

MD Code, Health Occupations, § 7-410
§ 7-410. Disposition of body
Effective: October 1, 2019

(a) **Wishes of individual.** - Any individual who is 18 years of age or older may decide the disposition of the individual's own body after the individual's death without the pre-death or post-death consent of another person by executing a document that expresses the individual's wishes or by entering into a pre-need contract.

(b) **Validity of document.** - In order to be valid, any document executed under subsection (a) of this section must be written and signed by the individual in the presence of a witness, who, in turn, shall sign the document in the presence of the individual.

(c) **Persons responsible for arrangements, costs.** - Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

(1) The surviving spouse or domestic partner, as defined in § 1-101 of the Health--
General Article, of the decedent;

(2) An adult child of the decedent;

(3) A parent of the decedent;

(4) An adult brother or sister of the decedent;

(5) An adult grandchild of the decedent;

(6) A person acting as a representative of the decedent under a signed authorization
of the decedent;

(7) The guardian of the person of the decedent at the time of the decedent's death, if a
guardian has been appointed; or

(8) In the absence of any person under items (1) through (7) of this subsection, any
other person willing to assume the responsibility to act as the authorizing agent for
purposes of arranging the final disposition of the decedent's body, including the
personal representative of the decedent's estate, after attesting in writing that a good
faith effort has been made to no avail to contact the persons described in items (1)
through (7) of this subsection.

(d)(1) **Authorizing agent.** - Subject to paragraph (2) of this subsection, if a decedent has more than one survivor under subsection (c)(1) through (5) of this section, any adult child, parent, adult brother or sister, or adult grandchild of the decedent who confirms in writing to a licensee that all of the other members of the same class have been notified may serve as the authorizing agent unless the licensee receives a written objection from another member of that class.

(2) If a decedent has more than one survivor under subsection (c)(1) through (5) of this section, the majority of a class may serve as the authorizing agent.

(e) **Public official as authorizing agent.** - For an individual whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the body of the individual may serve as the authorizing agent for purposes of this section.

(f) **Representative of institution as authorizing agent.** - For an individual who has donated the individual's body to medical science or whose death occurred in a nursing home or other private institution, a representative of the institution to which the body was donated or in which the decedent died may serve as the authorizing agent of the decedent and the institution is charged with making arrangements for the final disposition of the body.

(g)(1) **Notification, forfeiture, or waiver of right of final disposition.** - This subsection may not be construed to require a licensed mortician, licensed funeral director, or licensed funeral establishment to make any notification regarding the right of final disposition of the body of a decedent.

(1) A person shall forfeit the right of final disposition of the body of a decedent under subsection (c) of this section and the right shall pass to the next qualifying person, if the person:

(i) Does not exercise the right of disposition within 7 days after notification by a funeral establishment of the death of the decedent, or within 10 days after the decedent's death, whichever is earlier;

(ii) Subject to paragraph (3) of this subsection, is charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death and the charges are known to the funeral director; or

(iii) Is the subject of an active interim, temporary, or final protective order and the decedent was a person eligible for relief, as defined under § 4-501 of the Family Law Article, under the order and a copy of the order is presented to the funeral director.

(3) A person whose right of disposition was forfeited under paragraph (2)(ii) of this subsection shall have the right restored, if:

(i) The criminal charges are dismissed; or

(ii) The person is acquitted of the criminal charges.

(4) A person may waive the right of final disposition of the body of a decedent under subsection (c) of this section and the right shall pass to the next qualifying person, if:

(i) The person waives the right of disposition in writing; and

(ii) The writing is submitted to the practitioner or funeral establishment.

(5) A licensed mortician, licensed funeral director, or licensed funeral establishment may not be held civilly liable for acting in reliance on this subsection.

Credits

Added by Acts 1996, c. 145, § 2, eff. Oct. 1, 1996. Amended by Acts 2008, c. 590, § 1, eff. July 1, 2008; Acts 2009, c. 60, § 1, eff. April 14, 2009; Acts 2019, c. 231, § 1, eff. Oct. 1, 2019; Acts 2019, c. 232, § 1, eff. Oct. 1, 2019.