What To Do When A Loved One Dies?

The Elder Law & Estate Planning Center of Southwestern Virginia

A Checklist Of What To Do When A Loved One Dies

When a loved one passes away, it is an understandably stressful time. It can be even more stressful and/or traumatic trying to remember all of the details that must be taken care of related to a person's death. If you are in charge of handling the affairs of the decedent (the person who has died), here are but a few of the more important considerations:

Place of Death. If the individual dies in a hospital or hospice, the medical personnel will take the lead on "next steps" although they will want to know which mortuary or funeral home should be called at the appropriate time. If the individual dies at home, call the paramedics or the police so that the proper pronouncement of death can be made.

Organ Donation/Anatomical Gifts. If the deceased has consented to be an organ donor or the family is willing to consent to organ donation and the individual dies at home, the paramedics should be called immediately and be sure to let the dispatcher know that the person is a potential organ donor as time is of the essence. If consent has been given for the body of the deceased to be an anatomical gift, follow the instructions provided by the institution or organization receiving the gift.

Notify Immediate Family. As soon as possible and practical, notify immediate family and friends about the death of the loved one. A family member or close friend can be designated to make these contacts. This could relieve you of a great deal of stress. This will assist them in making arrangements quickly to be with you during this time. In order to assist them, prepare an accurate list of the names, addresses and telephone numbers of family members and/or friends to notify in the event of an emergency.

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There are a number of tasks where family and friends can lend a hand, such as:

- answering the phone
- collecting mail
- caring for pets
- locating important items such as keys, insurance policies, claims forms, addresses for magazine subscriptions, etc.
- staying at the home during the wake, funeral, and/or memorial services to guard against break-ins that commonly occur during that time
- organizing food for family and friends after the services

Notify the Clergy. Contact the deceased's Pastor, Rabbi, Priest or other designated religious leader if applicable in order to facilitate counseling for family members and members of the deceased's congregation, synagogue or parish. They will also be involved in making arrangements for any final religious services.

Funeral Home/Mortuary and Cemetery/Mausoleum. If no arrangements have been previously made, contact the funeral home or mortuary of your choice to carry out the final preparations and/or burial instructions. Any advance preparation in this area alleviates a lot of stress during an already stressful period. Most funeral homes and/or mortuaries are happy to talk with individuals to provide helpful pre-needs information and arrangements. Someone must be authorized to make the decisions concerning the disposition of the remains of the deceased. A final resting place should have already been secured and the proper person will need to be notified of the date of interment as soon as a date is set.

Obtain Death Certificate. A death certificate must be completed and signed by either an attending physician, the medical examiner/county coroner or in the case of persons dying in a hospice program a registered professional nurse employed by the hospice. The death certificate is filed with a local registrar and transmitted to the vital records registration system for recording in the state's official records. Certified copies of the death certificate can be obtained after the death certificate has been filed with the local registrar. Certified copies will have printed upon them the following language:

"This is an exact copy of the death certificate received for filing in (blank) County."
The certified copy must display an official seal.

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You will want to request multiple copies of the short form death certificate (without cause of death). We recommend ordering at least 10 copies. These are available from your funeral home.

Copies of the Death Certificate. Once the death certificate is available, copies need to be sent to all insurance companies as part of the claim, in order to receive the proceeds from any insurance policies.

Notifying Employer, Social Security. Notify the employer of the deceased so that the proper paperwork can be completed. This may affect payroll and benefits, as well as the work schedule of the deceased's co-workers. Also notify the local office of the Social Security Administration and any other income sources immediately. Any benefits received after the date of death will need to be returned to Social Security. The surviving family member or estate is entitled to a one-time death benefit from Social Security. Pensions, annuities and other income sources will have different rules. Check the plan or contact the administrator of those plans for further details.

Notifying the Guardian/Agent. If there is a guardianship or a durable power of attorney, those persons need to be notified that their responsibilities are at an end.

Bank Accounts. If there are bank accounts on which someone is a "surviving owner", (the account may read "POD" for payable upon death or joint owners with "ROS", for right of survivorship) a death certificate needs to be provided to the bank so that the surviving owner can now take ownership. Otherwise, access to the accounts may be blocked until someone is appointed as an official agent on behalf of the estate, the Executor or Administrator.

Wills. If there is a Will, when the person dies, the law requires that it be filed (the law does not require that it be probated) with the Clerk of Court in the County where the decedent lived. The Clerk will provide the executor or executrix of the Will with the necessary paperwork. Expenses of the last illness and funeral should be paid from the estate before any additional disbursements are made. All remaining assets and properties can be disbursed through the probate process.

When there is no Will. If there is no Will, and an administration of the estate is desired, this is also done in the County Clerk's Office. Expenses of the last illness and funeral or final arrangements should be paid from the estate before any additional disbursements are made. All remaining assets and properties can be disbursed through the administration of the estate.

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Creditors. Letters should be sent to all creditors informing them of the persons death. If any life insurance coverage exists on open accounts to pay off the remaining balances, a copy of the death certificate will be required. Do not agree to personally be responsible for paying the balances on any outstanding account. The estate is liable, not individual family members unless that family member was a named account holder, regardless of the insistence of the creditors. If nothing remains in the estate to pay off debts, then creditors should be so informed.

Utility Companies. Local utilities (telephone, gas, electricity, cable) should be notified only if someone else wants to be substituted on the accounts. Otherwise wait until you decide whether or not and when the utilities are to be discontinued. In any event, the utility bills must be paid in order to keep the utilities on.

Newspaper and Mail. The newspaper subscription will need to be discontinued if no one else resides at the home of the deceased and the Post Office may need to be contacted about a forwarding address for mail, if no one will be at the home to receive it.

Tax Refunds. Any Tax refunds that arrive after the decedent's death will be a part of the estate and will have to be distributed according to the Will or the Administration process.

Taxes Owed. Any taxes owed will have to be paid out of the estate or voluntarily by a surviving family member.

Personal Property. Things like titles to automobiles, automobile insurance and homeowner's insurance will have to be changed eventually. Homeowner's insurance policies should be reviewed carefully for instructions concerning coverage of unoccupied premises.

Out-of-State Property. If property is owned out-of-state, the Will should be probated or the estate administrated in the state of residence first and the Letters Testamentary or Letters of Administration (they may be called something else in another state) used to handle the property in the other state.

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No Property. If there was no property left in the decedent's name and no other assets that need to be transferred, then there are probably very few estate matters to be handled. Virginia requires that a Will be filed with the Court if there is one, whether or not it is actually probated.

Right of Survivorship Property. If property or accounts were in the name of the decedent and another person as tenants "with the right of survivorship", then ownership automatically passes to the survivor(s) without the need for probate or administration of the estate.

Disposing of Personal Items and Clothing. Although one of the most heartbreaking tasks when a loved one dies, as soon as emotionally possible, every effort should be made to dispose of those items which will no longer be used by the survivors. The timing of this is handled differently from person to person. If too soon, it may prevent survivors from having adequate time to grieve, while if it takes too long, it may seriously delay the ending of the grieving process, acting as a very painful and constant reminder of the person's death. Only a few items should be retained as mementos.

No items should be moved, sold, given away or otherwise disposed of if they have been identified in the person's Will as items to be distributed as a part of the estate. Only the legal beneficiary of those items is entitled to make the decision as to their disposal.

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Documents to locate. There are some documents that may be needed or at least helpful in settling the estate of the deceased. These documents should be located and kept together in one place until they can be turned over to the person in charge of carrying out this part of the affairs of the deceased. Included in the list of documents to be sought:

- funeral and burial plans/contracts
- safe deposit rental agreement and keys
- trust agreements
- nuptial agreements/marriage licenses/prenuptial agreements/divorce papers
- life insurance policies or statements
- pension, IRA, retirement statements
- income tax returns for the past three years
- gift tax returns
- birth and death certificates
- military records and discharge papers
- budgets/bookkeeping records
- bank statements, checkbooks, check registers, certificates of deposits
- deeds, deeds of trust, mortgages and mortgage releases, title policies, leases
- motor vehicle titles
- stock and bond certificates and account statements
- unpaid bills, notes
- health/accident and sickness policies
- bankruptcy papers: filings and releases

This is certainly not intended to be an exhaustive list of every detail to which attention must be given nor does this alleviate the need to ask questions about topic areas that may not have been mentioned. It is an attempt to provide some initial guidance to those in the position of having responsibility for handling the affairs of a deceased loved one. These are just some of the more fundamental core items. The emotional issues will have to be dealt with and special care should be taken when a loved one dies leaving young survivors or elderly survivors. Support groups and counselors should be contacted at the initial signs of depression.

If you have any questions about what to do when a loved one dies please contact our office at (276) 629-5381 or email gyoung@elderlawswva.com to schedule an appointment with the attorney.

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