

January 2026: Changes and additions highlighted in blue

State:	New York
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Inquiry 1: How long can I keep the body at home after death and under what conditions?
N.Y. Pub. Health Law § 4143 1. In case of any death occurring without medical attendance, it shall be the duty of the funeral director, undertaker or any other person to whose knowledge the death may come, to give notice of such death to the coroner of the county, or if there be more than one, to a coroner having jurisdiction, or to the medical examiner. 2. When notified of any death occurring without medical attendance, the coroner or medical examiner shall immediately investigate as provided by law and shall certify as provided in subdivision three. 3. The coroner or medical examiner whose duty it is to investigate the death and to execute the certificate of death, shall state in such certificate the name of the disease causing death, or if from external causes, the means of death; whether probably accidental, suicidal or homicidal; and shall, in any case, furnish such information as may be required by the commissioner in order to classify the death. 4. In case of any death occurring without medical attendance in the county of Erie, it shall be the duty of the undertaker or other person to whose knowledge the death may come, to notify the medical director of such death, and when so notified the medical director shall immediately investigate and certify as to the cause of death and shall, if he has reason to believe that the death may have been due to an unlawful act or neglect, cause a proper investigation and certification in accordance with the provisions of this section.

Inquiry 2: Does my state require the body to be embalmed? Refrigerated?
There are no statutes or regulations that address this question.

Inquiry 3: What methods of disposition are legal in my state?
New York law mentions burial, cremation, entombment, natural organic reduction, donation to 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?
N.Y. Pub. Health Law § 4140 1. The death of each person who has died in this state shall be registered immediately and not later than seventy-two hours after death or the finding of a dead human body, by filing with the registrar of the district in which the death occurred or the body was found a certificate of such death, in a manner and format as prescribed by the commissioner, which shall include through electronic means in accordance with section forty-one hundred forty-eight of this title.

N.Y. Pub. Health Law § 4141

3. The statement of facts relating to the disposition of the body shall be signed by the funeral director or undertaker in charge of the corpse.

N.Y. Pub. Health Law § 4142

In each case the funeral director, undertaker or person having charge of the body of a deceased person, shall:

- (a) obtain the personal and statistical particulars required for the certificate of death from a competent person acquainted with the facts and qualified to supply them and enter them on the certificate together with the name and address of his informant;
- (b) present the certificate promptly to the attending physician or nurse practitioner, who shall forthwith certify to the facts of death, provide the medical information required by the certificate and sign the medical certificate of death, or to the coroner or medical examiner in those cases where so required by this article or, when a death occurs in a hospital, except in those cases where certificates are issued by coroners or medical examiners, to the person in charge of such hospital or his or her designated representative, who shall obtain the medical certificate of death as prescribed in section four thousand one hundred forty-one-a of this title;
- (c) state the facts required on the certificate of death relative to the date and place of burial, cremation or removal, over his signature and with his address; and,
- (d) prior to the disposition of the remains, file the certificate of death with the registrar of the district in which the death occurred as provided in section four thousand one hundred forty of this article.
- (e) notwithstanding any contrary provisions of law as may be set forth in this section, commencing on or after the implementation date under section forty-one hundred forty-eight of this title, information and signatures required by this subdivision shall be obtained and made in accordance with section forty-one hundred forty-eight of this title.

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?

N.Y. Pub. Health Law § 4140

2. If the certificate of death is properly executed and complete, the registrar of the district in which the death occurred shall then issue a burial or removal permit to the funeral director or undertaker. In case the death occurred from a disease which is designated in the sanitary code as a communicable disease, no permit for the removal or other disposition of the body shall be issued by the registrar, except to a funeral director or undertaker licensed in accordance with the provisions of this chapter, under such conditions as may be prescribed in the sanitary code.

N.Y. Pub. Health Law § 4144

1. The body of any person whose death occurs in this state, or which shall be found dead herein shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from this state, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other

disposition thereof shall have been properly issued by the registrar of vital statistics of the registration district in which the death occurred or the body was found; provided, however, that a licensed funeral director may apply for and receive such permit on behalf of any person or institution authorized by article forty-two or forty-three of this chapter to receive unclaimed cadavers or anatomical gifts.

2. (a) No burial or removal permit shall be issued by any registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him as provided in this article.

Inquiry 7: Personal Preference Statute

N.Y. Pub. Health Law § 4201 (2)(c)

The person in control of disposition, pursuant to this section, shall faithfully carry out the directions of the decedent to the extent lawful and practicable, including consideration of the financial capacity of the decedent's estate and other resources made available for disposition of the remains. The person in control of disposition shall also dispose of the decedent in a manner appropriate to the moral and individual beliefs and wishes of the decedent provided that such beliefs and wishes do not conflict with the directions of the decedent.

Inquiry 8: Designated Agent Statute

A person may designate an agent to control their remains pursuant to N.Y. Pub. Health Law § 4201(2)(a)(i).

N.Y. Pub. Health Law § 4201(3)

The written instrument referred to in paragraph (a) of subdivision two of this section may be in substantially the following form, and must be signed and dated by the decedent and the agent and properly witnessed:

APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

I,
(Your name and address)

being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by

;
(name of agent)

With respect to that subject only, I hereby appoint such person as my agent with respect to the disposition of my remains.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent as well as any instructions or wishes desired to be followed in the disposition of my remains:

Indicate below if you have entered into a pre-funded pre-need agreement subject to section four hundred fifty-three of the general business law for funeral merchandise or service in advance of need:

No, I have not entered into a pre-funded pre-need agreement subject to section four hundred fifty-three of the general business law.

Yes, I have entered into a pre-funded pre-need agreement subject to section four hundred fifty-three of the general business law.

(Name of funeral firm with which you entered into a pre-funded pre-need funeral agreement to provide merchandise and/or services)

AGENT:

Name:

Address:

Telephone Number:

SUCCESSORS:

If my agent dies, resigns, or is unable to act, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent to control the disposition of my remains as authorized by this document:

1. First Successor

Name:

Address:

Telephone Number:

2. Second Successor

Name:

Address:

Telephone Number:

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENT REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

Signed this _____ day of _____, ____.

(Signature of person making the appointment)

Statement by witness (must be 18 or older)

I declare that the person who executed this document is personally known to me and appears to be of sound mind and acting of his or her free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1:

(signature)

Address:

Witness 2:

(signature)

Address:

ACCEPTANCE AND ASSUMPTION BY AGENT:

1. I have no reason to believe there has been a revocation of this appointment to control disposition of remains.

2. I hereby accept this appointment.

Signed this _____ day of _____, _____.

(Signature of agent)

N.Y. Pub. Health Law § 4201 (4)

(a) In the absence of a written instrument made pursuant to subdivision three of this section, the designation of a person for the disposition of one's remains or directions for the disposition of one's remains in a will executed pursuant to the laws of the state of New York prior to the effective date of this section, or otherwise executed pursuant to the laws of a jurisdiction outside the state of New York, shall be: (i) considered reflective of the intent of the decedent with respect to the disposition of the decedent's remains; and (ii) superseded by a written instrument subsequently executed pursuant to subdivision three of this section, or by any other subsequent act by the decedent evidencing a specific intent to supersede the designation or direction in such a will with respect to the disposition of the decedent's remains. All actions taken reasonably and in good faith based upon such authorizations and directions regarding the disposition of one's remains in such a will shall be deemed valid regardless of whether such a will is later probated or subsequently declared invalid.

(b) In the absence of a written instrument made pursuant to subdivision three of this section, the designation of a person for the disposition of one's remains or directions for the disposition of one's remains in a will executed pursuant to the laws of the state of New York on or after the effective date of this section, shall be considered a reflection of the intent of the decedent with respect to the disposition of the decedent's remains, provided that the person who represents that he or she is entitled to control the disposition of remains of the decedent has complied with subdivision five and paragraph (a) of subdivision seven of this section and signed a written statement in accordance with paragraph (b) of subdivision seven of this section.

Inquiry 9: Right of Sepulcher Statute

N.Y. Pub. Health Law § 4201 (2)

(a) The following persons in descending priority shall have the right to control the disposition of the remains of such decedent; provided that if there are more than two members of a class listed in subparagraph (iii), (v), or (vii) of this paragraph entitled to control the disposition of remains of a decedent, the disposition shall be determined by a majority of the members of the class who are reasonably available:

- (i) the person designated in a written instrument executed pursuant to the provisions of this section;
- (ii) the decedent's surviving spouse;
- (ii-a) the decedent's surviving domestic partner;
- (iii) any of the decedent's surviving children eighteen years of age or older;

(iv) either of the decedent's surviving parents;

(v) any of the decedent's surviving siblings eighteen years of age or older;

(vi) a guardian appointed pursuant to article seventeen or seventeen-A of the surrogate's court procedure act or article eighty-one of the mental hygiene law;

(vii) any person eighteen years of age or older who would be entitled to share in the estate of the decedent as specified in section 4-1.1 of the estates, powers and trusts law, with the person closest in relationship having the highest priority;

(viii) a duly appointed fiduciary of the estate of the decedent;

(ix) a close friend or relative who is reasonably familiar with the decedent's wishes, including the decedent's religious or moral beliefs, when no one higher on this list is reasonably available, willing, or competent to act, provided that such person has executed a written statement pursuant to subdivision seven of this section; or

(x) a chief fiscal officer of a county or a public administrator appointed pursuant to article twelve or thirteen of the surrogate's court procedure act, or any other person acting on behalf of the decedent, provided that such person has executed a written statement pursuant to subdivision seven of this section.

(b) If a person designated to control the disposition of a decedent's remains, pursuant to this subdivision, is not reasonably available, unwilling or not competent to serve, and such person is not expected to become reasonably available, willing or competent, then those persons of equal priority and, if there be none, those persons of the next succeeding priority shall have the right to control the disposition of the decedent's remains.