willow, pine, oak, birch, mahogany, maple, pecan, cherry, black walnut and some elite woods such as ash, elm, redwood, poplar and cedar.

4. Will the funeral home guarantee the casket?

No. Funeral homes cannot offer warranties on caskets or vaults. Any warranties are from the manufacturer.

5. Do I have to buy my casket from the funeral home?

No. Federal law requires that funeral homes **must** accept caskets purchased from places other than their funeral home. They may be purchased over the Internet or from a casket warehouse or casket discount store and the funeral home must allow you to use the casket you have purchased without charging you extra for not purchasing your casket from them. The funeral home cannot charge for receiving the casket which typically is shipped directly from the retailer or wholesaler to the funeral home.

6. How far in advance do I have to purchase a casket from a warehouse or casket discount store?

Most warehouses or discount stores are able to ship by air and can have the merchandise to the funeral home of your choice within 24-48 hours. For more rural locations which may be farther away from major airports, it may take an additional 12-24 hours for delivery. It is best to contact the vendor of your choice as soon as you know there is a need to ensure timely delivery. If you have a place to store the merchandise until it is needed, you may choose to purchase merchandise in advance.

CREMATIONS

1. Are all cremations the same?

While the actual cremation process is the same, there are differences in how the cremations are conducted that vary the pricing.

- A basic or direct cremation involves the transportation of the body from the place of death to the crematory, in most instances, or first to the funeral home where the body is refrigerated until it can be transported to the crematorium. There it is cremated and the ashes or “cremains” are returned to the family or funeral home in a container.
- Cremations may also involve viewing by the immediate family prior to the actual cremation process. In many instances, family is allowed to view the cremation or a portion of it.
- Some cremations follow a funeral service where a viewing or visitation is held.

2. What is the average cost of a cremation?

In Georgia, one can arrange a cremation for as little as \$700, but added goods and services can exceed \$2,500. The national average cost for a direct cremation - with the container provided - is between \$1,146 and \$1,542.

There are additional costs for different services, ceremonies, and merchandise, in addition to costs for facility and staff time related to selected services.

3. For a cremation, is it still necessary to buy a casket?

No. You are not required to purchase a casket for the purposes of cremation. You may rent a casket for temporary use such as a wake or a viewing or you may purchase an alternative container. A combustible cremation container is all that is required. A cardboard box constructed for this purpose is acceptable.

4. What exactly is an alternative container?

Alternative containers are unfinished wood boxes or other non-metal receptacles or enclosures, made of fiberboard, pressed-wood, composition materials (with or without an outside covering), or like materials without ornamentation or fixed interior lining, designed for the encasement of human remains and are typically used for cremation purposes. They may be found for as low as \$250. The Federal Trade Commission requires that the General Price List contain the following disclosure if the provider offers direct cremation:

"If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (specify containers)."

If the provider does not offer direct cremation, no such disclosure is required.

5. What are my options for cremated remains? Could I bury them in a cemetery?

Remains tend to come from the crematory in a temporary container unless you have already purchased an urn and provided the crematory with it. There are a number of options for the storage or final disposition of cremated remains. Among these are the following:

- Placing the ashes in a more permanent urn (funeral urn).
- Dividing cremated remains into smaller keepsake urns or jewelry (i.e. charms, necklaces, tie tacs and cuff links).
- Placing the urn in a niche columbarium or mausoleum.
- Burying cremains in a lot in a cemetery in a burial urn or a green/biodegradable urn. The cemetery may require an urn vault.
- Keeping the urn at your residence. You must remember to arrange for the disposition of the ashes upon your death.
- Storing them in a house of worship, if allowed.
- Scattering the remains on private property, if the owner has given permission for this action and where such action is not prohibited; the remains must not be distinguishable to the public..
- Scattering the remains in a cemetery scattering garden.

- Scattering at sea (in or on ocean waters in scattering cremation urns). This must occur at least three (3) nautical miles from shore, including inland navigable waters, but usually not including public lakes (40CFR§ 229.1).
- Incorporating cremated remains with urn and cement, into part of an artificial reef.
- Mixing cremains into paint to be made into a portrait of the deceased.
- Scattering cremated remains in national parks in the U.S. with a special permit.

Everyday people find creative ways to celebrate life using cremains. The family of the late Ed Headrick, inventor of the modern day Frisbee had his ashes made into plastic for limited editions after his death in 2002.

6. How do I know that I will receive the correct remains from the crematory?

Every crematory is required by law to have procedures in place to ensure that the identity of the deceased remains with the body throughout the process. It is a good idea to talk with the funeral provider, crematory or cremation society to find out the details of their process.

7. Is it possible to have two people cremated together at the same time?

No. Crematories are only allowed to cremate one body at a time in the cremation chamber to ensure that the remains the families receive can be separately identified. However, double urns or companion urns can be purchased to keep loved ones together after cremation.

8. Does every funeral home/mortuary have a crematory?

No. Some funeral providers or mortuaries provide cremation services but do not own a crematory. In such instances, services for cremation are contracted out to a nearby crematory.

9. Are there differences in urns? What price should I expect to pay?

Urn can range from \$12.00 -\$1,300 depending on the material from which they are made. They are made of materials such as paper or cardboard as well as crystal, glass, cloisonné, pottery, stone, marble, wood, brass, bronze and pewter.

10. How do I find out if cremation services are provided in my city?

A call can always be made to individual funeral homes or mortuaries to find out if they offer cremation services. In addition, there are some nationwide directory services that will identify providers in your area (i.e., www.crematorydirectory.com ; www.lowcostcremation.com ; www.cremation.com ; www.forcremation.com). Also, some memorial societies offer services statewide (i.e., www.southcarecremation.com ; www.csog.com). There are some websites that offer general information as well as provide locator services, such as www.cremation.org

PRE-NEED ARRANGEMENTS

1. Is there a way to prepay for my funeral or cremation so that my loved ones do not have to be responsible for that upon my death?

Yes, some costs may be paid for in advance in a pre-need arrangement. Cemeteries and funeral homes as well as cremation societies offer pre-need arrangements. Pre-need dealers and agents of cemeteries and funeral homes must be registered with the Office of the Secretary of State in order to make such an offer.

2. What happens if I have paid for my funeral/cremation in advance through a pre-need contract but the costs at the time of service exceed the original agreement?

This can happen. Some costs associated with funeral homes can be guaranteed by the funeral home and they should not be expected to increase because they are the costs of the funeral home (i.e., the funeral homes' professional fees).

Other costs are considered cash advance items because they are only estimates of prices for items obtained from third parties and thus cannot be guaranteed by the funeral home or crematory because their prices are controlled by the actual merchant or provider of that service.

3. What kinds of things are considered to be cash advance items?

- Pallbearers
- Public transportation
- Clergy honoraria
- Flowers
- Musicians and/or singers
- Nurses
- Obituary notices
- Gratuities
- Death certificates

4. Can I transfer the rights of my pre-need merchandise?

Yes. The amended Georgia Cemetery and Funeral Services Act of 2000 permits the transfer of contract rights of pre-need merchandise without a fee except as provided in the Georgia Code §10-14-17(h).

5. Can a pre-need dealer require that I accept delivery of merchandise in my pre-need contract prior to actually needing to use it?

No. A pre-need dealer is prohibited from requiring pre-need delivery to the consumer as a condition of sale. Delivery is not required until the merchandise is ready to be used.

TRANSPORTING THE DECEASED

1. What happens if my loved one dies in a city or state different from where he or she is to be funeralized, buried or cremated?

Arrangements will have to be made with a funeral home in the city/state from which the body is to be transferred. Either you or that funeral home will need to make arrangements with the receiving funeral home, crematory or cemetery.

Care should be taken to obtain in writing a list of services that are to be provided on the transferring end and the receiving end and a price quote for each to assure that there is no duplication of costs and to ensure that only those services and products agreed upon are purchased.

2. What is the process for transporting my loved one from another country?

For natural deaths occurring to a loved one who is out of the country, a service of the Bureau of Consular Affairs of the U.S. Department of State becomes involved and attempts contact with the next of kin. If there are no relatives of the deceased in the foreign country, the Consular staff becomes provisional conservator of the deceased's estate to make sure that arrangements for transport, disposition of remains, and the foreign death certificate are taken care of. Details can be found at the following website:

http://travel.state.gov/travel/tips/emergencies/emergencies_1204.html

The Consular provides as much support to the deceased's family as possible during this time. In Washington, the Bureau of Consular Affairs gives next-of-

kin guidance on procedures to follow in preparing Letters Testamentary, Letters of Administration, and Affidavits of Next-of-Kin as acceptable evidence of legal claim of an estate.

For questions to the State Department related to this issue, contact the OVERSEAS CITIZENS SERVICES: 1-888-407-4747. From overseas, call: 202-501-4444.

3. Transporting Cremains by Airplane

There are two options for carrying a crematory container on flights:

- **Carry-on:** A crematory container is allowed as a carry-on, but it must pass through the x-ray machine. If the container is made of a material that prevents the screener from clearly being able to see what is inside, then the container will not be allowed through the security checkpoint.
- **Checked Baggage:** You may transport the urn as checked baggage provided that it is successfully screened. TSA will screen the urn for explosive materials/devices using a variety of techniques; if cleared, it will be permitted as checked baggage only.

NOTE: Some airlines do not allow cremated remains as checked baggage. Check with your air carrier before attempting to transport a crematory container in checked baggage.

Out of respect for the deceased, the screener may not open the container under any circumstance.

Please check with your air carrier to determine their policies and procedures for transporting your loved one in a coffin.

4. Am I allowed to transport my loved one in my personal vehicle or do the laws require that I pay a funeral home or crematory for transportation?

That depends. There is not a simple answer to this question. When not using entities that are specifically licensed and regulated to perform these tasks, the burden of complying with state laws and regulations, local ordinances and institutional policies falls to the private individuals who must take responsibility for finding all the applicable laws, regulations, ordinances

and policies and ensuring that each requirement must be met. The consequences for failure could result in:

- difficulties in obtaining a pronouncement of death, without which obtaining a death certificate would be impossible;
- being left with the remains of a loved one indefinitely because no cemetery or crematory will accept the remains;
- risking the premature assumption of death when, in fact, life could be sustained;
- legal questions as to the cause of death that could result in criminal investigations; and
- risk to health and safety of general public if public health emergency exists.

Because this is such an important question, Mr. Kenneth E. Bramlett, MPA, Director, State Registrar & Custodian of Vital Records, in the Georgia Department of Community Health's Division of Public Health, has agreed to accept specific questions related to this subject. He can be reached at (404) 679-0559. (After July 1, 2011, the state agency name will be the Georgia Department of Public Health.)

An additional Georgia resource for general information is:

The Georgia State Board of Funeral Service at 478-207-2440.

CEMETERIES

1. Am I going to be required to purchase a vault from the cemetery?

Perhaps; according to the Federal Trade Commission, "State laws do not *require* a vault or liner, and funeral providers may not tell you otherwise. However, keep in mind that many cemeteries require some type of outer burial container to prevent the grave from sinking in the future."

Cemeteries may require a burial vault or a grave liner to enclose the casket in a grave. The casket is either placed into a vault or a liner to prevent the ground from caving in once the casket begins to break down and deteriorate.

A grave liner is made of reinforced concrete and is lowered into the grave prior to burial.

A burial vault is more substantial and expensive than just a grave liner. Vaults are generally sold for their visual appeal and they are typically gasketed (sealed). Vaults are most often made of steel-reinforced concrete and are lined with other materials, including plastic.

“Wrapping”

For crypts inside a public mausoleum, cemeteries often require a tray to minimize moisture. Some cemeteries require an additional covering for the casket. This additional covering may be referred to as “wrapping.” Wrapping the casket involves completely covering and sealing the casket in a plastic material then placing it in a tray. Manufacturers claim this process minimizes deterioration, fluid, infestation, and odor.

Under the Federal Trade Commission’s Funeral Rule, funeral providers are prohibited from claiming that caskets or vaults will keep out water, dirt and other gravesite substances when that is not true. They are also prohibited from telling you that a particular item or service can preserve a body indefinitely in the grave. These claims are untrue.

Cemeteries are requiring urn vaults for cremated remains more frequently. Remember to ask the cemetery about their policy before making a purchase.

2. Am I required to purchase a specific type of headstone or monument for a grave?

Possibly. Cemeteries are allowed to have rules that enable them to have uniformity. As such, cemeteries can place restrictions on headstones and monuments.

3. Can a cemetery charge me a fee if I want to install a monument not purchased from them?

Yes. However, the Georgia Cemetery and Funeral Services Act restricts a cemetery from charging more than \$135.00 to reimburse the cemetery owner for reasonable costs incurred in assisting with the installation and any

administrative functions associated with the installation. This charge is allowed only if published, properly disclosed and charged regardless of whether the installer is the cemetery or someone else from whom you have purchased the monument. **Otherwise, it is unlawful** to charge a fee for the installation of merchandise purchased or obtained from and to be installed by a person or firm other than the cemetery.

4. Is it permissible to transfer the burial rights to my cemetery lots to someone else?

Yes. However, the 2006 amendments to the Georgia Cemetery and Funeral Services Act of 2000 allow a cemetery to charge no more than \$75 to transfer burial rights from one purchaser to another. Cemeteries must disclose such a fee in writing to the owner at the time of the initial purchase of the burial right from the cemetery.

5. I have a warranty deed for the lots I purchased in the cemetery. Do I not have the right to do what I want to with my property?

No. “Ownership” of cemetery lots is evidenced by a warranty deed. However, it really is a license to inter/bury someone in a specific spot in that cemetery. It does not really reflect ownership. Cemeteries may control the use of all property within the cemetery and may limit, restrict or regulate the conduct of persons on the property and may regulate, limit or restrict plants and shrubs on the property.

6. What does the law require cemeteries to do for upkeep of the grounds and around the gravesites?

The “care and maintenance” is defined as “maintaining the cemetery in a reasonable condition.” The law includes but is not limited to: mowing the grass; raking; cleaning the grave spaces and surrounding areas; pruning shrubs and trees; weeding; as well as upkeep and repair of roads, drains, waterlines and any buildings on the property.

GLOSSARY

Alternative Container

An unfinished wood box or other non-metal receptacle or enclosure without ornamentation or a fixed interior lining, designed to hold human remains and made of fiberboard, pressed-wood, or similar materials. The purpose of an alternative container is to hold and transport a dead human body.

Basic Service Fee

This is something like a “cover charge” for doing business with the funeral home. It is a discretionary charge that one cannot decline to pay. It ranges from the hundreds to thousands of dollars and does not include any of the other services provided by the funeral home.

Burial Right

This is the right to use a grave space, mausoleum, or columbarium for interment, entombment, or inurnment of human remains.

Burial Service

This is any service other than a funeral service offered or provided by any person in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains.

Care and Maintenance

This means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well cared for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the Secretary of State, care and maintenance may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. Care and maintenance may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. Care and maintenance may also include repair or restoration of improvements necessary or desirable as a result of wear,

deterioration, accident, damage, or destruction. Care and maintenance does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

Casket

A container designed for the encasement and viewing of a dead human body.

Cemetery

A place dedicated to and used for the permanent interment of human remains. It may contain land or earthy interments, mausoleum, a vault, crypt interments; a columbarium or other structure or place used or intended to be used for the inurnment of cremated human remains; or any combination of one or more of such structures. Regulated cemeteries do not usually include government owned cemeteries, fraternal cemeteries, church owned, synagogue owned or community or family plots.

Columbarium

A building mostly above ground used for the inurnment of cremated remains.

Cremation

Any mechanical or thermal process that reduces a deceased human being to ashes.

Crypt

A chamber big enough to inter the remains of a deceased human being.

Direct Cremation

The disposition of human remains by cremation without a formal viewing, visitation or ceremony where the body is present.

Entombment

The disposition of a dead human body in a mausoleum; doesn't include opening and closing a grave, crypt, niche or installing a vault.

Final Disposition

The final disposal of a deceased human being by either interment, entombment, inurnment, burial at sea, cremation or other means.

Immediate Burial

Disposition by burial with formal viewing, visitation, or ceremony with the body present except for a graveside service.

Interment

Burial of human remains; not including opening and closing of grave, crypt, niche or installation of a vault.

Inurnment

Disposition of cremated remains in an urn or other container but doesn't include opening and closing of grave, crypt, niche or installation of a vault.

Mausoleum

A structure or building mostly above ground used for entombment of human remains.

Monument

Any product used to identify or permanently decorate a gravesite. Monuments can be in the form of vases, benches, markers and any base or foundation upon which they rest.

Niche

A space used for the interment of cremated remains of one or more deceased human beings.

Non-Perpetual Care

A cemetery that does not offer perpetual care.

Outer Burial Container

Any container placed in a grave around the casket such as a vault, grave box or grave liner and is made of concrete, steel, fiberglass, copper or metals, polypropylene, sectioned concrete enclosures, and crypts.

Perpetual Care

Care, maintenance, and reasonable administration of the cemetery grounds and buildings now and in the future.

Pre-Need Contract

Any arrangement or method one establishes with the provider of burial or funeral merchandise or services to furnish burial or funeral merchandise and/or services in the future.

Pre-Need Dealer

Every person, other than a salesperson registered as meant in O.C.G.A. § 10-14-1 et seq., who engages, either for all or part of his or her time, directly or indirectly, as an agent, broker, or principal in the retail business of offering, selling, or otherwise dealing in funeral services or burial services or funeral or burial merchandise which is not attached to realty or delivered to the purchaser at the time of sale.

Pre-Need Interment Service or Pre-need Service

Any service which is not performed at the time of sale and which is offered or provided by any person in connection with the interment of human remains, except those services offered regarding mausoleums and the normal and customary installation charges on burial or funeral merchandise.

Comparison Checklist

Make copies and check with multiple funeral homes/crematories and cemeteries to compare costs for services or products in which you are interested.

Name of Funeral Home _____

Name of Crematory _____

Name of Cemetery _____

“Simple” disposition of the remains

- Immediate burial \$ _____
- Immediate/direct cremation \$ _____
- If the cremation process is extra, how much is it? \$ _____
- Donation of the body to a medical school or hospital \$ _____

“Traditional,” full service burial or cremation

- Basic services fee for the funeral director and staff \$ _____
- Pickup of body \$ _____
- Embalming \$ _____
- Other preparation of body \$ _____

CASKETS

Least Expensive Caskets

- Least expensive metal casket \$ _____
Description, including model # _____
- Least expensive wood casket \$ _____
Description, including model # _____
- Least expensive fiberglass/other casket \$ _____
Description, including model # _____

Middle Range Priced Caskets

- Middle range metal casket \$ _____
Description, including model # _____
- Middle range wood casket \$ _____
Description, including model # _____

- Middle range fiberglass/other casket \$ _____
Description, including model # _____

Most Expensive Caskets

- Most expensive metal casket \$ _____
Description, including model # _____
- Most expensive wood casket \$ _____
Description, including model # _____
- Most expensive fiberglass/other casket \$ _____
Description, including model # _____

Rental Caskets

- Least expensive rental casket \$ _____
Description, including model # _____
- Middle range rental casket \$ _____
Description, including model # _____
- Most expensive rental casket \$ _____
Description, including model # _____

Alternative Containers

- Least expensive alternative container \$ _____
Description, including model # _____
- Middle range alternative container \$ _____
Description, including model # _____
- Most expensive alternative container \$ _____
Description, including model # _____

Vault/Grave Liner

- Outer Burial Container (vault) \$ _____
Description, including model # _____
- Grave Liner (if required) \$ _____
Description, including model# _____

Transportation

- Hearse \$ _____
- Limousines or other vehicles \$ _____
Description _____

Services & Equipment

- Visitation/viewing - staff and facilities \$ _____
- Funeral or memorial service \$ _____
- Graveside service, including staff and equipment \$ _____

Total based on Least Expensive Products \$ _____

Total based on Middle Expensive Products \$ _____

Total based on Most Expensive Products \$ _____

Other Services

- Forwarding body to another funeral home \$ _____
- Receiving body from another funeral home \$ _____

Cemetery/Mausoleum Costs

- Cost of lot or crypt (if you don't already own one) \$ _____
- Perpetual care \$ _____
- Opening and closing the grave or crypt \$ _____
- Marker/monument (including setup) \$ _____

Total charges of selected items \$ _____

NOTES

NOTES

This educational publication was prepared based upon the laws and practices of Georgia, information from the Federal Trade Commission, the National Funeral Directors Association, and other consumer education resources. It is not intended as legal advice. Although this booklet may be helpful to people in other states, references to specific Georgia law will not be applicable in other states. All readers are urged to seek specific legal advice from attorneys licensed to practice within their state, if legal advice is desired. If there are questions about anything in these materials, please feel free to contact Natalie Thomas, State Legal Services Developer, at (404) 657-5328.

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