Matters of Precedent

A Brit makes the case for state of Michigan funeral-consumer rights

Here in the U.K., we need a license to open a cattery. Catteries are constrained by a regulatory regime designed to protect the welfare of cats — their feline rights, if you like. We like regulatory regimes in the U.K. We like them in a way that afflicts some in the U.S. with fear and loathing. We can easily see why. But we are, it seems, more willing to trade a few individual liberties in order to buy a society that looks after the weak and the vulnerable — including cats. It is a tricky line to tread. Some socialism is a good thing. But regulatory regimes do not always manage to enact their best intentions. The state does not always know best. Sometimes, individuals are the best custodians of their liberties, their human rights. My argument is that what’s best for cats is not necessarily what’s best for the bereaved.

Here in the U.K., no one needs a license of any kind to operate as a funeral director. Anyone can open for business tomorrow. Who are the most unsuitable sorts of people you can think of? Can they? Yes, they can. We do not require our funeral directors to know what they are doing: There is no compulsory training, no entry-level qualification. There exists no state-devised regulatory framework to govern they way they conduct themselves.

How easily do we tolerate this? Very. But should we? We have myriad laws, as you do, to regulate all manner of behaviours and activities in order to ensure the good health of their citizens.

Rep. Rebekah Warren to speak at FCIS annual meeting

Rep. Rebekah Warren, of the 53rd District, will speak about how to effectively advocate in Lansing at this year’s FCIS annual meeting.

This meeting is a means of preparing our members and the public for our first Funeral Consumers Advocacy Day in Lansing in support of upcoming funeral-consumer-rights legislation sponsored by Warren. (See the President’s Notes on page 2.) The meeting is open to the public.

FCIS 49th Annual Meeting

Sunday, April 18
2-4 p.m.
Swords Into Plowshares Peace Center and Gallery

Blessed by a Generous Bequest

The board of FCIS extends our deep gratitude to the family of Gerald Robert Pearsall, of Grosse Pointe Woods.

Mr. Pearsall, who was a longtime member of FCIS, died June 29, 2009, at the age of 83, leaving behind his wife, Linda Byrne Pearsall, two stepchildren and six grandchildren. In his will, Mr. Pearsall generously gave bequests to 23 organizations, including FCIS.

His family said that Mr. Pearsall’s financial acumen and conservatism combined to make him a generous philanthropist.

This bequest was crucial to the long-term survival of FCIS.

On behalf of our members and the board, “Thank you.”
New bills will balance law, bolster family rights in after-death care

At this time of year, many of us are scrambling to get our 2009 tax returns ready while others are happily writing out checks to tax preparers. Some of us enjoy the hands-on experience of dotting our I's and crossing our T's; others, well, don't. It isn't important what category we fall into; what is important is that we have a choice.

This year, Michiganders may very well get to exercise another fundamental consumer choice: The choice to hire or not hire a licensed funeral director.

Thanks to Rep. Rebekah Warren, of the 53rd District in Ann Arbor, several bills are under way to finally balance Michigan funeral law as it pertains to family rights in after-death care.

Using the proverbial and timely “death and taxes” example, an accountant’s right, even an accountant’s obligation, to become licensed doesn’t negate our right to balance our own checkbooks. This applies to funeral directing, as well.

This is not a radical idea. The fact is that most Americans already can care for their own dead if they so choose. And the number of states that unnecessarily obstruct families from exercising this historical family duty is shrinking (see “Utah” page 3).

Licensed funeral directors have nothing to fear. The passing of these bills into law will not signal the end of the Michigan funeral industry. The bills are not meant to.

What it will signify is that Michigan lawmakers have acknowledged that family rights come before industry protectionism. It will signal respect for the family’s custodial authority as hospitals, nursing homes and other agencies will be required by law to release the dead upon request into the family’s direct physical care.

For consumers, it will signal an affordable means to say goodbye without causing financial distress in this already difficult economy. For others, it will provide comfort knowing that they will be able to say their final goodbyes to deceased loved ones in the privacy of their own homes without fear of obstruction.

I encourage you to spread the word to your families, friends, neighbors and co-workers. Join us for our annual meeting, Sunday, April 18, to learn how to get ready to advocate for these bills in Lansing (see cover for details). If you have an experience to tell that will help others understand the current obstacles and how they were detrimental to your final wishes for a loved one, consider sharing it with FCIS or testifying in Lansing.

Together, we can make this happen. And I can think of no greater legacy we – the FCIS board and you, our members – can give to our fellow Michiganders.

This is truly our last right.

– Wendy Lyons

What do you think?

Do you believe that Michiganders should have the right to care for our own dead, if we so choose, without being required by law to pay for the services of a licensed funeral director?

Take a moment to vote at www.funeralinformationsociety.org.
Thomas Lynch loses lawsuit against FCA

The U.S. District Court for the Eastern District of Michigan in July threw out the libel and defamation suit filed by Lynch & Co. Funeral Directors PLLC et al against Funeral Consumers Alliance, Funeral Ethics Organization Inc., and FEO Executive Director Lisa Carlson. Judge Robert H. Cleland granted summary judgment on all four counts for the defendants. “The evidence offered by Lynch proves that there is a vigorous public debate and some degree of ill will,” Cleland stated. “Nonetheless, there is no evidence on which a rational jury could find actual malice.”

10.4 percent of state’s emergency relief pays for funerals

The Michigan Department of Human Services State Emergency Relief (SER) Program paid out more than $3.95 million for burial assistance in fiscal year 2008. This is 10.4 percent of the more than $38 million SER Program expenditures, which include assistance for burial, relocation, home ownership, home repairs, utility assistance, and heating fuel and electricity. Burial Program payments are authorized for burial, cremation or anatomical donation when the deceased person’s estate and contributions from friends or relatives (limited to $4,000 over and above the SER payment) are not sufficient to pay for the state-mandated services of a licensed funeral director.

Bill expands Funeral Rule to cemeteries

The U.S. House of Representatives introduced in September a bill directing the Federal Trade Commission to expand Funeral Rule regulations to cemeteries, crematories that directly serve the public, and retailers of caskets, urns, monuments and markers—a goal FCA and its affiliates have been striving for since the 1970s.

The Bereaved Consumer’s Protection Act of 2009, H.R. 3655, is the result of a congressional hearing last July following the discovery that 300 graves were excavated and believed resold at the historic Burr Oak Cemetery in Chicago. FCA Executive Director Joshua Slocum offered congressional staff comments on bill provisions and testified before lawmakers. To read Slocum’s testimony, visit www.funerals.org.

Green cemetery opens in western Michigan

Ridgeview Memorial Gardens in Grandville, Mich., received Green Burial Council certification as a low-impact green burial ground in spring 2009. Several acres, called the Natural Gardens, have been dedicated exclusively for green burial, though natural burial is also allowed in the conventional section. The least expensive green burial is $995, which includes the plot and the opening and closing of the grave. The required granite marker is extra. For more information, call 616/249-8439.

MFDA political contributions up 5 percent

The Michigan Funeral Directors Association PAC (MFDA PAC) ranked No. 85 on the Michigan Campaign Finance Network’s “Top 150 Michigan PACs–2010 Election Cycle,” with $35,615 contributed between January and October of 2009. This is a 5 percent increase over the same period of the 2008 cycle.

Utah restores families’ right to care for dead

The governor of Utah signed H.B. 265, “Postmortem Procedures Amendments,” into law March 2009. The law restored Utahans right to care for their dead, which was taken away by a 2006 law requiring the signature of a licensed funeral director on the certificate of death. This funeral-consumer victory, which was championed by FCA of Utah, reduces the number of states that obstruct families from caring for their dead to six, including Michigan, Connecticut, Indiana, Louisiana, Nebraska and New York.

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FCIS MEMBERS

have access to 25 pamphlets on a wide variety of funeral-related topics. Downloads are FREE at our Web site.

Also, check out these recently published books with Michigan roots:


LIMITED-TIME OFFER: 33% off the cover price of Going Out Green for FCIS members. Price is just $10 plus MI sales tax. Free Shipping and a sample copy of Spirituality & Health Magazine with every order. A total savings of $11. “At once elegant and funny as hell,” Going Out Green gives a sensitive, entertaining and honest account of the twists and turns award-winning writer and Michigan author Bob Butz encountered when planning his own natural burial. To get your copy, go to: www.spiritualityhealth.com/gog
Body donation as viable end-of-life option
Let research and pre-planning be your guide

By Holly Shreve Gilbert

Without paying a cent of tuition, almost 200 people are admitted to the Medical School at Wayne State University each year. They aren't on scholarships. In fact, they aren't there to learn.

They are the donated bodies that populate cadaver labs. They teach anatomy. They foster research. And they contribute to saving the lives of others. Without them, medical science would suffer.

Critical need

Whole body donation is crucial to the study of anatomy in medical school, says Barbara Rosso, mortuary supervisor at WSU, but it's also significant and necessary for advances in other disciplines, such as bio-engineering.

“Cadavers are used in safety tests, for example,” Rosso says, “and have played roles in the development of innovation in protective devices such as seatbelts, airbags, football helmets, baseball helmets and bullet-proof vests.”

Rosso is a funeral director who used to work in the commercial industry but now hangs her certification exclusively at Wayne. The university is essentially a hub for Southeast Michigan body donation: It provides cadavers to a number of area hospitals and teaching institutions, including the University of Detroit Mercy Dental School, Adrian College and Oakland University.

In addition, students in WSU’s mortuary science, occupational therapy, physical therapy, physician assistant and nurse anesthetist programs also rely on cadavers for research and anatomical education.

Michigan State University and University of Michigan also operate anatomical donation programs. Although representatives from MSU and U-M did not respond to our interview requests, information from their Web sites is easily accessible (see contact information on page 5).

The need for whole body cadavers is certainly not unique to the three schools here in lower Michigan.

Medical programs around the country and the world have similar body bequest programs. The reason for their need is universal: Cadaver research and anatomy are an extremely important part of research and education for medical students in any setting, in any country.

“Think of it,” Rosso says. “Would you want to go to a doctor who only learned on a computer?”

Despite the need and obvious importance of whole body donation, the number of donors remains relatively low, according to a 2004 study at the Johns Hopkins School of Medicine. In that survey, only 49 percent of respondents indicated that they would be willing to consider donation. In addition, most data conclude that the decision to become a whole body donor is most often made last-minute so medical schools rarely have the luxury of making long-term plans involving cadaver supply.

Ghoulish stigma

Perhaps the biggest hurdle for potential body donors is overcoming the long-held stigma attached to the cadaver lab.

Images of ghoulish experiments — think Frankenstein — are finally being debunked thanks to a general trend of honesty and openness in medical school circles and circulation of mainstream, nonfiction books such as the 2003 “Stiff: The Curious Lives of Human Cadavers,” by Mary Roach.

The idea of whole body donation as benevolent and prudent instead of mysterious and gruesome is gaining momentum. As millennials and geriatrics alike continue to expand their after-life dialogue and dare to consider options that include words such as green, communal and home funeral, many of the standard scripts for our last acts are being reworked.

But for those who hold the conventional funeral genre dear, there is still no need to write off the possibility of whole body donation. The process doesn't have to interfere with the desire of survivors to have funerals, cremations, ceremonies or even to spend time alone with the body once the person has passed.

As Rosso explains, the university will certainly comply with the family's requests as long as the body isn't compromised.

To funeral or not

“You can have a funeral if you want, certainly,” Rosso says, “but the embalming procedure needs to be altered to the university's needs.”

Conventional embalming involves draining the blood from the body while the anatomical procedure does not.

“The [anatomical] body is super-saturated with fluids,” Rosso says, “for the sake of longevity.”

Part of Rosso’s job involves educating funeral home directors and mortuary science students on the differences in the embalming processes. She says it shouldn't be a complex deal, and if funeral directors have questions, they simply need to call WSU.

On the other hand, Rosso says, there is no need to have a funeral home involved when donating a body to Wayne. The typical procedure in this case is to call the police once the person has passed. An officer will verify that there's been no foul play and will notify Rosso's department. Obviously, if the death occurs in a hospital or other clinical setting, the routine would vary according to institutional procedure.

Once the call is received at Wayne, the body is typically retrieved in one or two hours.

If a longer interval is requested, it's sometimes OK, depending on the temperature.

“It's all about decomposition,” Rosso says. “We usually want to get the body as soon as possible, especially if the temperature of the house or environment is elevated.”

The price of donation

Because Michigan law (MCL 700.3206), amended in 2006, now requires the handling and disposition of dead bodies to be supervised by a mortuary science
licensee, ironically, donating one’s body in this state can be costly.

Families of donors should be aware of the specific transportation requirements mandated by their chosen donor organization. MSU and U-M require all transfers to be handled by a licensed funeral home. For example, according to FCIS’s funeral home price survey, charges for “anatomical donation” range from $550 to $1950 – for the same services rendered.

At Wayne, however, transportation from the place of death to the mortuary does not have to be facilitated by a licensed funeral home.

“I am the funeral home director,” Rosso says.

In most cases, WSU will retrieve the body. Although Rosso doesn’t remember an instance where the body was driven to the school by the family, she says it’s probably doable. According to an opinion issued by the Michigan attorney general in 1973, an unlicensed person may, in fact, transport the body as long as the process is completed under the supervision of a licensed funeral director.

At WSU, then, it would be possible to bypass the funeral home – and the funeral home’s anatomical donation fees – entirely.

“You could donate to WSU at no cost to the family,” Rosso says. “Except of course, should you decide to bury or disperse the ashes at a later time. We don’t pay for that.”

Stipulations

Age has absolutely nothing to do with whole body donation, but there are other factors that could nullify the agreement, including certain contagious diseases, severe burns and disfiguring accidents.

Additionally, bodies intended for donation can neither undergo autopsies nor donate other organs.

You also can’t request a specific research protocol.

“A lot of people ask if we can use their body to research cancer, for example,” Rosso says. “We can’t do that. In fact, most disease research is done on the living because it’s really necessary to be able to follow the progress and see what happens.”

Another consideration is location of the body at the time of death. If the family or facility is unable to transport the body in a timely fashion, the donation could be compromised.

“And,” Rosso says, “it’s all about decomposition.”

Closure

At WSU, as at many other medical schools, donated bodies are cremated individually at the end of their teaching tenure. The ashes can be returned to the family or buried in a cemetery in a communal grave with other donors. Committal ceremonies for benefactors are generally held annually.

According to Rosso, the WSU ceremony is typically well attended by friends and family members.

“And,” she says, “It’s usually very beautiful.”

Gilbert is vice-president of FCIS, a professional journalist and adjunct instructor of journalism at Oakland University.

Anatomical Donation Programs

Wayne State University
School of Medicine
Department of Anatomy
540 E. Canfield
Detroit, Michigan 48201
PHONE: (313) 577-1188
Web site: www.med.wayne.edu/Anatomy/BEQUEST/index.html

U-M Medical School
3767 Medical Science Building II
Ann Arbor, MI 48109-0608
PHONE: (734) 764-4359
Web site: www.med.umich.edu/anatomy/donors

Michigan State University
Willed Body Program
E206 Fee Hall
East Lansing, MI 48824-1316
PHONE: (517) 353-5398

5 steps to whole body donation

1. **Research.** Look into the various medical schools with body bequest programs in your state or vicinity. Review the criteria for acceptance carefully. Read the Frequently Asked Questions sections, and if you have further concerns, contact the coordinator of the program.

2. **Complete the paperwork.** Download or ask for a copy of the donor form to be mailed to you. Fill it out completely. In most cases, you’ll need two witnesses (18 years or older) to cosign. Return a copy of the form to the program, and keep another for your records. Make sure your next of kin or executor has access or a copy.

3. **Carry the card.** You should receive a donor card from the selected program within a few weeks. The card should be carried with you at all times. Make sure it’s signed and dated, if necessary. Most people carry their donor cards in their wallet; make sure it can be found in the event of your death.

4. **Communicate.** Make sure your family and friends are aware of your decision to donate your body AND of your back-up plan in the case your body can’t be donated at the time of your death.

5. **Plan.** Make sure you have reviewed the procedures to be followed in the event of death, including funeral and/or mortuary arrangements and transportation to the medical school facility. If your family is planning a funeral, the funeral home director needs to be aware of the special instructions for preparing your body for teaching.
Some funeral directors object to disclosing what is involved in the embalming process because they think that it would be too distressing for people to know what the procedure entails. As a consumer advocate and educator, I believe that it should be the consumer’s choice to understand the procedure or not. If understanding the embalming procedure is not something that you are comfortable with, please do not read the following frequently asked questions and answers. That is your choice, and I respect it.

Q: What is embalming?
A: Embalming is a procedure that uses chemicals such as formaldehyde to temporarily preserve the body. The preservative chemicals work by binding the proteins in, and drawing water from, the body’s cells, which slows the decomposition of the cells and creates a more firm, dry tissue base in which to apply stitches or cosmetics.

Most people understand that embalming involves replacing the body’s blood with preservative fluids. This fluid exchange usually happens via the carotid artery, into which the preservative is pumped, and the jugular vein, from which the blood exits. Arteries and veins in the legs and/or arms can be used to assist in the process if necessary.

However, most people do not realize that the body’s internal organs are preserved in a secondary procedure. A sharp, hollow cylindrical tool called a trocar is inserted into the abdomen and forcefully used to repeatedly and thoroughly puncture the organs. The fluids from within the lungs, heart, stomach, intestines, bladder and other organs are suctioned out and then replaced with a concentrated preservative solution.

Additionally, the trachea and esophagus may be severed to prevent lung and stomach fluids from exiting the nose or mouth. Cosmetic procedures are also generally performed, including sewing or stapling together the upper and lower jaw so that the mouth remains closed; inserting eye caps under the eyelids and gluing together the upper and lower lids; and the application of cosmetic waxes, sealants and makeup. Additional procedures are used when a body has been autopsied or when disease- or injury-related wounds are present.

Q: Are there any alternatives to embalming?
A: Cooling is usually an effective way to temporarily preserve the body. Cooling can be accomplished with mechanical refrigeration, dry ice, ice packs or by reducing the room’s temperature. Cooling is much less invasive to the body than embalming, although it does not firm or dry the tissues, thus limiting the restorative cosmetic options.

Q: Why would a family choose to have a loved one embalmed?
A: Chemical embalming may be the best option if:
• there has been trauma to the face or hands and the family would like cosmetic restoration used to conceal the wounds.
• the deceased had changed during an illness, for instance losing or gaining weight, and the family would like the body to look more similar to the way he or she looked before the illness.
• certain very specific infections such as septicemia or gangrene are present and could accelerate the breakdown of the body.
• the body cannot be refrigerated or the services cannot take place within a few days of death.

Many people have different ideas of what a body “should” look like – natural, restored to a “lifelike” appearance, or something in between. No choice is wrong.

Nelson is the author of a resource for funeral consumers, “Michigan-Specific Frequently Asked Questions Regarding Information Pertaining to After Death Care and Disposition,” which is available for free from FCIS.
From page one: Matters of Precedent

of society. How is it that these laws fall short of the care and disposition of our dead? Does the state not have a responsibility to have some oversight of and some witness to the disposition of our dead – to ensure, for the good health of society, that it is done and done worthily? Do the living and the dead not merit this protection?

Given the scope that presently exists for scandal and malpractice in the U.K., there is a case to be made that the business of caring for our dead and arranging for their disposition should be taken out of the hands of amateurs, of potential blackguards and bunglers, and be given over to a professionalised class, as in Michigan, which is answerable not only to the families they serve but also to the state. There is much force in this argument. A civilised country is one that places a high value on human life and looks after its dead with great care. We need safeguards!

Or do we? In theory, we need them urgently. In practice, we need them not at all. Scandals here are few. As for training, the technical business of looking after the dead is not difficult. Most of our funeral directors cannot embalm; this is a service performed by jobbing specialists. The greatest value of funeral directors to their clients, here and in the U.S., resides in their personal qualities, especially in the quality of empathy. No course of instruction can teach that. Where malpractice arises in the U.K., it occurs most often in our biggest funeral chains, as in yours, where training is most widespread. Consumers need to be more aware of their rights, yes. They need to be better equipped to scrutinise the services they contract to buy, yes. But this is less a matter of consumer rights than it is a matter of consumer responsibilities. I would argue that the problems that exist in our funeral industry will be more-effectively cured by consumer education than by sledgehammer legislation.

Here, our dead are given over to the possession of those closest to them. It is the executor of a dead person who contracts with the state to dispose of that person's body in the interest of public health. Theirs is the duty of caring for them and disposing of them and, if they wish, farewelling them. Only an executor can register the death. Only an executor can apply for burial or cremation. The executor must see it through and demonstrate that it was done. So far as caring for the body is concerned, the state has an interest in ensuring that, while it waits for its funeral, it does not become a public health hazard, nor is it exposed in such a way as to outrage public decency.

Where does that leave the funeral director in relation to the client? As contractor, as agent. Someone to whom an executor may outsource those elements of the care and coffining and transportation of the body that he or she wishes to outsource. It is a role that is secondary, subordinate and collaborative. Let us be in no doubt who, in the eyes of the state, is the funeral director. Seek not to know for whom the buck stops; it stops with the executor. Any such who employs a feckless or floundering funeral director is, therefore, a victim not of bad luck but of bad judgement.

Over here in over-regulated, socialist space here to sing their praises. But I would urge the good funeral directors of Michigan to acknowledge the limits of their role and demonstrate their commitment to the bereaved by recognising both the value for some people of the experience of caring for their dead themselves and also their right to do so without interference. This is, for them, a very practical and personal and therapeutic way of expressing and working their way through their feelings for their dead. It poses no threat to the health of the body politic. Above all, it is their right – their very ancient right.

Funeral Consumers Information Society was founded in 1961 to promote preplanning for simple, dignified final rites. Our fundamental duty is to be an impartial source of funeral-related information. We help funeral consumers help themselves—and others—through knowledge of the consumer protections provided by the Federal Trade Commission’s Funeral Rule and the options available, including conventional funeral home services, immediate cremation/burial, family-led home funerals and green burial.

FCIS is one of more than 100 nationwide affiliates of the Funeral Consumers Alliance. We are not affiliated with any funeral home, cemetery, crematory or religious group. FCIS does not sell funeral or cremation services or contracts. We are led by volunteers and supported only by donations and low-cost annual membership “dues,” which are fully tax deductible.

Meet the 2010-11 FCIS officer candidates (please complete ballot on page 7)

**PRESIDENT:**
Alison S. Heins, Traverse City
I was first introduced to a memorial society in the mid-1970s. When my husband and I joined with friends to talk about end-of-life planning, I read Lisa Carlson's book and was dismayed to discover that Michigan's funeral laws have changed enormously since it was written making it very difficult for families to "care for their own dead." As an ecologist, my primary interest is to support the development of a green cemetery in Leelanau County.

**VICE PRESIDENT:**
Adeline Emmons, Kalamazoo
These things have been big in my life: 4 children, 6 grandchildren; assisting in a veterinary practice and a children's bookstore; civil rights activities; peace group organizing; becoming a lawyer after age 50. I've been interested in burial practices since the late '60s. Being a perpetual student, I'd like to take part in decisions around death to make it more meaningful and less costly for my own family and for the public.

**RECORDING SECRETARY:**
Tom Madsen, Detroit
Thomas Madsen has been a member of the society for roughly 30 years and has been office coordinator and recording secretary for about the last dozen. Before his retirement from full-time work, he was a writer and editor at Wayne State University where also for a time he taught English literature and composition. He has also taught at the University of Alaska near Fairbanks.

**TREASURER:**
Wendy Lyons, Midland
My work with FCIS—and particularly my passion for family-led home funerals—is a natural extension of the way I’ve lived my life. I’ve had two natural childbirths, one home birth, and I home-schooled two children from K-12 before sending them off to college. I have a journalism degree from Oakland University, and I currently work (for money) full time as an associate editor on two national business magazines.