



November 21, 2025

BFD 25-02: Right of Disposition

Dear Funeral Director,

Licensed funeral directors, undertakers, and registered residents are entrusted with providing care to the deceased.

In accordance with 10 NYCRR §77.7(a)(1), *“A licensed and registered funeral director or undertaker or a registered resident shall be present and personally supervise and arrange for the removal or transfer of each dead human body ... **from the place where it is released to him/her by the family or other legal authority.**”*

Under New York State law, the first priority for an individual to have legal authority to control remains belongs to an agent appointed under an Appointment of Agent to Control Disposition of Remains ([DOH-5211](#)), or if no such agent was appointed, to the next of kin in descending priority as specified in [Public Health Law §4201\(2\)](#).

This means that before you remove or otherwise assume custody of human remains, you must have verbal or written authorization from the agent to control disposition of remains or if there is no such agent, from the next of kin; or you must have authorization from the County Coroner in cases where funeral homes transport the decedent to a hospital for further examination.

It is prudent to obtain both verbal and written permission. You may obtain the verbal approval over the phone before the removal takes place. This confirms that you are the correct funeral establishment to care for the decedent and that a mistake or miscommunication has not been made. Formal, written permission may be obtained at the time of the arrangements.

In cases where decedents are found unattended and have been transported to a facility for further examination, you should have an arrangement conference with the family and obtain written permissions, along with all pertinent signatures, before taking the decedent into your care.

The places that releases the remains, including hospitals and nursing homes, should reinforce the requirement that a person with legal authority to control disposition of remains has authorized transportation of remains by asking that a funeral director or registered resident sign a release form, or present a statement to certify that the funeral director has been legally authorized to take charge of the remains (for example, a “Funeral Director Statement of Authority” form), before releasing remains to a funeral director.

In addition, under 10 NYCRR §77.7(b) *“(1) In no case shall a dead human body be released from any hospital, institution or other place where the death occurred or from the place where the body is held by legal authority to any person not a duly licensed and registered funeral director or undertaker or a registered resident. (2) Every person, including, although not limited*

to, a person in charge of a hospital, institution, or place where a person has died, having lawful possession, charge, custody or control of a dead human body, shall request the person seeking to obtain the release of said body and acting as, for, or in behalf of a funeral director or funeral firm, to produce his/her current certificate of registration, showing that he/she is personally entitled to practice as a funeral director, undertaker or registered resident.”

Best Practices:

- Always confirm who has legal authority for disposition.
- Obtain verbal and/or written authorization before taking the decedent into your care.
- Document the authorization in your case file.
- Unattended cases should remain in the facility until you have all documentation requiring a signature completed.

By making this an ongoing and consistent funeral directing practice, we protect not only the family's rights but also your professional license. If you have any questions regarding this guidance, please email funeral@health.ny.gov.

Sincerely,

Stephanie Shulman, DrPH, MS
Acting Director, Bureau of Funeral Directing