

- Warehousing can avoid any trust requirements for cemetery merchandise, making a refund impossible.
- Funeral and cemetery personnel must disclose any prepaid contracts to those making final arrangements or face a fine of three times the amount.
- Setting aside assets for Medicaid eligibility is the one time it makes sense to prepay for a funeral. There is no limit to the amount in an irrevocable trust account. Be sure to ask if you will be getting an annual report of your prepaid funds and let those who will be handling your affairs know that you have prepaid and where.

### Social Security Death Benefit

- There is a \$255 death benefit for a surviving spouse. There is no similar benefit when that spouse dies.
- Dependent children are entitled to survivor benefits when a parent dies.

### Complaints

- Valid complaints include dishonesty, misrepresentation, unprofessional conduct, negligence, breach of contract, and violation of state or federal laws. For how to file a complaint, see:  
[www.funerals.org/hour-legal-rights/complaint](http://www.funerals.org/hour-legal-rights/complaint)
- The Department of Consumer Affairs has an excellent website as well as a complaint form:  
[www.cfb.ca.gov](http://www.cfb.ca.gov)

Much of the information for this brochure was taken from Final Rights: Reclaiming the American Way of Death (Upper Access, 2011)  
[www.finalrights.org](http://www.finalrights.org)

Additional information can be found at [www.funerals.org](http://www.funerals.org)



## Funeral Consumer Rights in California



*Prepared in 2015 by*

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## Funeral Arrangements

- You may name an agent for body disposition in your advance directives if you want someone other than your next-of-kin to be in charge.
- It is legal for a family or designated agent to handle everything without a funeral director in California.
- If you will be using a funeral home, prices must be given over the telephone. You must be given a General Price List (GPL) if you visit in person and before discussing any services. By January 2013, funeral home web sites must include a GPL if they have a web site.
- You must be shown a Casket and Outer Burial Container Price List before selecting either.
- You must be given a Statement of Funeral Goods and Services Selected with the total cost before any services are provided.
- Some of the consumer groups in this state have done a funeral price survey or have a negotiated discount for members:  
[www.funerals.org](http://www.funerals.org)
- Do not sign any contract for more than you can afford to pay. If the deceased was indigent, the county coroner's office may be consulted about covering minimal services, typically cremation. There is no other organization that assists with costs.
- A body may not be held for debt.

## Autopsy

- If the death was unexpected or the cause of death uncertain, the state will probably require an autopsy.
- If you have questions about the death, you may request and pay for a private autopsy.
- If a viewing is planned, there will likely be extra charges to repair the body for embalming.

## Organ, Body, and Tissue Donation

- If death occurs in the hospital, you are likely to be asked about organ donation. Only about 1% of the deaths are eligible for major organ donation. The organ procurement organization (OPO) will pay for any extra body preparation needed if you plan a viewing. Decline any such charge you might find on the GPL.
- After-death donation of eyes, skin, and bones may be considered. Ask the hospital social worker or the funeral director about this.

- Whole body donation to a medical school is one way to lower costs, although the family may have to pay for transportation. After study, the school will cremate the body and return the cremated remains to the family if requested. You should have back-up funeral plans if your body cannot be accepted for any reason.
- There are also non-academic companies that accept whole bodies for research and education. Various body parts will likely be shipped around the country and possibly internationally. The state has no laws regulating these companies. Note that this is an entirely different category of body donation from the traditional donation to a medical school.
- To find the nearest body donation option, the cost if any, and the reasons for body rejection check:

[www.finalrights.org](http://www.finalrights.org)

## Embalming and Other Requirements

- Regulations, not statutes, require embalming or refrigeration after 24 hours. This would apply to bodies in the possession of a funeral home licensee, not home funeral families.
- Before a body can be embalmed, the person making arrangements must sign an authorization that discloses that embalming provides no permanent preservation.
- If shipped by common carrier, a body must be embalmed or in an airtight metal container.
- Many funeral homes have a policy that requires embalming for a public viewing. Embalming does not protect the public health. It merely delays decomposition.

## Caskets and Vaults

- Neither is required by state law for burial. A rigid combustible container is required for cremation.
- A casket will not prevent natural decomposition.
- You may build your own or purchase from a casket retailer. Vault dealers rarely sell to the public.
- The purpose of a vault is to keep the ground from caving in. It facilitates maintenance for the cemetery. It has no preservative qualities regardless of how much you spend.

## Burial

- Burial must be in an "established" cemetery. Local municipalities have jurisdiction over cemetery matters, and you will need to negotiate locally to establish a family

cemetery on your own land. A good practice is 150 feet from a water supply and 25 feet from a power line. There must be 18 inches of earth on top. One may establish a pet cemetery with a notarized dedication recorded with the county, so perhaps the local officials will cooperate for establishing family cemeteries that simply, as well.

- If you purchase a lot in a commercial, town, or religious cemetery, you will have the opening and closing costs in addition to the cost of the plot.
- A city or county cemetery may not sell markers or monuments.
- Some cemeteries have restrictions on the kind of monuments or plantings and adornment allowed.
- A permit for disinterment must be obtained from the Health Department and a new burial transit permit issued.

The Department of Consumer Affairs regulates the funeral industry in this state as the Cemetery and Funeral Bureau. There is no funeral or cemetery board. Coroners are elected; medical examiners are appointed.

### **Cremation**

- A pacemaker must be removed.
- Some crematories will let the family witness the cremation, but those that do not must disclose that before any contract.
- One may authorize one's own cremation prior to death.
- The cremation process takes about two-and-a-half hours for an average adult. The staff will remove any metal and pulverize the bone fragments to small particles, similar to white or gray coarse sand, about 5-10 pounds.
- You must fill out a Declaration for Disposition of Cremated Remains with the details of disposition, though you don't have to decide immediately. You can simply take ashes home and decide later..
- Having been removed from any container, cremated remains may be scattered at sea at least 500 feet from shore and not from any bridge or pier. The location must be reported to the nearest registrar.
- Cremated remains may be scattered on private land with the land-owner's permission, interred in a cemetery or memorial garden, or placed in a mausoleum niche. They may be kept in the dwelling of the person with the right to control disposition, but the DCA website says, "You may not remove the cremated remains from the container and you must arrange for their

disposition upon death." The DCA website also says, "Cremated remains may not be transported without a permit from the county health department and they may not be disposed of in refuse." There are no "cremains police" and no statutory penalties for ignoring some of these limitations.

- If flying with cremains, be sure they are in a non-metal container to pass through the scanner.
- Cremated remains may be sent only by U.S. Postal Service. Use Priority Mail Express and ask for delivery confirmation. FedEx and UPS will not knowingly accept cremated remains.
- California licenses cremated remains disposers.

### **Veterans and Their Dependents**

- You will need a copy of the DD214 discharge papers for gaining benefits.
- The VA cemeteries in Los Angeles, San Bruno, and San Francisco are not accepting new interments. However, the ones in Arvin, Dixon, Riverside, San Diego/Miramar, and Santa Nella have space. San Diego/Fort Rosecrans has space for cremated remains only. Interment and marker are free of charge for the veteran, spouse, and certain dependents. There are two state-run veterans' cemeteries: in Igo (near Redding) and Yountville. There is a nominal fee of \$500 for non-vet spouse or dependent.
- The U.S. Department of Veterans Affairs (VA) provides markers for veterans no matter where they are interred. Markers can be upright or flat and they come in bronze, marble, and granite: (800) 697-6947.
- A free flag can be ordered through the U.S Postal Service.
- A comprehensive list of veterans benefits can be found here (click on Burials and Memorials):

[www.benefits.va.gov/benefits/](http://www.benefits.va.gov/benefits/)

### **Prepaying for a Funeral**

- If the contract guarantees the price, the interest is supposed to cover funeral inflation. But many investments do not appreciate as fast as the prices climb. You have a right to insist on no extra charges if it is clearly identified in the contract as "price guaranteed." Any substitutions should be of equal quality to that described in the contract.
- Prices for third-party items such as the crematory fee or obituary usually cannot be guaranteed.