

State:	Nebraska
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**Inquiry 1: How long can I keep the body at home after death and under what conditions?**

There are no statutes or regulations that address this question.

**Inquiry 2: Does my state require the body to be embalmed? Refrigerated?**

172 Neb. Admin. Code Ch. 68, 006

The following applies to transportation and final disposition of dead human bodies who have died due to a communicable disease, transporting a dead human body in-state and out-of-state, and final disposition requirements.

006.01 DECEASED DUE TO AN IMMEDIATELY REPORTABLE COMMUNICABLE DISEASE. Persons who have died due to any communicable disease listed in 173 NAC 1, which must be reported immediately, must be completely wrapped before removal from the premises. These requirements do not prohibit a public funeral, nor does it relieve persons who are quarantined as contacts from quarantine requirements. Bodies dead of such communicable diseases must be:

- (1) Thoroughly and promptly embalmed and be held in isolation from the public for a period of 24 hours following the embalming;
- (2) Encased immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed, and under no condition will the body be removed from the container; or
- (3) Cremated immediately. If visitation is to occur prior to cremation, the body must be thoroughly and promptly embalmed and held in isolation from the public for a period of 24 hours following the embalming.

173 Neb. Admin. Code Ch. 1, 1-004

The following diseases, poisonings, and organisms are declared to be communicable or dangerous or both to the public. Incidents of diseases, poisonings, and organisms must be reported as described in 173 NAC 1-004.01 through 1-004.03, 1-005, and 1-006.

1-004.01 Immediate Reports

1-004.01A The following diseases, poisonings, and organisms must be reported immediately:

- Anthrax (*Bacillus anthracis*)<sup>\*^</sup>
- Botulism (*Clostridium botulinum*)<sup>\*^</sup>
- Brucellosis (*Brucella abortus*<sup>^</sup>, *B. melitensis*<sup>^</sup>, and *B. suis*<sup>^\*</sup>)
- Carbapenamase-Resistant Enterobacteriaceae (suspected or confirmed)<sup>\*\*^</sup> (not to include *Proteus* or *Providencia* species or *Morganella morganii*)
- Cholera (*Vibrio cholerae*)<sup>^</sup>
- Coccidioidomycosis (*Coccidioides immitis/posodasi*)
- Diphtheria (*Corynebacterium diphtheriae*)
- Eastern equine encephalitis (EEE virus)<sup>\*^</sup>

- Food poisoning, outbreak-associated
- Glanders [*Burkholderia (Pseudomonas) mallei*\*^]
- *Haemophilus influenzae* infection (invasive disease only)^
- Hantavirus pulmonary syndrome (Sin Nombre virus)
- Hemolytic uremic syndrome (post-diarrheal illness)
- Hepatitis A (IgM antibody-positive or clinically diagnosed during an outbreak)
- Hepatitis B infection (positive surface antigen tests, e antigen tests, and all IgM core antibody tests, both positive and negative)
- Hepatitis E
- Influenza due to novel or pandemic strains (includes highly pathogenic avian influenza virus)\*^
- Measles (Rubeola)
- Melioidosis [*Burkholderia (Pseudomonas) pseudomallei*\*]
- Meningitis (*Haemophilus influenzae* or *Neisseria meningitidis*)^
- Meningococcal disease, invasive (*Neisseria meningitidis*)^
- Monkeypox virus infection\*^
- Middle East Respiratory Syndrome - suspected or confirmed cases^
- Pertussis [whooping cough] (*Bordetella pertussis*)^
- Plague (*Yersinia pestis*)\*^
- Poliomyelitis, paralytic
- Q fever (*Coxiella burnetii*)^\*
- Rabies (human and animal cases and suspects)
- Ricin poisoning\*^
- Rubella and congenital rubella syndrome
- Severe Acute Respiratory Syndrome [SARS] (SARS-associated coronavirus)
- Smallpox\*^
- Staphylococcal enterotoxin B intoxication\*
- Staphylococcus aureus, vancomycin-intermediate/resistant suspected or confirmed as defined by the CDC
- Tick-borne encephalitis, virus complexes (Central European Tick-borne encephalitis virus, Far Eastern Tick-borne encephalitis virus, Kyasanur Forest disease virus, Omsk Hemorrhagic Fever virus, Russian Spring and Summer encephalitis virus)
- Tularemia (*Francisella tularensis*)\*^
- Typhus Fever, louse-borne (*Rickettsia prowazekii*)\*^ and flea-borne / endemic murine (*Rickettsia typhi*)
- Venezuelan equine encephalitis\*^
- Viral hemorrhagic fever (including but not limited to Ebola virus, Marburg virus, Congo Crimean Fever) - suspected or confirmed cases\*^
- Yellow Fever

006.03 IN-STATE TRANSPORTATION. Dead human bodies, which have not been embalmed, may not be transported by common carrier, unless the body is placed immediately after death in a body transfer case or shipping case that is constructed out of 20 gauge steel and is hermetically sealed. Transportation may be made by privately owned conveyance under the supervision and responsibility of a licensed funeral Director. Embalmed bodies may be transported by either common carrier or private carrier.

172 Neb. Admin. Code Ch. 68, 006

006.04 FINAL DISPOSITION OF EMBALMED AND UN-EMBALMED BODIES. Final disposition of a dead human body must meet the following:

006.04(A) UN-EMBALMED BODY. Upon receipt of a dead human body, the licensee has 24 hours to either bury, cremate, embalm, place in refrigerated storage, or place in a hermetically sealed container, which cannot be reopened.

If placing in refrigerated storage, an un-embalmed body must:

(i) Be retained at a constant temperature of less than 40 degrees Fahrenheit for not more than 8 days. An un-embalmed body may be retained in storage beyond the 8 days only when:

(1) Written notification of a criminal proceeding is received; or

(2) Upon receipt of a court order.

(ii) When the body is removed from storage it must be embalmed, buried, cremated, or placed in a hermetically sealed container within 24 hours following the removal from storage.

006.04(B) EMBALMED BODY. Final disposition of a dead human body, which has been embalmed or been placed in a hermetically sealed container, must be made within 30 days after death. If death did not occur in Nebraska, final disposition of a dead human body must be made within 30 days after receipt of the dead human body.

Neb. Rev. Stat. Ann. § 71-1374

(4) If human remains received by the crematory authority are not embalmed, such remains shall be held no longer than twenty-four hours from the time of death unless the human remains are placed within a refrigerated facility in accordance with the laws of this state.

**Inquiry 3: What methods of disposition are legal in my state?**

Nebraska law mentions burial, cremation, entombment, donation to medical science, and removal from the state.

**Inquiry 4: Are there any circumstances under which I would be required to wait before final disposition?**

There are no statutes or regulations that address this question.

**Inquiry 5: What do I need to do to get a death certificate?**

Neb. Rev. Stat. Ann. § 71-605

(1) **The funeral director and embalmer in charge of the funeral** of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed electronically by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on an electronic form prescribed and furnished by the department.

#### **Inquiry 6: What do I need to do to get a burial-transit permit? Is there a wait period before I can receive a burial-transit permit?**

Neb. Rev. Stat. Ann. § 71-605

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by **the funeral director and embalmer having charge of the body** in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

...

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by **the funeral director and embalmer** in charge of burial and forwarded to the department within five business days after the interment takes place.

#### **Inquiry 7: Personal Preference Statute**

**Neb. Rev. Stat. Ann. § 30-2223 (1)**

Except as otherwise provided by section 23-1824, a person who is eighteen years of age or older and of sound mind, by testamentary disposition, by entering into a pre-need sale as defined by section 12-1102, or by affidavit as provided in subdivision (2)(a)(ii) of this section, may direct the location, manner, and conditions of disposition of his or her remains and the arrangements for funeral goods and services to be provided upon his or her death.

Form of affidavit:

Neb. Rev. Stat. Ann. § 30-2223 (2)(a)(ii)

A person who is eighteen years of age or older and of sound mind wishing to convey the right of disposition to another person may execute an affidavit before a notary public in substantially the following form:

State of \_\_\_\_\_)

County of \_\_\_\_\_)

I, \_\_\_\_\_, do hereby designate \_\_\_\_\_ with the right to control the disposition of my remains upon my death. I (\_\_\_\_\_ have) (\_\_\_\_\_ have not) attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, so long as such directions are lawful and there are sufficient resources in my estate to carry out the directions. This affidavit does not constitute a durable power of attorney for health care.

\_\_\_\_\_ (signature of person executing affidavit)

Subscribed and sworn to before me this \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year \_\_\_\_\_.

\_\_\_\_\_ (signature of notary public);

### **Inquiry 8: Designated Agent Statute**

Form of affidavit:

Neb. Rev. Stat. Ann. § 30-2223 (2)(a)(ii)

A person who is eighteen years of age or older and of sound mind wishing to convey the right of disposition to another person may execute an affidavit before a notary public in substantially the following form:

State of \_\_\_\_\_)

County of \_\_\_\_\_)

I, \_\_\_\_\_, do hereby designate \_\_\_\_\_ with the right to control the disposition of my remains upon my death. I (\_\_\_\_\_ have) (\_\_\_\_\_ have not) attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, so long as such directions are lawful and there are sufficient resources in my estate to carry out the directions. This affidavit does not constitute a durable power of attorney for health care.

\_\_\_\_\_ (signature of person executing affidavit)

Subscribed and sworn to before me this \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year \_\_\_\_\_.

\_\_\_\_\_ (signature of notary public);

### **Inquiry 9: Right of Sepulcher Statute**

**Neb. Rev. Stat. Ann. § 30-2223 (2)**

Except as set forth in subsection (3) of this section or in section 71-20,121, the right of disposition, including the right to control the disposition of the remains of a deceased person, the location, manner, and conditions of disposition, and the arrangements for funeral goods and services to be provided, vests in the following order if the person listed is eighteen years of age or older and is of sound mind:

(a)(i) A person designated by the decedent as the person with the right of disposition in an affidavit executed in accordance with subdivision (2)(a)(ii) of this section.

(ii) A person who is eighteen years of age or older and of sound mind wishing to convey the right of disposition to another person may execute an affidavit before a notary public in substantially the following form:

State of \_\_\_\_\_)

County of \_\_\_\_\_)

I, \_\_\_\_\_, do hereby designate \_\_\_\_\_ with the right to control the disposition of my remains upon my death. I (\_\_\_\_\_ have) (\_\_\_\_\_ have not) attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, so long as such directions are lawful and there are sufficient resources in my estate to carry out the directions. This affidavit does not constitute a durable power of attorney for health care.

\_\_\_\_\_ (signature of person executing affidavit)

Subscribed and sworn to before me this \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year \_\_\_\_\_.

\_\_\_\_\_ (signature of notary public);

- (b) The surviving spouse of the decedent;
- (c) The sole surviving child of the decedent or, if there is more than one child of the decedent, the majority of the surviving children, except that less than a majority of the surviving children shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving children of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving children;
- (d) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent shall be vested with the right of disposition after reasonable efforts have been unsuccessful in locating the absent surviving parent;
- (e) The surviving brother or sister of the decedent or, if there is more than one sibling of the decedent, the majority of the surviving siblings, except that less than the majority of the surviving siblings shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving siblings of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving siblings;
- (f) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, the majority of the grandparents, except that less than the majority of the surviving grandparents shall be vested with the right of disposition if they have used reasonable efforts to notify all other surviving grandparents of their instructions regarding the right of disposition and are not aware of any opposition to those instructions on the part of a majority of the surviving grandparents;
- (g) The person in the next degree of kinship, in descending order, under the laws of descent and distribution, to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition;
- (h) The guardian of the person of the decedent at the time of the decedent's death, if one had been appointed;
- (i) The personal representative of the estate of the decedent. The powers and duties under this section of the personal representative shall commence upon his or her appointment. Such powers and duties of the personal representative shall relate back in time to give acts by the personal representative which are beneficial to the disposition of the decedent's remains occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, the personal representative may carry out written instructions of the decedent relating to his or her body, funeral, and burial arrangements. The personal representative may also ratify and accept acts regarding disposition of the decedent's remains done by others where the acts would have been proper for the personal representative;
- (j) The State Anatomical Board or the county board of the county where the death occurred in the case of an indigent person or any other person the disposition of whose remains is a responsibility of the state or county;
- (k) A representative as described in section 38-1426 or 38-1427 that has arranged with the funeral establishment, cemetery, or crematory authority to cremate or bury a body part in the case of body parts received from the entity described in section 38-1426 or 38-1427; and
- (l) In the absence of any person listed in subdivisions (2)(a) through (k) of this section, any other person willing to assume the right of disposition, including the funeral director with custody of the body, after attesting, in writing,

that a good faith effort has been made to no avail to contact the persons listed in subdivisions (2)(a) through (k) of this section.