

State:	Massachusetts
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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?

239 Mass. Code Regs. 3.10

(2) In order to recognize the inherent dignity of the human body and protect the public health, sufficient preservation and/or disinfection and refrigeration shall be applied to each dead human body to guarantee temporary protection against excessive decomposition.

(7) If a body has not been embalmed, and the body is to be buried or cremated within the Commonwealth of Massachusetts within 50 hours after death, said body shall be prepared by a Type 3, Type 6, or Apprentice Embalmer. Said registrant shall thoroughly wash, disinfect and sanitize said body; close all orifices with treated absorbent cotton; envelop the entire body with clean sheeting or with provided clothing; and take any other appropriate steps necessary to ensure that there will be no offensive leakage or odors from the body prior to burial, cremation or other final disposition. If a body has not been embalmed, and said body is to be buried or cremated within the Commonwealth of Massachusetts, but said burial or cremation will not occur within 50 hours after death, said body shall be prepared by Type 3, Type 6, or Apprentice Embalmer, and shall also be maintained at a temperature between 34°F and 39°F. If the body cannot be maintained at these temperatures, the body must be embalmed unless directed by the client not to in writing. In cases of advanced decomposition where public health may be an issue, a local board of health may direct a funeral director to embalm a body notwithstanding the direction of a client.

239 Mass. Code Regs. 3.12

(10) Whenever a dead human body is transported within, into or out of Massachusetts prior to being embalmed or otherwise prepared for burial or cremation, all persons engaged in the transportation of said body or who may come into physical contact with that body during transportation shall follow the precautions required by 239 CMR 3.12(3).

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

Mass. Gen. Laws Ann. ch. 114, § 43M

Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the commonwealth for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the

commonwealth, and the remains of any body after dissection therein, shall be decently buried, entombed in a mausoleum, vault or tomb or cremated within a reasonable time after death.

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

Mass. Gen. Laws Ann. ch. 114, § 44

The body of a deceased person shall not be cremated within 48 hours after his decease unless he died of a contagious or infectious disease, and, if the death occurred within the commonwealth, the body shall not be cremated by any corporation authorized to cremate the bodies of the dead until its officers have received the certificate or burial permit required by law before burial, and a certificate from a medical examiner or similarly authorized person that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary. If the death occurs without the commonwealth, the medical examiner's certificate may be provided by a medical examiner or similarly authorized person in whose jurisdiction said death occurred or the reception and cremation of the body of a deceased person shall be governed by a by-law or regulation made or approved by the department of public health as provided in section nine.

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

Mass. Gen. Laws Ann. ch. 46, § 9

A physician, after the death of a person whom he has attended during such person's last illness, or the physician declaring such person dead, or the medical examiner, as provided for in section six of chapter thirty-eight, or, if the death occurred in a hospital, a hospital medical officer duly appointed by the administrator, shall immediately furnish for registration a standard certificate of death, or in the case of a medical examiner, a medical examiner's certificate of death, **to an undertaker or other authorized person or a member of the family of the deceased**, stating to the best of his knowledge and belief the name of the deceased, the disease of which he died, defined as required by section one, where the same was contracted, the duration of the illness from which he died, and the date of death.

Said physician, officer or medical examiner shall print or type on every certificate furnished by him under this section the cause, or causes, of death and, directly below his signature, his name and the date the certificate was signed. The foregoing provisions shall apply in the same manner in the event of a child dying immediately after birth. Both the birth and death of such child shall be recorded.

When a patient suffering from a terminal illness or whose death is anticipated and who is receiving the services of a home health agency, as that term is defined in 42 USC 1395x(o), or of a hospice program licensed by the commonwealth, or who resides in a certified nursing home or who is enrolled in a PACE program as defined in 42 U.S.C. 1396u-4, dies, at home, in a hospice, or a nursing home, a registered professional nurse, licensed by the board of registration in nursing and employed by a certified home health agency, hospice, nursing home or a PACE program as defined in 42 U.S.C. 1396u-4, may declare such person dead; provided, however, that said nurse first makes a reasonable effort to contact the attending physician or medical examiner before making such determination or pronouncement; provided, further, that such determination or pronouncement be made in writing on a form approved

by the commissioner of public health and subscribed under pain and penalties of perjury; and provided, further, that said physician or medical examiner be notified forthwith of the exact location to which the decedent has been removed.

Mass. Gen. Laws Ann. ch. 46, § 11

Every undertaker or other person in charge of a funeral shall forthwith obtain the physician's or officer's certificate required by section nine, enter thereon the facts as to the deceased required by section one to be recorded, and return it to the board of health or its agent, or, if the selectmen constitute such board, to the clerk of the town where the death occurred. The board of health shall transmit such certificate to the town clerk.

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?

Mass. Gen. Laws Ann. ch. 114, § 45

Except as provided in sections forty-four and forty-six, no undertaker or other person shall bury or otherwise dispose of a human body in a town, or remove therefrom a human body which has not been buried, until he has received a permit from the board of health or its agent appointed to issue such permits, or if there is no such board, from the clerk of the town where the person died; and no undertaker or other person shall exhume a human body and remove it from a town, from one cemetery to another, or from one grave or tomb other than the receiving tomb to another in the same cemetery, until he has received a permit from the board of health or its agent aforesaid or from the clerk of the town where the body is buried. No such permit shall be issued until there shall have been delivered to such board, agent or clerk, as the case may be, a satisfactory written statement containing the facts required by law to be returned and recorded, which shall be accompanied, in case of an original interment, by a satisfactory certificate of the attending physician, if any, as required by law, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if, for sufficient reasons, his certificate cannot be obtained early enough for the purpose, or is insufficient, a physician who is a member of the board of health, or employed by it or by the selectmen for the purpose, shall upon application make the certificate required of the attending physician. If death is caused by violence, the medical examiner shall make such certificate. If such permit for removal of a human body, not previously interred, from one town to another within the commonwealth cannot be obtained early enough for the purpose, the certificate of death made as above provided or the determination or pronouncement of death made by a licensed registered nurse, a nurse practitioner or a registered physician assistant according to section nine of chapter forty-six and in the possession of the undertaker desiring to make such removal shall constitute a permit for such removal; provided, that such body shall be returned to the town from which it was removed within thirty-six hours after such removal, unless a permit in the usual form for the removal of such body has been sooner obtained hereunder. If the death certificate contains a recital, as required by section ten of chapter forty-six, that the deceased was a veteran, such recital shall appear upon the permit. The board of health or its agent, upon receipt of such statement and certificate, shall forthwith countersign it and transmit it to the clerk of the town for registration. The person to whom the permit is so given and the physician

certifying the cause of death shall thereafter furnish for registration any other necessary information which can be obtained as to the deceased, or as to the manner or cause of the death, which the clerk or registrar may require.

Mass. Gen. Laws Ann. ch. 114, § 47

No person having the care of a cemetery, burial ground or crematory shall permit the burial, removal or cremation of a human body until the permit for such burial, removal or cremation has been delivered to him, nor permit the ashes of a human body to be buried therein until there has been delivered to him a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Upon the burial, removal, or cremation of a body, the superintendent or other officer in charge of the cemetery or crematory shall indorse upon the coupon accompanying the permit the fact of such burial, removal or cremation, with the date thereof, shall make and preserve in the files of the cemetery or crematory a record of such burial, removal or cremation, including any recital in the burial permit relative to service of the deceased as a veteran as defined in section ten of chapter forty-six, and also the location of the grave or other receptacle of the body or ashes of the deceased, and shall forthwith return the coupon to the office issuing the same; provided, that if there is no officer in charge of the cemetery or crematory, such duties shall be performed by the undertaker.

Inquiry 7: Personal Preference Statute

239 Mass. Code Regs. 3.09(b)

Where there is no pre-need funeral services contract with the Licensed Funeral Establishment in effect at the time of death for the benefit of the deceased person, or to the extent that any such contract does not fully specify the nature of the funeral arrangements to be provided, said License Funeral Establishment and its agents or employees shall give effect first to any wishes of the deceased person regarding the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, and/or the final disposition of the deceased person's remains, which have been expressed in any written document which was signed by the deceased person in the presence of a witness. In the absence of an order from a court of competent jurisdiction to the contrary, said written document shall be sufficient legal authorization for implementation of the arrangements specified therein.

Inquiry 8: Designated Agent Statute

There are no statutes or regulations that address this question.

Inquiry 9: Right of Sepulcher Statute

239 Mass. Code Regs. 3.09(c)

To the extent that there is no pre-need funeral services contract in effect at the time of death for the benefit of the deceased person, and no other valid written document indicating the wishes of the deceased person with respect to the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, or the final disposition of the deceased person's remains, the Licensed Funeral Establishment and its agents or employees shall follow the directions of the deceased person's surviving kin, in the following order of priority:

1. the surviving spouse of the deceased;
2. the surviving adult children of the deceased;
3. the surviving parent(s) of the deceased;
4. the surviving brother(s) or sister(s) of the deceased;
5. the guardian of the person of the deceased at the time of his or her death;
6. any other person authorized or obligated by law to dispose of the remains of the deceased.

If there is more than one member of a class, the directions of a majority shall prevail; in the event of a tie, the decision of a court of competent jurisdiction will be necessary. Provided, however, that with respect to receiving authorizations to release a decedent from the Office of the Chief Medical Examiner, the Office of the Chief Medical Examiner may require different or additional signatures for release.