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Checklist: What To Do When Someone Dies

What do I need to do now? That is the question I sometimes hear from clients after the death of a loved one. The following matters should be considered when a close friend or relative dies. Not all of the points will apply to all Decedents, but many of them will. I have tried to put them into a logical sequence, but as always, practical sense should prevail:

1. If a doctor is not present, notify a doctor or coroner in order to obtain a death certificate.
2. If the death occurs at home, you may need to contact a local police officer or coroner.
3. If the Decedent wished, a donation of body parts and tissues should be considered.
4. Notify family and friends. You may want to consider having family members contact others to save yourself some time on the phone during a stressful period.
5. Look for instructions which the Decedent may have left regarding preferences for funeral and burial arrangements.
6. Determine if the Decedent belonged to a burial or memorial society that may make special arrangements for the funeral, such as military honor guards.
7. Contact a funeral home concerning burial or cremation arrangements.
8. Complete funeral and burial arrangements.
9. Contact the Social Security Administration and any other government agencies or benefit program that may be making payments to the Decedent. (Note that the payment for the month of death will not be made by the Social Security Administration and others.)

10. Review the Decedent's financial affairs and look for any estate planning documents, such as Wills and Trusts, along with any other relevant documents, including:

- Funeral and Burial Plans;
- Safe Deposit Agreements and keys;
- Nuptial Agreements;
- Life Insurance Policies;
- Life Insurance provided by credit card companies (usually applicable if the death was accidental while traveling by airplane and the airfare was charged to the credit card) and other financial accounts;
- Existence of Trust;
- Pension-retirement benefits;
- Old tax returns;
- Prior Gift Tax returns;
- Marriage, birth and death certificates;
- Divorce documentation;
- Computer records regarding books of a business or personal assets;
- Bank statements, checkbooks, similar documents;
- Notes receivable;
- Titles to motor vehicles;
- Leases;
- Securities and list of securities;
- Any documentation of business ownership or business interest;
- Health Insurance, make claims for the final illness; and
- Unpaid bills.

11. If there is a Will, take the Will to the appropriate County or City office to have it accepted for probate.
12. Administering the Will - If the Will is properly drawn, it will name a Personal Representative (also known as Executor or Executrix). The Personal Representative, who can be an individual, a group of individuals or one or more institutions, or a combination of the aforementioned, will be responsible for the administration of the Estate of the Decedent.
13. If there is no Will and there are sufficient assets to probate (typically, at least \$15,000 in Virginia), then the Court will appoint an administrator and the assets of the Decedent will be distributed according to state law. This situation is referred to by some as "having the state write a Will for you." All states have a set of laws relating to intestate succession (transfer of property after dying without a Will), and the states decide who gets which assets if someone dies without a Will.

14. If you are the Personal Representative or Successor Trustee of a Trust, try to make a list of the assets owned by the Decedent or the Trust, in order that they can be administered and distributed according to the wishes of the Decedent.
15. Open a bank account for the estate of the Decedent. This should be done early on and all receipts and disbursements should be recorded in that bank account, in order to account properly for the assets of the Decedent and the expenses of administration.
16. Probate is a process similar to that of accounting. The Personal Representative is responsible for collecting the assets and reporting to the Court as to the amount of assets in the Estate of the Decedent. The Personal Representative then assembles the assets and, after paying debts, expenses and taxes, distributes the assets according to the wishes of the Decedent. If the Decedent left no Will, the process of administration is essentially the same, except that state law determines to whom the assets are distributed. If everything is done correctly, eventually, after the Personal Representative has accounted for and distributed the assets, the Personal Representative is discharged.
17. Make an inventory of household goods, personal belongings and the like, in order that they can be accounted for and properly distributed.
18. Look for insurance policies or annuities which may continue for other family members and other assets. Contact the Insurer with respect to any current policies or annuities.
19. Try to assemble the deeds of the Decedent to see what real estate, if any, is owned by the Decedent. If real estate is owned in more than one state, special proceedings, called "ancillary administrations," may be needed in each state.
20. Determine if the Decedent owned any securities, stocks, bonds, mutual funds, etc.
21. Retirement Plans, IRA accounts and similar retirement benefits involve important choices which need to be made by certain beneficiaries, particularly in regard to IRA accounts under applicable IRS regulations. If there are annuities, pension and profit sharing plans and interest of that type, they may provide for joint payment to a surviving spouse or others.
22. If the Decedent controlled or was a principal person in a business, it may be necessary to check to see if there are Buy-Sell Agreements under which the interest of the Decedent would be purchased by the business entity or other business owners.

23. If, after the appointment of a Personal Representative, a bank account or safe deposit box is found, then the assets in the bank account or safe deposit box need to be distributed according to the wishes of the Decedent.
24. If the Decedent was indebted to anyone, then the creditor needs to be paid. If the creditors are not paid and they make a claim against the estate after all of the assets are distributed, the Personal Representative may be in trouble and held personally liable for the debt.
25. As part of the probate process, all family members within a certain degree of kinship must be contacted, whether or not they receive assets from the Estate of the Decedent.
26. In handling the affairs of a Decedent, do not be quick to make distributions to family members or friends of the Decedent. Important choices need to be made concerning such distributions and, of course, they need to be in compliance with the Will or other instructions left by the Decedent, not to mention any applicable tax laws.
27. The income taxes of the Decedent for the year of death need to be filed, and any tax due must be paid. If there is a surviving spouse, the surviving spouse and Decedent can file a joint return for the year of death.
28. If there is a Trust, particularly a Revocable Living Trust, it will become irrevocable at the time of death, if not before. A separate tax return, Form 1041, "Fiduciary Income Tax Return," needs to be filed for the Trust or the Estate of the Decedent if income is received by the Estate or a Trust.
29. If there are minor children and the Will provides for a guardian, then the guardian needs to be informed and the children need to be placed in the care of the guardian. If there are minor children and no guardian is appointed, or if there is no Will, then the Court must appoint a guardian.
30. If there is real estate that is insured, the Personal Representative should make sure that the insurance policies on the properties of the Decedent are maintained.
31. Be deliberate and do not be hasty with decisions or distributions. The death of someone, particularly a family member or friend, is stressful and often if there are children of the Decedent around during the course of the final illness, there may be disputes regarding the treatment or other problems related to declining physical or mental abilities of the parent. Stated differently, it is a time of frazzled nerves and irritable people, so be very careful not to create schisms which can last for a very long time.

32. Watch out for people who prey upon families of Decedents. There are people who look for death notices and make unfounded claims against the Decedent. Some may also attempt to burglarize the home during the funeral service. Be cautious about such matters; have someone stay at the home during the funeral service and do not easily accept the claims of unknown individuals that lack documentation.
33. If there is a surviving spouse, make sure veteran's benefits or other "joint and survivor" benefits are collected by the surviving spouse.

If you have questions about what to do when someone dies, call Dan Newland. While this list is rather extensive, no list can be 100% complete, so there is bound to be some situation that has been overlooked or not adequately treated.

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