

## How Medical Examiners Can Support Virginia Families in Caring for Their Own Dead

Virginia families have the legal right to custody and control of their own dead. Whether the death was anticipated or unanticipated, once time and cause of death are established, the family may choose to care for and transport the body, file the death certificate, arrange for disposition, and conduct any other aspect of after-death care.

### Legal Authority of Families

In Virginia the legislative authority for families to act as unpaid funeral services practitioners is found **Virginia Code § 32.1-263-b:**

*The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall complete the certificate of death...If a member of the next of kin of the deceased completes the certificate of death, he shall file the certificate of death in accordance with the requirements of subsection A but shall not be required to file the certificate of death electronically.*

### Ways You Are Empowered to Assist Families

As the person responsible for establishing cause of death, Medical Examiners are often the primary legal authority in contact with the family. How you approach their choices will determine the direction taken. Here are three ways you can positively influence the outcome by providing legally appropriate information:

1. The prevailing practice when a death has occurred, or in anticipation of a death, is to ask families, “*What funeral home do you want us to call?*” Typically, this question is accompanied by an information sheet listing all area funeral homes. Both the question and the information sheet imply that the family is required to purchase the services of a funeral director or mortuary when this is not, in fact, the case. Instead ask families, “*What plans can we assist you in making?*”
2. Provide the following information alongside any information about local funeral homes: Under Virginia law, families may conduct any or all tasks commonly performed by a funeral home, except embalming (which is not required by Virginia law). This may include:
  - caring for the deceased (for example, bathing and dressing);
  - sheltering the deceased at home;
  - filing dropped to paper death certificate, handling death certificate/transportation/out-of-state disposition permit;
  - transporting the body home or to another location for care and viewing (sometimes called a wake or vigil), and to place of final disposition;
  - making arrangements for any ceremony and for final disposition (for example, with a cemetery or crematory or obtaining county planning commission permission for a home burial).
3. If autopsy, tissue, or organ donation is involved, thank you for continuing to support families wishing to view or spend time with the deceased before final disposition.

### Additional Information

Virginia Funeral Resources & Education [www.virginiafuneral.org](http://www.virginiafuneral.org)

National Home Funeral Alliance [www.homefuneralalliance.org](http://www.homefuneralalliance.org)

Funeral Consumers Alliance [www.funerals.org](http://www.funerals.org)

