



Organize, Communicate, Prepare

Case Study 2

How do you handle after-death choices? (Organ/Tissue Donations, Autopsy, Burial, Cremation)

Millie is 73 years old, and her health is rapidly failing. She wants to donate her organs to help someone else live a longer and healthier life. She also wants to be buried next to her second husband. Millie has three children—two from her first marriage and one from her second marriage. The child from her second marriage has passed on, leaving Millie a granddaughter, Jenny.

Millie knows that her two surviving children, Fred and Ethel, are not comfortable with the concept of organ donations and that they want her buried next to their father, Millie's first husband.

When Millie was admitted to the hospital, they gave her information about a [Health Care Power of Attorney](#). In reading the document, she sees that her health care agent is given the power to make anatomical gifts and authorize the disposal of her remains.

She trusts her granddaughter, Jenny, to make these decisions on her behalf, knowing that Jenny will follow her wishes. She signs the documents with the [appropriate witnesses and notary present](#) and makes Jenny her health care agent. She discusses her wishes with Jenny who agrees to make sure that her organs will be donated, if possible, and that she will be buried next to her second husband.

Will Jenny be able to carry out her grandmother's wishes? Take the quiz below to see how much you know about after-death choices and the Health Care Power of Attorney.

1. After signing the Health Care Power of Attorney, Millie did all that she could do to ensure that her organs would be donated at her death.

- True
 False

2. After Millie's death, Jenny will have first priority in deciding to donate Millie's organs and bury her next to her second husband.

- True
 False

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3. After Millie's death, her children, Fred and Ethel, will have the right to determine whether her organs are donated and where she is buried.

True

False

4. Whoever makes these decisions on Millie's behalf is legally bound to follow her oral wishes.

True

False

5. It depends upon whether Millie had said "yes" to organ donation on her driver's license.

True

False

6. If Millie were competent up to the time that she died, Jenny would not have had the authority to donate Millie's organs or arrange for her burial.

True

False

Adapted for use in the Legally Secure Your Financial Future program; prepared by [Carol A. Schwab](#), J.D., LL.M., former professor and Extension Specialist, NC State University.

Reviewed for Idaho use by Boise attorney, Robert Aldridge, 9/04

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Answers

**How do you handle after-death choices?
(Organ/Tissue Donations, Autopsy, Burial, Cremation)**

The following answers are based upon North Dakota law as of January 2006. The laws in other states may be different. Laws are subject to change, so please ask your attorney for answers to specific questions.

1. After signing the Health Care Power of Attorney, Millie did all she could do to ensure that her organs would be donated at her death.

ND answer: False

Millie could have also executed a Uniform Bodily Parts Donation Act Agreement.

2. After Millie's death, Jenny will have first priority in deciding to donate Millie's organs and bury her next to her second husband.

ND answer: True

The health care powers continue in existence for the donation. Burial, however, is under a different statute. If Millie executed a funeral burial document conforming to the statute, her wishes are more likely to be followed.

3. After Millie's death, her children, Fred and Ethel, will have the right to determine whether her organs are donated and where she is buried.

ND answer: False

However, This depends on what documents Millie had executed.

4. Whoever makes these decisions on Millie's behalf is legally bound to follow her oral wishes.

ND answer: False as to burial; True as to organ donations under the Health Care Power of Attorney.

5. It depends upon whether Millie had said "yes" to organ donation on her driver's license.

ND answer: False

6. If Millie were competent up to the time that she died, Jenny, her granddaughter, would not have had the authority to donate Millie's organs or arrange for her burial.

ND answer: False for organ donation; True for Millie's burial.

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Reviewed for North Dakota use by Paul Murphy, Attorney at Law, Murphy and Spahr Law Office PC, Carrington, ND, January 2006.

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This publication is provided as a public service and is designed to acquaint you with certain legal issues and concerns. It is based upon the laws of Idaho. It is not designed as a substitute for legal advice, nor does it tell you everything you may need to know about this subject. Future changes in the law cannot be predicted, and statements in this publication are based solely on the laws in force on the date of publication.

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