Funeral Arrangements

- In New Mexico, the written wishes of the deceased are to prevail. You may wish to name an agent for body disposition 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. To find a home funeral guide, check: http://homefuneraldirectory.com/
- 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.
- 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.
- Do not sign any contract for more than you can afford to pay. If the deceased was indigent, there may be state funds of $200, but the family limit is $600. There is no other organization that assists with costs.

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.

Cremation

- Whole body donation to a medical school is one way to lower costs. 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 cadaver 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
- 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

Prior to burial, you should draw a map of the land showing where the family cemetery will be and have it recorded with the county clerk’s office. Burial must be 50 yards from a stream or other body of water and five feet from a property line.; minimum depth is six feet.
- 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.
- Some cemeteries have restrictions on the kind of monuments or plantings and adornment allowed.
- A disinterment permit will be issued to a funeral director or direct disposer by the state registrar or medical examiner.

The Board of Thanatopractice has six members: two are consumer representatives, three are funeral directors, and one is a consumer advocate. The Superintendent of Insurance regulates preneed sales. Endowed cemeteries must be registered with the Director of Financial Institutions.

Veterans and Their Dependents

- 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.

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.
- A comprehensive list of veterans benefits can be found here: http://www.funerals.org/faq/60-veterans-funeral-and-burial-benefits

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Veterans and Their Dependents

- You will need a copy of the DD214 discharge papers for gaining benefits.
- The VA cemeteries in Fort Bayard and Sante Fe have space for both casketed and cremated remains. Interment and marker are free of charge for the veteran, spouse, and certain dependents.
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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 of third-party items such as the crematory fees or obituary usually cannot be guaranteed.
- Warehousing can avoid any trust requirements for cemetery merchandise, making a refund impossible.
- Funeral directors may not sell preneed arrangements unless licensed as insurance agents even when a trust is used for hold the funds.

- 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 that can be in an irrevocable preneed account. Be sure to ask if you will be getting an annual report of your prepaid funds if in trust 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.

Prepaying the Funeral Home

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
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<tbody>
<tr>
<td>Pay on Death Savings Account or Bank CD</td>
<td>❖ You have total control of the funds. ❖ Can easily change plans or use for emergencies. ❖ Can make time payments easily.</td>
</tr>
<tr>
<td>❖ Asset for Medicaid purposes. ❖ You must declare interest on your tax return. ❖ Penalty to cash CD prior to death.</td>
<td></td>
</tr>
<tr>
<td>Qualified Funeral Trust</td>
<td>❖ If irrevocable, it won’t be an asset for Medicaid. ❖ The trust pays taxes on the interest.</td>
</tr>
<tr>
<td>❖ There is no guarantee fund to protect against embezzlement. ❖ Taxes may be paid on interest that otherwise wouldn’t be taxed if you are low-income.</td>
<td></td>
</tr>
<tr>
<td>Master or Simple Trust</td>
<td>❖ If irrevocable, it won’t be an asset for Medicaid. ❖ You are supposed to receive an annual report of the interest earned which will serve as reassurance your funeral funds are safe.</td>
</tr>
<tr>
<td>❖ No guarantee fund to protect against embezzlement. ❖ You will have to declare the interest on your tax return. ❖ Can be converted to insurance without your permission. (See below.)</td>
<td></td>
</tr>
<tr>
<td>Funeral or Life Insurance</td>
<td>❖ Easily portable. ❖ If the funeral home is the beneficiary, it won’t be considered an asset for Medicaid eligibility. ❖ The insurance company pays the taxes.</td>
</tr>
<tr>
<td>❖ If you need to cancel, you may not get back more than half you paid. ❖ If paying over time, you may pay twice the face value. ❖ There may be a 30-day delay in receiving funds for which the funeral home may charge an extra fee.</td>
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Complaints

- Valid complaints include dishonesty, misrepresentation, unprofessional conduct, negligence, breach of contract, violation of state or federal laws. For how to file a complaint, see: www.funerals.org/your-legal-rights/complaint
- The Department of Insurance regulates preneed sales: www.nmiec.state.nm.us/id.htm
- The Board of Thanatopractice handles all other funeral complaints: www.rld.state.nm.us/Thanatopractice/

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

Additional information may be found at www.funerals.org