

CEMETERY AND FUNERAL BUREAU



CONSUMER GUIDE TO

Funeral & Cemetery Purchases


STATE OF CALIFORNIA

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DEPARTMENT OF CONSUMER AFFAIRS

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 The death of a loved one is one of the most traumatic experiences any of us will ever have. The California Department of Consumer Affairs' Cemetery and Funeral Bureau has developed this booklet to assist you in making the difficult decisions about funeral and cemetery arrangements for yourself or someone close to you. By asking the right questions, comparing prices and services, and making informed decisions, you can make arrangements that are meaningful to your family and control the costs for yourself and your survivors.

The Cemetery and Funeral Bureau licenses and regulates, and investigates complaints against, California funeral establishments, funeral directors, embalmers, apprentice embalmers, cemetery brokers, cemetery salespersons, cemetery managers, cremated remains disposers, crematories, crematory managers and the nearly 200 fraternal and private cemeteries in the State.

If you need help with a cemetery or funeral issue, visit the Bureau's Web site at www.cfb.ca.gov or call the Department of Consumer Affairs' Consumer Information Center at (800) 952-5210.



Legal Requirements

Disposition Arrangements

California law lists those who have the right, duty, and responsibility to make decisions about disposition arrangements after a person's death. They are, in order:

- ☛ A person, prior to his or her death.
- ☛ An agent under a power of attorney for health care.
- ☛ The surviving competent spouse, or the registered domestic partner.
- ☛ The surviving competent adult child or the majority of the surviving competent adult children.
- ☛ The surviving competent parent or parents.
- ☛ The surviving competent adult sibling or the majority of the surviving competent adult siblings.
- ☛ The surviving competent adult person or the majority of the surviving competent adult persons, in the next degree of kinship.

Details:

A person may direct in writing the disposition of his or her remains and specify the funeral goods and services desired. Unless there is a written statement to the contrary that is signed and dated by the person, these directions may not be changed in any material way except as required by law.

The law protects a person after death providing that:

- 1) The written directions are clear and complete; and
 - 2) Arrangement for payment of final services via trusts, insurance, commitments by others, or any other means have been made which precludes the payment of money by the survivors(s) who might otherwise have the right to control disposition.
- ☛ Instead of giving written instructions, a person may give the right and duty of disposition to an agent under a power of attorney for health care or an advance health care directive.

This agent will have the full right to act and control the decedent's disposition unless the power of attorney or an advance health care directive limits or removes that right.

- ☞ In the absence of a written directive or power of attorney for health care, the right and duty of disposition next moves to a surviving competent spouse or registered domestic partner or written instructions have been given pursuant to the preceding paragraph.
- ☞ To be considered a registered domestic partner in California, a person must have filed a Declaration of Domestic Partnership with the Secretary of State under Family Law Code Section 297.
- ☞ In the absence of the above documents and people, the right and duty of disposition would fall to the surviving competent adult child or the majority of the surviving competent adult children, then the competent parent or parents, then the competent adult sibling or the majority of the surviving competent adult siblings and then the competent adult person or the majority of the surviving competent adult persons, in the next degree of kinship.

In addition, the law governs issues such as the time in which family members must act, what occurs if all members cannot be located or cannot agree on what is to be done, and who is responsible for the costs of disposition. Be sure to review and understand all the provisions of law when you are considering these choices.

(NOTE: Exceptions may apply in certain situations. You have the right to select a different person to make the decisions about your arrangements, if you wish. You may wish to consult with an attorney about including such instructions in your will or in another written document, such as a power of attorney for health care. Be sure to provide copies of your instructions to family members and keep your own copy in a handy place.)

Prices

The law requires funeral establishments to quote prices over the telephone and to give you a General Price List (GPL) and a Casket

Price List (CPL) when you inquire in person about arrangements and prices. If the funeral establishment sells outer burial containers, it must also provide you prices for those containers, either as part of the GPL or on a separate price list. *(For more information, see Price List Requirements, page 17.)*

When you contract for services with a funeral establishment, the law requires it to give you an itemized statement of your choices, including estimates of any costs that are unknown at the time. The statement must also include charges for outside vendor services arranged by the funeral establishment such as flowers, clergy honoraria, newspaper notices, music, etc. Make sure the statement includes only those items you have selected. If you have chosen a funeral package, make sure the statement describes all goods and services that are included. Get a total dollar amount in writing before you sign the contract.

The law allows a funeral establishment to set a fee for professional services, such as the funeral director's time spent:

- ☛ Helping you plan the funeral;
- ☛ Making arrangements with a cemetery or crematory (or other funeral establishment if the body will be shipped out of the area);
- ☛ Obtaining the death certificate and other required permits;
- ☛ Submitting the obituary, and “unallocated overhead,” which includes taxes, insurance, advertising, and other business expenses.

The funeral establishment may require you to pay this fee, as well as the cost of the specific funeral goods and services you select.

(NOTE: It is illegal for a funeral establishment to charge a handling fee if you wish to use a family-built casket or purchase one elsewhere. However, the casket must meet the cemetery or crematory's standards and must take into consideration the size of the body. It is also illegal for the funeral establishment to make false claims about the preservative qualities of a casket or to charge contagious disease fees or fees for protective clothing for staff.)

Embalming

The law does not require embalming. However, a funeral establishment must refrigerate an unembalmed body in its possession if burial or cremation does not take place within 24 hours. (*See exception under Home Death Care, below.*) As a practical matter, however, you may wish to authorize embalming if there will be a delay before a public viewing. Keep in mind that embalming does not prevent decomposition of a body.

(NOTE: A coroner may require embalming in certain circumstances.)

Cremation

The law does not require the purchase of a casket before cremation. (*A combustible cremation container is required. See Cremation section, page 14*)

Burial

Vaults or grave liners are not required by law, but because they keep the ground from settling after burial, cemeteries may have their own policies requiring them. Typically, vaults completely surround the casket in concrete or other material. Grave liners cover only the top and sides. Neither is designed to prevent the eventual decomposition of human remains.

Home Death Care

The law does not prohibit consumers from preparing a body for disposition themselves. If you choose to do this, you must:

- ☛ File a properly completed Certificate of Death, signed by the attending physician or coroner, with the local registrar of births and deaths.
- ☛ Obtain a Permit for Disposition from the local registrar of births and deaths.
- ☛ Provide a casket or suitable container.
- ☛ Make arrangements directly with the cemetery or crematory.

(NOTE: *Human remains may be kept at home until disposition without embalming or refrigeration. Generally, decomposition will proceed more rapidly without refrigeration or embalming.*)

Coroner Fees

California law permits coroners to charge for certain services. Fees vary by county.

Retail Casket Sellers

California law requires retail casket sellers, upon beginning any discussion of prices, to give customers a written price list of all caskets, alternative containers, and outer burial containers normally offered for sale. In addition, if customers ask for it in person or by telephone, the retail casket seller must give them a written statement identifying caskets or containers by price, thickness of metal, type of wood or other construction, and by interior and color. Price, thickness, construction, and color information must also be included on a tag conspicuously attached to each casket. Prior to a sale, the seller must provide the buyer an itemized statement of all costs involved.

By law, retail casket sellers may not arrange funerals or cremations or perform any other functions requiring a license as a funeral establishment. Before doing business with any retail casket seller, funeral establishment, crematory or cemetery, you may wish to check the company's business practices with your local Better Business Bureau.

(NOTE: Retail casket sellers are not bound by the State laws or regulations that govern funeral establishments, crematories, and cemeteries, nor are they licensed or regulated by the Cemetery and Funeral Bureau or by the Federal government. State and local business laws and city and county business licensing regulations govern them.)

Deciding in Advance

For a loved one . . .

While making such decisions is difficult at any time, planning in advance for the death of a loved one can relieve you of that responsibility at the time of death, when you may be emotionally vulnerable. Take time now to discuss these matters and find out what your loved ones want.

For yourself . . .

Planning in advance for your own disposition after death can spare your loved ones the anguish of making difficult decisions while in a state of grief. Shopping ahead of time, getting correct information, and planning in advance allows you to make informed decisions before you purchase, and may save you money. Be sure to discuss your wishes with your family. You may also wish to talk to an attorney about the best way to ensure that your wishes are followed. You can make arrangements directly with a funeral establishment or through a memorial society. Memorial societies are nonprofit organizations that provide information about preplanning funerals and disposition. They do not offer funeral services themselves and are not regulated by the Cemetery and Funeral Bureau, but are regulated under Federal and State nonprofit laws. To locate a funeral establishment or memorial society, ask friends and relatives for referrals, or check the telephone book yellow pages.

(NOTE: Many funeral entities that include the word “society” in their names are for-profit businesses. If a society’s nonprofit status is important to you, you should confirm it prior to making arrangements.)

Check License Status

To be sure that the funeral director, funeral establishment, crematory, and private cemetery are licensed by the State and in good standing, call (800) 952-5210, TDD (800) 326-2297, or the Cemetery and Funeral Bureau office at (916) 574-7870. You can also check the license status online at www.cfb.ca.gov.

(NOTE: The State licenses and regulates fraternal and private cemeteries, not those operated by religious organizations; cities, counties, or cemetery districts; the military; Native American tribal organizations; or other groups. If you don’t know who regulates the cemetery, ask the cemetery manager.)

Compare Prices and Services

First, visit and inspect several funeral establishments and compare services, restrictions, rules, and prices. Then, decide how much you want to spend. If you buy a casket from a retail casket seller, be

sure to ask if the seller will deliver it or if you must pick it up. Also compare prices at several cemeteries and ask about their endowment care funds. (*See Glossary of Terms, page 20.*) If a funeral establishment or cemetery is not being maintained to your satisfaction, take your business elsewhere.

Prearrangement

You may want to make your arrangements in advance but not prepay for them. Keep in mind that over time prices may go up and businesses may close or change ownership. You may also move to another place or decide you want to change your arrangements. It's a good idea to review and revise your decisions every few years, and you should make sure your family is aware of your wishes. Put them in writing, give copies to family members and your attorney, and keep a copy in a handy place. (Don't keep your only copy in a safe-deposit box. Your family may have to make arrangements before the box can be opened—for example, on a weekend or when the bank is closed.)

Prepayment Options

If you do decide to prepay for funeral and/or cemetery services, you have several options.

(NOTE: These are options, not recommendations. Be sure to carefully compare the advantages and disadvantages of each—and consider consulting an attorney—before making any decisions.)

PRENEED TRUST CONTRACTS—Decide on the funeral and cemetery services you want, sign contracts that fully describe those services, and pay a set amount into a trust administered by the funeral establishment or cemetery. There will usually be some costs that cannot be prepaid. Services such as opening and closing the grave are not usually part of the preneed contract and must be paid at time of need.

(NOTE: Be sure that your contract includes a cancellation clause in case you change your mind later. Keep in mind that if you cancel a funeral preneed trust, under the law, all of the money you paid in must be refunded to you. Most cancellation clauses require a revocation fee, limited by law to no more than 10 percent of the total amount that you

have paid in. This revocation fee can only be taken from trust fund earnings.)

Before you choose a preneed trust contract, consider the following:

- ☛ Ask for a guaranteed price plan. This protects you and your family from future price increases. (Without it, your survivors may have to make up the difference in cost.) However, even with a guaranteed price plan, some items or services will probably have to be paid at the time of need. Obtain a written estimate of these additional “at-need” charges so you and your family will know what to expect at the time of need.
- ☛ Make sure the funds in your preneed trust increase in value, and find out where the money is being invested and who the trustees are. You may receive an annual statement of earnings, which may be required to be reported as interest income on tax forms. Also, be sure that the plan includes a written provision that states what will happen with any remaining trust fund earnings.
- ☛ Find out if you have to pay the entire amount into the trust up front, or if you can pay over time.
- ☛ Ask if there is a penalty for late payments. Ask if your funeral arrangements can be transferred to another funeral establishment, or if the cemetery will buy the property back if you move out of the area or change your mind.
- ☛ To guarantee prices of cemetery goods, such as a vault or a marker, buy them and have the cemetery store them until they are needed. This is called “constructive delivery.” The law prohibits the constructive delivery of funeral goods. Make sure the purchase contract specifies the manufacturer and model of the items you purchase, as well as any inscriptions and descriptions of the materials used. Obtain the address in writing of where the goods are stored.

SAVINGS— Earmark a portion of your savings for your funeral expenses, and ensure that your family members and attorney are informed and that provisions are made for your survivors to withdraw the funds at your death. You can change your mind at any time.

POD ACCOUNT— Establish a Pay On Death (POD), Account with your bank, designating the funeral establishment as the beneficiary of funds upon your death. Be sure to inform family members, the funeral establishment, your chosen executor and your attorney of the provisions of the account. POD accounts may involve service fees, and interest earned is taxable. They may be canceled without penalty. *(NOTE: The funeral establishment is not required to pay any excess funds to your survivors.)*

LIFE INSURANCE—Buy life insurance equal to the value of the funeral and arrange for your beneficiary (a family member or friend) to handle the arrangements in accordance with your stated wishes.

(NOTE: If the costs of the funeral arrangements exceed the amount of your policy, your survivors will have to make up the difference.)

FUNERAL INSURANCE—Buy funeral insurance through the funeral establishment, which becomes your beneficiary. You preselect the casket, plot, etc., and the price may be guaranteed. If the price is guaranteed, the funeral establishment cannot charge your relatives more than the contract states, even if prices rise. However, it can keep any funds remaining after the arrangements have been carried out.

(NOTE: You should get in writing how much the policy will be worth in one year, two years, five years, and 10 years. Find out if you will pay more on the policy over time than the policy will pay out upon your death. Find out what happens if you cancel the policy.)

Funeral establishments and licensed cemeteries must present to the person making funeral arrangements for a deceased person a copy of any preneed agreement in their possession that is signed and paid for in full or in part.

Burial

If you choose traditional burial of the body or cremated remains, you will need to purchase a plot (unless you are eligible for burial at no cost in a national cemetery). Prices may vary widely between cemeteries and between different locations in the same cemetery. There is also a fee for opening and closing the grave, and you will

probably be required to buy an outer burial container such as a grave liner or vault to help protect and stabilize the casket. In addition, there is usually a separate endowment care fee for maintenance and groundskeeping.

Burial in a mausoleum (entombment) involves purchase of a crypt, opening and closing fees, and charges for endowment care and other services.

Purchasing Items Elsewhere

If you purchase a casket or alternative container from a source other than the funeral establishment, the law prohibits the funeral establishment from charging a “casket handling” fee. However, your purchase must meet the standards set by the cemetery and must take into consideration the size of the body. Remember to shop wisely, since retail casket sellers are not bound by the same laws or regulations that govern funeral establishments, crematories, and cemeteries. If purchasing items in advance, insist that any money you pay be placed in a trust, and be sure to get a copy of the trust agreement.

If the cemetery requires outer burial containers to minimize ground settling, you may have to buy a grave liner or vault. You do not have to buy the outer container from the cemetery; however, a liner or vault purchased elsewhere must meet the size, shape, and material standards set by the cemetery.

You may purchase a marker or monument from another source, but it also must meet cemetery standards, and the cemetery may not charge a setting fee if the monument company sets it for you. Charges by the cemetery for foundations, setting or permitting the setting of grave markers or monuments, must be the same whether the marker or monument was sold by the cemetery or by someone else. Be sure to review the rules and policies of the cemetery before you purchase. This can help avoid misunderstandings and can assist you in making decisions.

Multiple-Depth Graves

You may arrange to be buried in the same grave as your spouse or other family member. Persons who are not related may also be buried

in a multiple-depth grave if all parties authorize it in advance. Burial in a multiple-depth grave may limit disinterment rights. There may be special fees for opening and closing a multiple-depth grave.

Cremation

California law requires written acknowledgment of the following disclosure when cremation is to take place:

“The human body burns with the casket, container, or other material in the cremation chamber. Some bone fragments are not combustible at the incineration temperature and, as a result, remain in the cremation chamber. During the cremation, the contents of the chamber may be moved to facilitate incineration. The chamber is composed of ceramic or other material which disintegrates slightly during each cremation, and the product of that disintegration is co-mingled with the cremated remains. Nearly all of the contents of the cremation chamber, consisting of the cremated remains, disintegrated chamber material, and small amounts of residue from previous cremations, are removed together and crushed, pulverized, or ground to facilitate inurnment or scattering. Some residue remains in the cracks and uneven places of the chamber. Periodically, the accumulation of this residue is removed and interred in a dedicated cemetery property, or scattered at sea.”

If cremation is chosen, a written authorization must be signed before cremation can proceed. This must be done by the person(s) who has the right to control the disposition of the body. This authorization, or a separate contract, indicates the location, manner, and time of disposition of the remains and includes an agreement to pay for the cremation, for disposition of the cremated remains, and for any other services desired. (If you wish to arrange for your own cremation, you can legally sign the Declaration for Disposition of Cremated Remains form yourself.)

In addition, a burial/cremation permit (Application and Permit for Disposition of Human Remains, VS 9) must be issued by the county

health department. The funeral establishment usually arranges to obtain this permit as part of its services.

California law does not prohibit the person authorizing the cremation from viewing the cremation process, and some facilities may be able to accommodate more than one family member. Crematories that do not allow viewing the cremation process must disclose that fact in writing prior to signing any contract. There may be a charge for attending the cremation. Check with the crematory for its policies.

A casket is not required for cremation by California law, but a combustible cremation container is. The container must be one that can be closed and is leak-resistant. A cardboard box constructed for this purpose is acceptable. You do not have to buy the container from the funeral establishment or crematory, but it does have to meet the standards set by the crematory.

You should make a decision about removing all personal possessions of value, such as jewelry or mementos, before the body is taken to the crematory. Pacemakers, most prostheses, and mechanical or radioactive devices or implants must be removed by funeral establishment or crematory staff prior to cremation.

By law, all cremations must be performed individually, unless a multiple cremation is authorized in writing and the cremation chamber is capable of multiple cremations. Only a few crematories have this capability.

After the cremation has been completed and the cremation chamber has cooled, the remains are swept from the chamber, processed to a uniform size, and placed in a sturdy plastic bag sealed with an identification disk, tab, or label. The bag is then placed in a durable cremated remains container.

Disposition of Cremated Remains

In California, you may choose any of the following methods of disposition of cremated remains:

- ☛ Placement in a columbarium or mausoleum—There may be additional charges for endowment care, opening or closing, recording, flower vase, and nameplate.

- ☛ Burial in a plot in a cemetery—There may be additional charges for endowment care, opening or closing, recording, outer burial container, flower vase, and marker.
- ☛ Retention at a residence—The funeral establishment or crematory will have you sign a Permit for Disposition showing that the remains were released to you and will file it with the local registrar of births and deaths. You may not remove the cremated remains from the container and you must arrange for their disposition upon your death.
- ☛ Storing in a house of worship or religious shrine if local zoning laws allow.
- ☛ Scattering in areas of the State where no local prohibition exists and with written permission of the property owner or governing agency. The cremated remains must be removed from the container and scattered in a manner so they are not distinguishable to the public.
- ☛ Scattering in a cemetery scattering garden.
- ☛ Scattering at sea, at least 500 yards from shore. (This also includes inland navigable waters, except for lakes and streams.)

Cremated remains may not be transported without a permit from the county health department and they may not be disposed of in refuse.

Scattering

Cremated remains may be scattered as described above by a licensed cemetery, cemetery broker, crematory, registered cremated remains disposer, funeral establishment staff member, or the decedent's family. All cremated remains must be removed from the container for scattering. Avoid inhalation of the dust from the cremated remains, since there may be health risks. The county health department must issue a Permit for Disposition, and boat/aircraft operators must notify the U.S. Environmental Protection Agency after scattering.

State law requires cremated remains disposers who scatter by air or boat to post copies of their current pilot or boating licenses and the addresses of their cremated remains storage areas at their place of

business. The law also requires disposers to conduct scatterings within 60 days of receipt of the remains, unless the person with the right to control disposition is notified in writing of the reason for the delay.

Special Circumstances

Death Out of State

BURIAL—If death should occur away from the city where burial is to take place, you will need to have the body transported using the coordinated services of a funeral establishment in each city. If the body is transported by shipping on a common carrier, the body must be embalmed prior to shipping. If it cannot be embalmed, the body must be shipped in an airtight casket or transportation container.

CREMATION—You can arrange for cremation to take place in the distant city and for shipment of the cremated remains to you.

Death Out of the Country

If death should occur in another country, the U.S. Consulate in that country can assist in making arrangements for the return of the body or for its local disposition. You will usually be able to obtain English translations of the death certificate and other documents through the nearest U.S. Embassy or Consulate.

Donation for Medical Purposes

If you wish to donate your body to a medical school for educational or research purposes, you will need to make arrangements with the school well in advance. It is a good idea to check with the school every few years, since procedures and needs may change. By law, the school is responsible for costs of final disposition.

General Price List Requirements

A sample General Price List (GPL) is included in the booklet *Complying with the Funeral Rule*, which is available from the Federal Trade Commission. In addition, you may wish to compare GPLs from several funeral establishments in your area. Although additional services may be included, at a minimum, the GPL must include the price of each of the following basic services provided by the funeral

establishment, along with the date the prices are effective and a description of the services:

- ☞ FORWARDING REMAINS TO ANOTHER FUNERAL ESTABLISHMENT—May include embalming, removal of remains, minimum service of staff, necessary authorizations, and local transportation.
- ☞ RECEIVING REMAINS FROM ANOTHER FUNERAL ESTABLISHMENT—May include minimum service of staff and transportation of remains to funeral establishment.
- ☞ DIRECT CREMATION—May include basic services of funeral director and staff, a proportionate share of overhead costs, removal of remains, necessary authorizations, and cremation. *(NOTE: Be sure to ask if the price for direct cremation includes the cost of the cremation itself and the cost of storing the body.)*
- ☞ IMMEDIATE BURIAL—May include basic services of funeral director and staff, a proportionate share of overhead costs, removal of remains, and local transportation to cemetery.
- ☞ BASIC SERVICES OF FUNERAL DIRECTOR AND STAFF, INCLUDING OVERHEAD.
- ☞ TRANSFER OF REMAINS TO FUNERAL ESTABLISHMENT —A flat fee may apply weekdays, nights, weekends, and holidays within a specific area, with mileage charges for transportation outside the area.
- ☞ EMBALMING—Must include the following statement:
“Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.”
- ☞ Other preparation of the body—Services may be priced individually and may include dressing, make-up, casketing, hair care, post-autopsy care, refrigeration, and reconstruction/restorative arts.

- ☞ 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.
 - ☞ The range of casket prices that appear on the Casket Price List, including the price range for adult caskets, infant/child caskets, rental caskets, and for alternative containers.
 - ☞ Either individual outer burial container prices or the range of outer burial container prices if the funeral establishment sells them.
- ☞ **PRENEED AGREEMENTS**—A statement that a person making funeral arrangements for a deceased person may receive, prior to the drafting of any contract, a copy of any signed preneed agreement paid for in full or in part, that the funeral establishment has in its possession.

Complaints

If you have a complaint about a funeral establishment, crematory, or State-regulated cemetery, try to settle it with management first. If you can't resolve the issue, call the Department of Consumer Affairs' Cemetery and Funeral Bureau at (800) 952-5210 or TDD (800) 326-2297, or (916) 574-7870, and request a complaint form. You can also download a complaint form online at www.cfb.ca.gov. Many complaints are quickly resolved between the consumer and the licensee. More serious complaints require a thorough investigation, and the Bureau will take action against the licensee, if warranted. For complaints you are unable to resolve with cemeteries that are not under state jurisdiction, contact an official of the managing organization. Unresolved complaints about retail casket sellers should be directed to your local district attorney.

