

# THE SKETCHLEY LAW FIRM, P.A.

Providing Compassionate Support & Guidance Through Elder Law & Guardianship

## I'M DEAD. NOW WHAT?

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Several recent high-profile cases highlight issues raised by the procedures we employ in Florida to process and distribute human remains. While some may find such a discussion of these procedures unsettling, taking away the mystery and disputing media images depicting this process provide a degree of comfort and guidance to those interested in minimizing disputes over their remains and addressing the details of their passing.

### **How is my death processed?**

As usual, state government gets the last word. Your death must be registered with the Office of Vital Statistics, which tracks information on deaths for various purposes. Registration of your death begins with the funeral director or other person who first assumes custody of your body. The physician in charge of your care usually certifies the cause of death. The death certificate is then presented to a local registrar, who reviews the death certificate for errors, and if needed, institutes an inquiry into your death.

### **What will my family have to do to help Florida process my death?**

Family may be contacted for personal data, or in some cases for medical history or funeral arrangements.

### **Is the cause of my death a public record?**

No, the cause of your death is confidential. The cause of death listed on the death certificate is confidential and not open to public inspection.

### **Will my body end up at the morgue?**

Probably not. If you die of natural causes and your doctor is available to sign a death certificate, the funeral home or crematory may transport you directly to its facility and the medical examiner (a forensically trained physician), will not inspect your body or sign your death certificate. The medical examiner has limited jurisdiction (surprising or unexpected deaths, or deaths involving law enforcement), and unlike the depictions on TV, if the medical examiner is involved, it is usually due to an accidental death, or a natural death for which no doctor was available to sign a death certificate.

### **Will my body be autopsied?**

Probably not. Autopsies are performed in deaths by criminal violence or suspicious circumstances or at the family's request. Note that while your cause of death is confidential on your death certificate, if an autopsy is performed, autopsy reports are public records.

### **Are there special procedures if my body is to be cremated?**

Authorization must be given by the medical examiner for cremation. The Medical Examiner reviews the cause of death information to determine if he has jurisdiction over the death. If the Medical Examiner does not have jurisdiction over your death, cremation will be approved.

**If I want cremation, will the required authorization by the Medical Examiner delay any funeral arrangement?**

Probably not. By law remains cannot be cremated until 48 hours after death. Any delay in approving cremation is usually the result of a physician death certificate that failed to list a known underlying cause of death, not the Medical Examiner's office.

**What happens if I want to be buried outside of Florida?**

Before remains travel outside of Florida, the local registrar for Department of Health (DOH) issues a permit, after a complete and satisfactory certificate of death has been filed. When remains are transported to a point outside the state, the burial-transit permit accompanies your remains to its destination.

**What happens if I die outside of Florida?**

To bury remains in Florida that come from outside Florida, a burial-transit permit issued from that state or country is required. If the foreign jurisdiction does not issue burial-transit permits, a certification of a death certificate issued under the jurisdiction is required.

**Can I make arrangements for my remains in advance of my death?**

Yes! Florida recognizes that every competent adult has the right to control the decisions relating to his or her own funeral arrangements. An individual's wishes for the disposition of their remains will be given first priority, above all others.

Currently there is no requirement that your wishes be in writing and formally witnessed in order to be honored. However, relying on oral instructions may result in conflicting interpretations and expensive and embarrassing litigation. Written instructions signed by the decedent can also insulate those acting or relying on a decedent's wishes from liability.

Instructions regarding disposition of a decedent's remains are frequently included in a person's will, but can be included in a living will or in a separate writing. Your instructions should be revisited regularly to ensure they accurately reflect your desires, especially if you move or remarry.

To provide additional insurance that your wishes will be followed, you can pre-arrange and prepare for your funeral arrangements. If you have a specific burial site in mind, determine any burial restrictions on you or any loved one that wish to be buried with you, such as in certain denominational cemeteries.

**Can I make anatomical gifts and still control what happens to my remains?**

Yes. Anatomical gifts should not pose an obstacle to your expressed wishes. If an anatomical gift is made of part of your body, that part is removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body who should follow your instructions or wishes.

**What if I don't express any wishes for my remains?**

If you do not make a plan for the disposition of your remains, the State of Florida has one for you, and grants custody of your remains to a surviving spouse (even if you are separated), or next of kin to dispose of your body as they see fit. If a medical examiner or funeral homes face competing challenges to the rights of possession of remains, there is statutory scheme that prioritizes the various interests, and provides them with clear guidance.

*If you would like one of our attorneys speak to your group or organization about this topic, please contact Tracy Powell at (850) 894-0152.*