

When Someone Dies

*The Practical Guide to
the Logistics of Death*

Scott Taylor Smith
with Michael Castleman

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SCOTT SMITH:

This book is dedicated to you and to the person you love whom you've just lost. Whether you are Christian, Jewish, or Muslim, with your eye focused on heaven; or you are Buddhist, focused on the eternal return of the soul, know one thing for certain. For us, the living, if we continue to hold those we love tenderly in our hearts and minds, and if we daily take the time to lift up those still with us by giving them praise and love, then those we have loved and lost will be kept alive in spirit, and tomorrow will be the first and most wonderful day of the rest of our lives.

*This book,
like all my life, is also given forever to M.*



MICHAEL CASTLEMAN:

*To my children,
hoping that someday this book makes their lives easier.*

Legal Disclaimer

Laws dealing with death and inheritance are complex and vary considerably by state and nation. While we have done everything possible to be accurate, including consulting with top estate attorneys, this book is no substitute for professional legal advice. For the laws in your particular location, we urge you to consult an attorney.

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When Someone Dies

Introduction



If you're reading this book, someone you love has just died. We feel your pain. As you'll read, I recently lost a loved one, and I've endured the grief that now consumes you. My heart breaks for you.

Grieving is a uniquely individual process. Don't let anyone tell you what's supposedly "normal" or the "best" way to grieve.

Most people find that grief is like swimming in the ocean. It comes in waves. One minute you feel fine, then the next you dissolve in tears. Ride the waves and try not to resist them. If you resist, just as if you swim against the current in the ocean, you might drown.

We urge you to explore all the emotions your grief raises—including relief, if that applies. We urge you to obtain all the emotional support you need—from friends, family, clergy, and perhaps a grief counselor and/or support group. We also urge you to read some of the many books on grieving. Our favorite

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is quite brief (only ninety pages) but remarkably profound—*A Grief Observed* by C. S. Lewis.

But this is *not* a book about grief or grieving. Instead, this is a succinct, step-by-step guide to all the practical things *you must do* after someone dies to settle the person's affairs as quickly and cost-effectively as possible. If you follow our advice, your life will be easier, the costs associated with the death will be much lower, and you'll find that you and other grieving family members and friends will get along much better.

Of course, no one enjoys dealing with bureaucracies—funeral homes, banks, the Internal Revenue Service (IRS), Social Security, and so on. And it's particularly alienating to have to do it *now*. But some decisions can't wait, and if you're the one dealing with the practicalities—the executor of the decedent's estate—this book should lighten your burden.

How long does it take to deal with the practical details of death? Expect to spend a considerable amount of time and energy during the first thirty days and more over the next six months to a year. The process is challenging and potentially infuriating, but it's important—and *absolutely necessary*. If you're organized, if you follow the path we provide, it shouldn't drive you crazy. It's also part of the grieving process, an integral part of saying goodbye, tying up loose ends, and making peace with your loss.

I stumbled on the need for this book when my mother died in 2009. I'm an attorney. I'd dealt professionally with wills, trusts, and estates, and I knew my mother's affairs were in reasonably good order. I thought—naïvely, it turned out—that dealing with

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the practical issues surrounding her death would take only a few days. I was so wrong. It took two years, and I made several costly mistakes because I didn't have a guide like this one. I thought no one should have to go through what I endured—and if you follow the step-by-step program we've outlined, you won't.

My Mother's Death

I want to share some details of my mother's death because they provide a context for this book. When someone dies, people imagine the family coming together and drawing closer to say goodbye. But my family was torn apart. We fought and for a while became emotionally distant. All of the "issues" you've had with your loved one, siblings, and other relatives come to the fore, and like my sisters and me, you may revert to the family dynamics you experienced as children . . . even if you don't want to.

My mother was eighty-five, healthy, and living independently in Santa Rosa, California, when she tripped and fell in a parking lot near her home, smashing her head on the pavement. My sister Tory was with her and immediately called 911. The paramedic said she was bleeding into her brain. The prognosis was grim.

Tory called me from the ambulance. I was at work in San Francisco, sixty miles to the south. My presence was especially urgent because I held my mother's medical power of attorney (see page 135). I was the one who would have the final say on her medical decisions. I grabbed the file marked "Mom" and jumped into my car.

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The emergency room doctor confirmed the paramedic's diagnosis, bleeding into the brain. He determined that she had only a few hours to live.

"If she were young," he explained, "we'd open her skull and drain the blood. We could do that for your mother, but at her age, the procedure could easily kill her. What do you want to do?"

I'd helped my mother draft a living will. In it, she'd included a do-not-resuscitate order (DNR), in which she'd stated unequivocally that she wanted no extraordinary measures taken to prolong her life. I informed the doctor, who said, "Fine."

But just then, my mother suddenly regained consciousness and seemed remarkably lucid. (I learned later that among those with brain trauma, this happens fairly frequently.) The doctor spoke to Mom, explaining the situation, and asked her if she wanted surgery or no treatment.

Without hesitation, she replied, "Open me up! I don't want to die!" Then she slipped out of consciousness into a coma-like sleep.

I was aghast. She'd overruled her living will—but was she competent to make the decision? My other sisters, Kim and Terry, arrived, and the four of us had no idea what to do.

Someone called the hospital's medical ethicist—the patient ombudsman—who met us in the emergency room. She asked the doctor, "If you operate, what are her chances of returning to her previous quality of life?"

The doctor replied, "Near zero." My siblings and I split two to two. One sister and I wanted to follow the living will's instructions. The other two wanted surgery. But I held the power of attorney, so ultimately it was my decision. I decided against

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surgery, reminding everyone that Mom had emphatically said “no extraordinary measures.” That did not sit well with the two opposing sisters.

I felt awful. Our mother was critically injured and dying. I’d hoped the four of us would come to a consensus—but here we were seriously divided.

Then things got worse. Since I’d decided against surgery, the issue became how to make Mom comfortable. The doctor wanted to prescribe large doses of morphine because brain injuries like my mother’s cause excruciating pain. But Mom was drifting in and out of consciousness, and two sisters argued that morphine would crush her remaining lucidity. “If she can talk,” they said, “I want to talk to her.”

I saw their point, but the doctor said, “If this were my mother, I’d give morphine. I wouldn’t want her in pain.”

I said, “Okay, morphine.” My sisters became furious and didn’t speak to me for several days.

With the doctors united in the opinion that nothing could be done to save my mother, they could not keep her in the hospital and sent her to hospice care at a skilled nursing facility. The nurses there gave her regular high doses of morphine. But one sister felt an overpowering need to talk to Mom. She hated seeing her “drugged” and tried to interfere with the nurses, at one point even ordering them to stop administering the morphine.

When I heard about it, I exploded. “This is cruel,” I screamed, but my sister felt frantic—we all did—and she couldn’t hear me. We were at each other’s throats, and worse, we were hurting our mother, whom we all dearly loved.

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I called the neurosurgeon, who graciously offered to stop by the facility. He sat the four of us down and said, “Your mother is going to die—and very soon. There’s nothing medicine can do to change that. Recovery is impossible. She’s virtually brain-dead right now. If you want her comfortable, you must give morphine.”

At that point, everyone accepted the inevitable.

We kept looking at Mom, expecting every breath to be her last. But somehow she survived for ten more very sad, tension-filled days. The only thing that kept us halfway sane was the steady stream of visitors who cycled through Mom’s care unit. She had lots of friends. She’d had a long career as a psychotherapist, and she’d mentored many younger therapists, dozens of whom visited. No one came empty-handed. We had more food and flowers than we knew what to do with. Finally, Mom died.

We were raised high Episcopal, but I’d been attending a Catholic church with my spouse. Meanwhile, one sister had practiced Buddhism for many years, and she arranged for Buddhist death-related ceremonies. They were compassionate, extraordinary rituals, but they included leaving the remains in the home for seven days to insure safe passage of the soul to heaven. To my way of thinking, having Mom lie dead in her home for seven days was simply wrong—impractical and unhealthy, given the speed of postmortem decomposition. But to my sister, the ritual was a moral imperative. She believed deeply that seven days of rest were *essential* for the safe passage of Mom’s soul to heaven. What if she were right and I was wrong?

After much discussion, we agreed on two days with Mom’s body packed in dry ice. Our compromise worked. Many peo-

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ple came to the house and sat with Mom and said goodbye. It turned out to be a beautiful passage for Mom, for our family, and for her close friends.

When Mom died, I thought, naïvely, that her death would bring closure. Actually, it brought the flood of responsibilities and critical decisions that led to this book.

I felt so disoriented. One day, Mom was fine, and then, suddenly, she'd sustained a fatal brain injury. I couldn't think straight. Meanwhile, I was her executor, and people started asking all sorts of questions: Was she an organ donor? How would you like to dispose of her body? Which funeral home? Burial or cremation? What kind of service?

Mom had answered many of these questions in her living will and other documents. I'd helped prepare them, but at the crucial moment when this information became necessary, I was lost in grief and couldn't find it. Fortunately, I recalled the name of her attorney, and he had copies.

The moment someone dies, it suddenly feels like *everyone* wants you to decide something, and they're big decisions. For example:

- Hospitals give you only a few hours to deal with organ donation, and less than twenty-four hours to dispose of the body.
- Which mortuary? Hospitals want the body removed as quickly as possible.
- How do you move a body? Only a licensed mortuary, a hospital, or law enforcement can legally move a body. The mortuary can charge a surprisingly large amount.

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- Cremation? Or burial? Closed casket? Or open? The funeral home needs to know very quickly.
- Doctors and hospitals don't inform Social Security about deaths. You have to—and if you don't, the government can fine you. Who knew?
- If you tell the bank about the death the *right* way, you can close the accounts, withdrawing assets and emptying any safe-deposit boxes. But if you tell the bank the *wrong* way, all funds are likely to be frozen for months. I did it the wrong way and gnashed my teeth.
- Everyone you deal with demands a death certificate, and many families run out of copies, which becomes a costly, time-consuming hassle. (Shortly after Mom died, a friend's father passed away. I called him and said, "I'm so sorry." Then I implored, "Order twenty-five death certificates right now. Trust me, you won't regret it." He later said this was the single best piece of advice he received.)
- Who pays for the funeral home? They don't take the body until someone commits to paying for the funeral.
- You have to write the obituary yourself and pay the newspaper by the word to publish it.

I had to learn all this—and much more—the hard way. Now you don't have to.

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Who Should Read This Book

When Someone Dies is for everyone who finds themselves contending with the logistics and practicalities of closing out a loved one's earthly presence. In particular, we've written this book with executors (or trustees) in mind. These are the people (usually) named by the decedent while still living to deal with the aftermath of the death and the myriad tasks and decisions that follow from it. (We explain the terms "executor," "trustee," and "power of attorney" in the following pages.) When we say "you," we mean the executor or trustee, though you may choose to delegate some of the responsibilities we discuss. That's fine; however, if you're the executor, you should understand that you and only you are legally responsible for the timely settling of the person's estate, including payment of all debts and taxes due, distribution of all net assets, termination of Social Security and other benefits that end at death, and many other tedious chores. This involves real work, time, and effort, which is why executors are paid a fee.

By law in most states, the executor or trustee is entitled (and sometimes required) to take a fee, typically 2 percent of the value of the estate. I was my mother's trustee, but some family members objected to my taking the fee. Fortunately, I did not need the money, so I offered to donate my fee to Mom's favorite charity. That made everyone happy.

If the person did not name an executor, the law requires that someone step into that role—first the spouse, and if there is no spouse, then the children, typically in descending age order.

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Answers to Key Questions

This book provides clear, concise answers to the key questions that arise when someone dies, among them:

- Who has the authority to act on behalf of the decedent?
- How do I get access to the person's financial assets—bank accounts, investments, and so on?
- Do I—or does anyone—have to pay the person's debts, for example, the mortgage and credit card debts?
- How do we decide who gets to live in the house? Who pays the mortgage?
- How do I transfer ownership of the house? The car? Other assets?

How to Use This Book

We've organized this guide temporally to cover what you need to know and do as the death becomes imminent, the immediate aftermath of the death, the few days to a week or so after, several weeks to several months after, and months to a year or so after. We've arranged the book this way because that's how the responsibilities confront you, the executor: first this list of tasks, then the next list. We've also provided checklists at the beginning of each chapter to provide an overview and to help you get organized.

In addition, we've provided a Quick Reference Guide to key elements of the process. For example, we discuss the tasks

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related to the funeral and any memorial tasks in Chapters 1, 2, 3, and 5. If you'd like to focus on the funeral-memorial, the Quick Reference Guide can point you to all the information, wherever it may be.

We've designed the Table of Contents and Index to provide quick, easy access to whatever interests you. Finally, in the Appendices we have provided everything from an Advanced Health Care Directive to a Model Obituary for your reference. You probably won't need to reference every single one of these documents, but it's handy to have them in one place if you do. More forms are available on our Web site, WhenSomeoneDies.net.

If you have a question not answered in the text, please visit our Web site to ask your question. We'll reply as soon as possible.

1

As Death Approaches

CHECKLIST:

- Who's in charge before the death?
- Does the person have an advance health care directive (living will)?
- Does the person have a durable power of attorney for health care?
- If the person prepared an advance directive and a durable power of attorney for health care, find those documents.
- Attend to your own well-being.

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- Attend to the person's comfort.
- Start contacting family and friends.
- Who's in charge after the death?
- Has the person specified an executor?
- The executor must register with the Internal Revenue Service. (The estate may also need an employer identification number—see Chapter 4.)
- Avoid theft.
- Start thinking about the funeral.
- Shop for a mortuary.
- Will an autopsy be necessary?
- Start thinking about body preparation: embalming? No embalming? Or "green"?
- Consider thanking end-of-life caregivers.

Note: This chapter assumes that the death occurs with family gathered by the bedside as the person's life slips away. If the

death occurs suddenly and without warning (an accident, suicide, sudden illness, etc.), many of these tasks become moot, for example, attending to the person's comfort and acting on advance directives. But many other tasks must still be accomplished, notably, shopping for a mortuary and planning the funeral. See page 42 for a discussion about what to do if the death involved a crime or was caused by a third party, such as in a car accident.

Who's in Charge before the Death?

If the person dying is a mentally competent adult, that person has the legal authority to make all decisions about his or her own life, including decisions regarding medical care. But when someone is incapacitated, families often squabble over who has the right to make decisions. For minor children, the parents make the decisions. But what about making decisions for an adult?

Many people anticipate this possibility and while they are of sound mind, appoint someone as their "agent" by naming them in a document called a "durable power of attorney" (for a sample, see the Appendix). A power of attorney may be limited to health care decisions (advance medical directive), it may focus on financial matters, or it may deal with both. If the person has signed a durable power of attorney, read it carefully to make sure you actually have the specific power you want to exercise.

If the person's mental competence is questionable—drifting in and out of consciousness or seeming conscious but saying things out of character or that contradict a living will—consult

a medical ethicist. Hospitals and hospices usually have a patient ombudsman or hospital ethicist on call.

If the dying person is unconscious or is mentally incompetent because of dementia or some other brain injury, the person in charge is the one named in a durable power of attorney for health care.

If there is no durable power of attorney for health care, then by law, the decision maker is the spouse. If there is no spouse, then it's the parents of the child or the adult children of the parent—either the only child present or, if several are, then often in descending age order. If there are no spouse and no kids, then a sibling has the power. And if there are no relatives, then the power often resides with the government.

Does the Person Have an Advance Health Care Directive (Living Will)?

Ideally, the person completed an advance directive (living will) that specifies instructions for end-of-life medical care. Typically, an advance directive says: “I do not want any extraordinary procedures used to prolong my life. I do not want to be kept alive in a vegetative state.” In other words, an advance directive says: “When I’m ready to go, let me go.” But a living will may specify other choices, for example, *desiring* all life-prolonging procedures, no matter how invasive or traumatic.

Advance directives appoint a “health care agent” who becomes responsible for making sure that health care providers follow the person’s instructions. Laws vary from state to state,

but advance directives without a power of attorney are typically not legally binding on the family and on medical personnel. To make them binding, the person needs a durable power of attorney for health care. Most states have combined these documents into one form (see the Appendix for a sample California form).

Does the Person Have a Durable Power of Attorney for Health Care?

This document names a person and gives that person the legal authority—the power of attorney—to enforce the person’s advance directive for end-of-life care on the family and on medical personnel who might otherwise not follow the person’s wishes.

If you’re that person, you may have to contend with family and close friends who disagree with your decisions. That happened to me; as I explain in the Introduction, one of my sisters became furious with the decision I took about our mother’s care. For better or worse, that’s the price of being the person’s attorney of record for health care.

You may also have to contend with medical personnel disregarding the wishes of the person who holds the durable power of attorney. Some doctors think it’s their right to use extraordinary measures even if the dying person doesn’t want them and even if the person holding the durable power of attorney says, “Stop! Don’t do that.”

If medical personnel ignore you, first, present a united front. Gather family and friends and start screaming if you have to—the more people, the better. If that doesn’t work, contact a

hospital administrator and the hospital's patient ombudsman. Tell them that the doctor in question is breaking the law by ignoring an advance directive backed up by a durable power of attorney, which opens the hospital to legal liability. And if that doesn't work, call the police. A physician who acts contrary to an advance directive backed up by a durable power of attorney is committing assault and battery and is subject to arrest.

Recently, many states have adopted a form called the Physician's Orders for Life-Sustaining Treatment (POLST; see Appendix for a sample). It's signed by both the patient and the doctor while the patient is still healthy to demonstrate that the doctor is aware of the patient's wishes and agrees to comply with the patient's end-of-life medical decisions. It does not replace the advance medical directive and power of attorney, but it supplements them.

**If the Person Prepared an Advance Directive
and a Durable Power of Attorney for Health Care,
Find Those Documents**

While in the prime of life, many people—but by no means all—hire an estate lawyer to draw up these documents and a will. If your loved one dies and you haven't been made privy to these documents, check with the lawyer, who will have kept copies of them.

If you don't know the name of the lawyer in question, you may wish to check with other attorneys your loved one dealt with. For example, the lawyers who handled a divorce or a sale

of the house probably won't have the person's will, but it's possible that they might or they might know the identity of the estate-planning lawyer, so check with every attorney you know the person has ever used.

If you don't even know whether the person had these documents drafted, then you must look for them. Start with the person's desk and file cabinet. Often these documents are kept in a loose-leaf binder. If you can't find them around the house, ask relatives and the person's close friends. If you have access to the person's computer, look there. But the most likely place is a safe-deposit box at a bank. Most banks will allow you immediate but limited access to another person's safe-deposit box if you have the key and/or a death certificate; you will be allowed to inventory items and make copies of documents. Before you can remove items of value, the bank typically requires proof that you are the executor or are otherwise authorized to remove the material.

If you find the papers, follow the person's instructions. If not, then the decision-making authority rests first with the spouse; second, the children; and third, other relatives or close friends. Executors are not involved in this, except to the extent that they are blood relatives. The executor's job begins *after* the death.

Written instructions are especially important for those in gay, lesbian, or nontraditional relationships. Without them, gay, lesbian, and nontraditional significant others may not have the legal authority to make *any* decisions.

Everyone should have a written will, advance directive, and medical power of attorney. You can find more on this in Chapter 6.

What Happens When Family Members Disagree about Medical Intervention?

Doctors and nurses are usually sensitive and caring. If it's clear that the family has reached a consensus about stopping life support, the staff will stop it—assuming that they are convinced that the family has come to an agreement. If you reach a consensus, make sure the person's doctors and nurses know.

But things get murky when the hospital staff perceives family disagreement. For example, say Dad died years ago, and Mom didn't remarry, so there's no spouse to make end-of-life care decisions, and the person's children (and possibly other relatives) are squabbling about what to do.

All the siblings and the other relatives have influence, but the person in charge is the one named in the dying person's durable power of attorney for health care. That person has *all* legal authority. If three siblings, two cousins, and an aunt and uncle all want surgery, while the person named in the power of attorney wants hospice care, the person goes to hospice.

If there is no power of attorney, most states provide that the spouse (or the parents in the absence of a spouse) has the authority to decide and, in some cases, siblings. In the absence of such a provision, the executor or family needs to go to court to be appointed as legal guardian and decision-maker.

Attend to Your Own Well-Being

On airplanes you're told, "If you are traveling with anyone who needs assistance, put *your* oxygen mask on first, and then help those traveling with you." Why? Because you can't help anyone if you're gasping for air. You have to take care of yourself first.

Waiting for the death of someone you love is traumatic. Be kind to yourself. You can't be there for anyone else if you're gasping for air. Do things that help you manage your stress, for example, meditation or yoga. Many people find that exercise helps; take walks around the hospital. If music calms you, use an iPod or sing and play for the person—studies show that even people in comas hear what goes on around them. There's no need for the whole family to stay at the bedside all the time, so take turns to stay or take a break. Get some sleep. As the end approaches, those who are not by the bed can be called back by phone when necessary.

Attend to the Person's Comfort

You're probably familiar with the term "death rattle," the sound that dying people make as their lives end. It's not a rattle exactly, more like a wheezy, raspy gasping. It happens because as death approaches, the lungs fill with fluid and breathing becomes labored—and noisy.

Sometimes, the dying person spews phlegm. It's not a pretty sight, and it usually frightens those gathered around the bedside. It's messy, and the person dying looks to be in distress. If the death takes place in a hospital or skilled nursing facility, nurses stop by periodically with a device that painlessly sucks out excess fluid and mucus, minimizing the sound and any spewing. But if the death takes place somewhere else, you may hear and see more than you want to.

As it becomes clear that the person is very near death, the main issue is the person's comfort. Most hospitals, hospices, and nursing homes are generous with morphine, the world's best pain reliever. Morphine is also addictive, but when people are dying, that doesn't matter. What matters is their comfort, and no drug on earth is as effective at comforting the dying as morphine. Welcome its use.

Sometimes the dying person lingers in life longer than anticipated and appears uncomfortable or agitated despite standard doses of morphine. When this happens, family and friends typically feel helpless and often frantic. In the past, doctors often took matters into their own hands and "helped" their patients die. Because of the threat of malpractice claims, today doctors

are much more reluctant to do this. Today, people in hospice often provide the family with the means to hasten the end. For example, a hospice nurse may appear with a handful of pills or syringe, saying, “This is a high dose of morphine. I can’t give it because it would accelerate death, which is illegal. You shouldn’t give it either.” Then the nurse places the pills or syringe on a bedside table and leaves the room. You’re then free to let your conscience be your guide.

But be careful. In most states, it’s illegal to hasten death. If everyone at the bedside agrees that the pills or shot should be given, you may do so, though you risk someone regretting the decision and pointing an accusing finger: “He killed Mom!” You know your family. Discuss what you’d like to do at this very difficult moment.

As death approaches, especially when people are taking high doses of morphine, they may talk and hallucinate. Sometimes it’s beautifully spiritual. They may see a bright light or a vision of heaven. On the other hand, it may be the opposite. Sometimes dying people say awful things: “I never loved you.” They don’t mean it; it’s the drugs talking.

Start Contacting Family and Friends

At this stage you’re under no obligation to contact everyone, just those who would want to be there for the person’s final moments—immediate family and the person’s closest friends. However, we recommend erring on the side of contacting more than just close family and friends. Everyone who knows the

person cares, wants to know what's happening, and wants to offer help. Friends and acquaintances will appreciate the chance to know what's happening and if possible to help; and in the long run, you will appreciate that you let them in.

There are some fantastic information-sharing Web sites for just this purpose, such as Caring.com. You can upload e-mail addresses, and it's very easy to broadcast updates to those on the list. These sites also include coordination functions so you can schedule visits efficiently.

Who's in Charge after the Death?

In most states, upon death all powers of attorney automatically expire, and the person named in any power-of-attorney document is no longer in charge. After the death, the person in charge is the executor (or trustee) of the estate.

Has the Person Specified an Executor?

The executor is the administrator of the decedent's estate. How do you learn who that is? Typically, the will names the executor. Most wills also designate "successor" executors if the first one dies or for any reason can't fulfill the executor's responsibilities or does not want to. You're free to decline the executor role. If the will does not name a successor executor, in most states the named executor may recommend someone for the job. Any successor who has not been named would typically require court approval.

Executors should read this book very carefully because they are responsible for all the tasks we discuss: paying the person's debts and taxes, distributing the person's assets, dealing with probate (if necessary), and settling the person's affairs. If the person has taken the steps we recommend in Chapter 6, the executor's job can be fairly straightforward and only moderately time-consuming. But if the person hasn't taken those steps or has vast wealth or a complex family situation (for example, five children by three husbands), then the executor's job becomes complicated, convoluted, and *very* time-consuming.

If the person has not specified an executor, or if the family and close friends don't know who the executor is, then someone has to petition the probate court for the job. Contact a lawyer. Once the court appoints the volunteer, that person becomes the executor.

The Executor Must Register with the Internal Revenue Service

As the saying goes, "Nothing is certain except death and taxes." While some debts can go unpaid (see Chapter 4), the executor must pay any taxes the person or the estate owes.

Executors handle other people's money, meaning that they act in "a fiduciary capacity." The law requires anyone in a fiduciary role to file Internal Revenue Service (IRS) form 56, "Notice Concerning Fiduciary Relationship." This form can be obtained at any IRS office or online from the IRS Web site at <http://www.irs.gov/pub/irs-pdf/f56.pdf>.

Avoid Theft

We hate to say it, but when someone dies, the valuables they carry—rings, watches, and so on—have a way of disappearing somewhere between the scene of the death and the funeral. Possible culprits include hospital and mortuary personnel and friends and relatives.

Don't take chances. If you have not already done so, remove the person's rings, necklaces, watch, wallet or purse, and other valuables immediately after the death.

Again, we hate to say it, but neighbors, friends, and relatives may enter the home to steal the person's belongings (or take them in the belief they have a right to them). You may not know who has keys to the person's home. As quickly as possible after the death, call a locksmith and have the locks changed. Post a note on the door announcing what you've done, and invite anyone who needs access—cleaning people, the gardener, and so on—to contact you. Provide your phone number and e-mail address.

Start Thinking about the Funeral

It may seem premature, even heartless, to think about the funeral while the person is still alive. But some religions—for example, Judaism—require burial as quickly as possible after death. Others allow more flexibility in the timing of funerals. Many religious traditions also call for sacraments and other formal practices in the hours before death, so it's a good idea to consult with an appropriate member of the clergy early on.

Regardless of the person's religion, a clergy member will ensure that you observe the rituals that the person would have wanted both before and after they pass.

Shop for a Mortuary

Many funeral homes are good, honest businesses. They provide an invaluable service. However, as with any business, their aim is profitability, and their goal is to maximize what you spend in your hours of grief and emotional disarray. And the unscrupulous ones are very good at using your emotional distress to pick your pocket. Before you decide on a mortuary, we urge you in the strongest possible terms to compile a list of everything you want—transportation of the remains, embalming or not, cremation, burial, and so on—and then contact two or three mortuaries and compare their prices *before* you release the remains to any of them. Of course, when someone dies, the last thing you want to do is to go shopping. But if you don't shop, you're much more likely to be scammed, possibly for thousands of dollars.

Which mortuaries should you call? Some have religious affiliations that you might embrace or want to avoid, but beyond that, it doesn't really matter. Mortuaries are like car dealers—all pretty much the same. Shop for convenience and, above all, price. Ask your friends and relatives for a recommendation and ask how much they paid. Also check the Internet for social commentary. Once people have survived a funeral, they tend to like to talk about it, so don't be afraid to ask people about their experiences.

First shop for the big-ticket item, the casket. Caskets start at a few hundred dollars for a plain plywood or pine box and go up to tens of thousands of dollars for tropical woods, gold fittings, and silk lining. Typically, the funeral director will show you caskets in five price ranges. Marketing studies show very clearly that given five choices with ascending prices, very few naïve buyers—and most funeral shoppers are naïve—opt for the cheapest or most expensive choices. The vast majority select the middle option or the one right above it in price. Those two choices are substantially more expensive than the two cheapest options.

You don't have to buy a casket. If you're so inclined, you can build your own or commission one and deliver it to the mortuary. Select the casket that suits your family and your budget, but we urge you to remember that anything other than a metal casket will start to decompose immediately. A casket is a very temporary home; ashes to ashes, dust to dust.

If you balk at a pricey casket, expect the funeral director to attempt to shame you with maudlin appeals to the deceased's dignity: "*That box? Really? It's your mother. . . .*" It usually doesn't take much for a funeral director to push those who are newly bereaved (and not always entirely of sound mind at the time) to spend a great deal more than they'd planned. Buyer, beware! It's smart to bring a friend with you to negotiate. You need to remain strong and remember that the person who died has likely gone to heaven (or to a "better place" or wherever your religious beliefs tell you) and the casket likely does not hold the person's soul. And if you opt for an open casket, the funeral

director will hit you up for all sorts of extra charges for hair-dressing, makeup, shaving, a manicure and so on.

Mortuaries also charge a bundle for flowers. Consider providing your own. In fact, consider asking family and friends to bring flowers to the funeral. People want to do something to help—asking them to bring flowers will make them feel useful. They'll feel they've contributed, and you'll have a flower-filled funeral to show how beloved the person was, which might soothe your grief a bit.

Mortuaries also charge for every moment of transit: from the place of death to the mortuary, and to the burial site. They even charge for placing mementos in the casket: photos, a crucifix, a sports team hat. These charges really add up.

If you opt for cremation, funeral directors often try to sell you *two* items—a casket for the funeral and cremation and an urn for the ashes. They may imply that an urn is legally required for ashes. That's not true. You're free to take the ashes in any container you like, even a plastic bag. Always ask: Is this required by law? When put on the spot, most funeral directors tell the truth or close to it—at least in states with active departments of consumer affairs that send secret shoppers to businesses like funeral parlors and auto shops, places notorious for fraud.

We cremated my mother—without a casket. The funeral director was aghast and tried very hard to sell us a cherrywood casket for \$7,800. We said no thanks. Then he tried to sell us an urn for her ashes. Urns start at a few hundred dollars and can go up to thousands. Again we declined. By law, the mortuary must supply a cardboard or wood container for you to carry the ashes

away in. That's what we received—Mom's ashes in a cardboard box. I took them home and left the box on the mantel for a few months, then we distributed her ashes around the top of the hill on my property, a spot she adored. Both she and my stepfather have bronze plaques near the spot where we scattered her ashes.

A note on open-casket funerals. You must provide clothes to dress the body, and you'll probably pay a dressing charge. State laws usually do not require embalming for closed-casket services, but if the casket is open, you *must* embalm. If anyone touches a corpse that has not been embalmed, it might release nasty decomposition gases that smell awful. The body might even explode—yes, *explode*.

For more information on arranging a funeral, contact the mortuary trade organization, the International Cemetery, Cremation, and Funeral Association, at <http://www.iccfa.com>.

For more on your rights as a funeral consumer, visit the Federal Trade Commission at <http://ftc.gov/bcp/menus/consumer/shop/funeral.shtm> or the Funeral Consumer Guardian Society at <http://www.funeralconsumer.org>. The latter site can help you estimate costs.

Will an Autopsy Be Necessary?

An autopsy will probably not be necessary. Autopsies are required only if medical or law enforcement authorities suspect foul play or an infectious disease or other public health hazard. You can find more on autopsies in Chapter 2.

**Start Thinking about Body Preparation:
Embalming? No Embalming? Or "Green"?**

Mortuaries push embalming and often imply that it's legally required. In most states, embalming is optional; however, it may be required in warm climates because heat spurs decomposition.

Embalming fluid and other chemicals used in traditional burial preparation eventually become incorporated into the ground and may contaminate the soil and groundwater. "Green" burials, on the other hand, prepare the body without potentially polluting chemicals and contain the body in a cloth shroud or a biodegradable casket rather than metal.

Since the 1990s, green burials have become increasingly popular. Compared with traditional burials, they cause less ground and water contamination and have a smaller carbon footprint.

Some people believe that cremation is automatically green. It's green *only* if the remains are not embalmed.

Green body preparation is not available everywhere. If you're interested, ask when you shop for a mortuary, or visit the Green Burial Council at <http://www.greenburialcouncil.org>.

Consider Thanking End-of-Life Caregivers

It's amazing how quickly you can feel close to medical and/or hospice personnel who care for a loved one as death approaches. Many people use the word "saint." If you're moved by the care the person received, thank those who provided it. Many fami-

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lies use the obituary to acknowledge publicly a loved one's care providers. It's also a good idea to compile a list of caregivers' names, phone numbers, street addresses, and e-mail addresses. You may want to send thank-you notes, give gratuities, or make charitable donations in their honor. And if questions arise about the death (from insurers, the coroner, etc.), you'll know who to contact and how to find them.

To avoid the risk of impropriety many rest homes and hospices forbid the payment of gratuities. You should check to see what is allowed.