

HB0121S01 compared with HB0121

~~{deleted text}~~ shows text that was in HB0121 but was deleted in HB0121S01.

Inserted text shows text that was not in HB0121 but was inserted into HB0121S01.

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Representative Stephen G. Handy proposes the following substitute bill:

REGULATION OF ALKALINE HYDROLYSIS PROCESS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Funeral Services Licensing Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms, including "alkaline hydrolysis";
- ▶ authorizes the use of the alkaline hydrolysis process for the disposition of human remains;
- ▶ describes licensing and other requirements for a licensed funeral service establishment to use the alkaline hydrolysis process for the disposition of human remains; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

HB0121S01 compared with HB0121

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[26-4-2, as last amended by Laws of Utah 2011, Chapter 297](#)

58-9-102, as last amended by Laws of Utah 2013, Chapter 278

58-9-302, as last amended by Laws of Utah 2009, Chapter 183

58-9-601, as last amended by Laws of Utah 2013, Chapter 364

58-9-606, as enacted by Laws of Utah 2007, Chapter 144

58-9-611, as enacted by Laws of Utah 2008, Chapter 353

ENACTS:

58-9-613, Utah Code Annotated 1953

58-9-614, Utah Code Annotated 1953

58-9-615, Utah Code Annotated 1953

58-9-616, Utah Code Annotated 1953

58-9-617, Utah Code Annotated 1953

58-9-618, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

[Section 1. Section 26-4-2 is amended to read:](#)

26-4-2. Definitions.

As used in this chapter:

(1) "Dead body" is as defined in Section 26-2-2.

(2) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces, and includes death which appears to have been due to homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

HB0121S01 compared with HB0121

(3) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(4) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

(5) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(6) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(7) "Suicide" means death caused by an intentional and voluntary act of a person who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(8) "Unattended death" means the death of a person who has not been seen by a physician within the scope of the physician's professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

(9) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated; ~~(iv)~~

(iv) processed by alkaline hydrolysis; or

~~(v)~~ (v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(10) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

HB0121S01 compared with HB0121

Section ~~(1)~~2. Section 58-9-102 is amended to read:

58-9-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Alkaline hydrolysis" means a water-based dissolution process using alkaline chemicals, heat, and sometimes agitation or pressure that reduces human remains to a liquid and to dry bone residue and includes the disposal of the liquid and the processing and pulverization of the dry bone residue.

(2) "Alkaline hydrolysis chamber" means the enclosed space within which the alkaline hydrolysis process takes place and that is used exclusively for alkaline hydrolysis of human remains.

(3) "Alkaline hydrolysis container" means a container:

(a) in which human remains are transported to a funeral service establishment and placed in an alkaline hydrolysis chamber for resomation; and

(b) that meets substantially all of the following standards:

(i) able to be closed in order to provide a complete covering for the human remains;

(ii) resistant to leakage or spillage;

(iii) rigid enough for handling with ease; and

(iv) able to provide protection for the health, safety, and personal integrity of crematory personnel.

~~(1)~~ (4) "Authorizing agent" means a person legally entitled to authorize the cremation or the alkaline hydrolysis process of human remains.

~~(2)~~ (5) "Beneficiary" means the individual who, at the time of the individual's death, is to receive the benefit of the property and services purchased under a preneed funeral arrangement.

~~(3)~~ (6) "Board" means the Board of Funeral Service created in Section 58-9-201.

~~(4)~~ (7) "Body part" means:

(a) a limb or other portion of the anatomy that is removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research;

or

(b) a human body or any portion of a body that has been donated to science for medical research purposes.

HB0121S01 compared with HB0121

~~[(5)]~~ (8) "Buyer" means a person who purchases a preneed funeral arrangement.

~~[(6)]~~ (9) "Calcination" means a process in which a dead human body is reduced by intense heat to a residue that is not as substantive as the residue that follows cremation.

~~[(7)]~~ (10) "Cremated remains" means all the remains of a cremated body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

~~[(8)]~~ (11) "Cremation" means the technical process, using direct flame and heat, or a chemical process, that reduces human remains to bone fragments through heat and evaporation, or a chemical process, and includes the processing and usually the pulverization of the bone fragments.

~~[(9)]~~ (12) "Cremation chamber" means the enclosed space within which the cremation process takes place and which is used exclusively for the cremation of human remains.

~~[(10)]~~ (13) "Cremation container" means the container:

- (a) in which the human remains are transported to the crematory and placed in the cremation chamber for cremation; and
- (b) that meets substantially all of the following standards:
 - (i) composed of readily combustible or consumable materials suitable for cremation;
 - (ii) able to be closed in order to provide a complete covering for the human remains;
 - (iii) resistant to leakage or spillage;
 - (iv) rigid enough for handling with ease; and
 - (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

~~[(11)]~~ (14) "Crematory" means the building or portion of a building that houses the cremation chamber and the holding facility.

~~[(12)]~~ (15) "Direct disposition" means the disposition of a dead human body:

- (a) as quickly as law allows;
- (b) without preparation of the body by embalming; and
- (c) without an attendant funeral service or graveside service.

~~[(13)]~~ (16) "Disposition" means the final disposal of a dead human body by:

HB0121S01 compared with HB0121

- (a) earth interment;
- (b) above ground burial;
- (c) cremation;
- (d) calcination;
- (e) alkaline hydrolysis;
- ~~[(e)]~~ (f) burial at sea;
- ~~[(f)]~~ (g) delivery to a medical institution; or
- ~~[(g)]~~ (h) other lawful means.

~~[(14)]~~ (17) "Embalming" means replacing body fluids in a dead human body with preserving and disinfecting chemicals.

~~[(15)]~~ (18) (a) "Funeral merchandise" means any of the following into which a dead human body is placed in connection with the transportation or disposition of the body:

- (i) a vault;
 - (ii) a casket; or
 - (iii) other personal property.
- (b) "Funeral merchandise" does not include:

- (i) a mausoleum crypt;
- (ii) an interment receptacle preset in a cemetery; or
- (iii) a columbarium niche.

~~[(16)]~~ (19) "Funeral service" means a service, rite, or ceremony performed:

- (a) with respect to the death of a human; and
- (b) with the body of the deceased present.

~~[(17)]~~ (20) "Funeral service director" means an individual licensed under this chapter who may engage in all lawful professional activities regulated and defined under the practice of funeral service.

~~[(18)]~~ (21) (a) "Funeral service establishment" means a place of business at a specific street address or location licensed under this chapter that is devoted to:

(i) the embalming, care, custody, shelter, preparation for burial, and final disposition of dead human bodies; and

(ii) the furnishing of services, merchandise, and products purchased from the establishment as a preneed provider under a preneed funeral arrangement.

HB0121S01 compared with HB0121

(b) "Funeral service establishment" includes:

(i) all portions of the business premises and all tools, instruments, and supplies used in the preparation and embalming of dead human bodies for burial, cremation, alkaline hydrolysis, and final disposition as defined by division rule; and

(ii) a facility used by the business in which funeral services may be conducted.

~~[(19)]~~ (22) "Funeral service intern" means an individual licensed under this chapter who is permitted to:

(a) assist a funeral service director in the embalming or other preparation of a dead human body for disposition;

(b) assist a funeral service director in the cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body or its remains; and

(c) perform other funeral service activities under the supervision of a funeral service director.

~~[(20)]~~ (23) "Graveside service" means a funeral service held at the location of disposition.

~~[(21)]~~ (24) "Memorial service" means a service, rite, or ceremony performed:

(a) with respect to the death of a human; and

(b) without the body of the deceased present.

~~[(22)]~~ (25) "Practice of funeral service" means:

(a) supervising the receipt of custody and transportation of a dead human body to prepare the body for:

(i) disposition; or

(ii) shipment to another location;

(b) entering into a contract with a person to provide professional services regulated under this chapter;

(c) embalming or otherwise preparing a dead human body for disposition;

(d) supervising the arrangement or conduct of:

(i) a funeral service;

(ii) a graveside service; or

(iii) a memorial service;

(e) cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body

HB0121S01 compared with HB0121

or the body's remains;

(f) supervising the arrangement of:

(i) a disposition; or

(ii) a direct disposition;

(g) facilitating:

(i) a disposition; or

(ii) a direct disposition;

(h) supervising the sale of funeral merchandise by a funeral establishment;

(i) managing or otherwise being responsible for the practice of funeral service in a licensed funeral service establishment;

(j) supervising the sale of a preneed funeral arrangement; and

(k) contracting with or employing individuals to sell a preneed funeral arrangement.

~~[(23)]~~ (26) (a) "Preneed funeral arrangement" means a written or oral agreement sold in advance of the death of the beneficiary under which a person agrees with a buyer to provide at the death of the beneficiary any of the following as are typically provided in connection with a disposition:

(i) goods;

(ii) services, including:

(A) embalming services; and

(B) funeral directing services;

(iii) real property; or

(iv) personal property, including:

(A) a casket;

(B) another primary container;

(C) a cremation, alkaline hydrolysis, or transportation container;

(D) an outer burial container;

(E) a vault;

(F) a grave liner;

(G) funeral clothing and accessories;

(H) a monument;

(I) a grave marker; and

HB0121S01 compared with HB0121

(J) a cremation or alkaline hydrolysis urn.

(b) "Preneed funeral arrangement" does not include a policy or product of life insurance providing a death benefit cash payment upon the death of the beneficiary which is not limited to providing the products or services described in Subsection (23)(a).

~~[(24)]~~ (27) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation or the alkaline hydrolysis process to unidentifiable bone fragments by manual means.

~~[(25)]~~ (28) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation or alkaline hydrolysis and processing to granulated particles by manual or mechanical means.

(29) "Resomation" means the alkaline hydrolysis process.

~~[(26)]~~ (30) "Sales agent" means an individual licensed under this chapter as a preneed funeral arrangement sales agent.

~~[(27)]~~ (31) "Temporary container" means a receptacle for cremated or alkaline hydrolysis remains usually made of cardboard, plastic, or similar material designed to hold the cremated remains until an urn or other permanent container is acquired.

~~[(28)]~~ (32) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in Sections 58-1-501 and 58-9-501.

~~[(29)]~~ (33) "Unprofessional conduct" ~~[is as]~~ means the same as that term is defined in Sections 58-1-501 and 58-9-502.

~~[(30)]~~ (34) "Urn" means a receptacle designed to permanently encase ~~[the]~~ cremated or alkaline hydrolysis remains.

Section ~~(2)3~~. Section **58-9-302** is amended to read:

58-9-302. Qualifications for licensure.

(1) Each applicant for licensure as a funeral service director shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee as determined by the department under Section 63J-1-504;
- (c) be of good moral character in that the applicant has not been convicted of:
 - (i) a first or second degree felony;
 - (ii) a misdemeanor involving moral turpitude; or
 - (iii) any other crime that when considered with the duties and responsibilities of a

HB0121S01 compared with HB0121

funeral service director is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

(e) have obtained an associate degree, or its equivalent, in mortuary science from a school of funeral service accredited by the American Board of Funeral Service Education or other accrediting body recognized by the U.S. Department of Education;

(f) have completed not less than 2,000 hours and 50 embalmings, over a period of not less than one year, of satisfactory performance in training as a licensed funeral service intern under the supervision of a licensed funeral service director; and

(g) obtain a passing score on examinations approved by the division in collaboration with the board.

(2) Each applicant for licensure as a funeral service intern shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a funeral service intern is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

and

(e) obtain a passing score on an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a funeral service establishment and each funeral service establishment licensee shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have in place:

(i) an embalming room for preparing dead human bodies for burial or final disposition, which may serve one or more facilities operated by the applicant;

HB0121S01 compared with HB0121

(ii) a refrigeration room that maintains a temperature of not more than 40 degrees fahrenheit for preserving dead human bodies prior to burial or final disposition, which may serve one or more facilities operated by the applicant; and

(iii) maintain at all times a licensed funeral service director who is responsible for the day-to-day operation of the funeral service establishment and who is personally available to perform the services for which the license is required;

(d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service director if the funeral service establishment sells preneed funeral arrangements;

(e) file with the completed application a copy of each form of contract or agreement the applicant will use in the sale of preneed funeral arrangements; [~~and~~]

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product to be sold by the provider or the provider's sales agent[-]; and

(g) if the applicant intends to offer alkaline hydrolysis in a funeral service establishment, provide evidence that in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the funeral service establishment meets the minimum standards for the handling, holding, and processing of deceased human remains in a safe, clean, private, and respectful manner; and

(ii) all operators of the alkaline hydrolysis equipment have received adequate training.

(4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a preneed funeral sales agent is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

HB0121S01 compared with HB0121

(e) have obtained a passing score on an examination approved by the division in collaboration with the board;

(f) affiliate with a licensed funeral service establishment; and

(g) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product.

Section ~~{3}~~4. Section **58-9-601** is amended to read:

58-9-601. Advance directions.

(1) A person may provide written directions, acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502, to direct the preparation, type, and place of the person's disposition, including:

(a) designating a funeral service establishment;

(b) providing directions for burial arrangements; [~~or~~]

(c) providing directions for cremation arrangements[~~;~~]; or

(d) providing directions for alkaline hydrolysis arrangements.

(2) A funeral service director shall carry out the written directions of the decedent prepared under this section to the extent that:

(a) the directions are lawful; and

(b) the decedent has provided resources to carry out the directions.

(3) Directions for disposition contained in a will shall be carried out pursuant to Subsection (2) regardless of:

(a) the validity of other aspects of the will; or

(b) the fact that the will may not be offered or admitted to probate until a later date.

(4) A person may change or cancel written directions prepared under this section at any time prior to the person's death by providing written notice to all applicable persons, including:

(a) if the written directions designate a funeral service establishment or funeral service director, the funeral service establishment or funeral service director designated in the written directions; and

(b) if the written directions are contained in a will, the personal representative as defined in Section 75-1-201.

Section ~~{4}~~5. Section **58-9-606** is amended to read:

HB0121S01 compared with HB0121

58-9-606. Right to rely -- Immunity.

(1) A person signing a funeral service agreement, cremation authorization form, alkaline hydrolysis authorization form, or other authorization for a decedent's disposition warrants the truthfulness of the facts set forth in the document, including the identity of the decedent and the person's authority to order the disposition.

(2) A funeral service establishment has the right to rely on a contract or authorization executed under Subsection (1) and may carry out the instructions of the person whom its funeral service director reasonably believes holds the right of disposition.

(3) A funeral service director incurs no civil or criminal liability for failure to contact or independently investigate the existence of any next-of-kin or relative of the decedent.

(4) If there are at least two persons in the nearest class of the next-of-kin who are equal in priority and a funeral service director has no knowledge of an objection by other members of the class, the funeral service director may rely on and act according to the instructions of the first person in the class to make funeral and disposition arrangements.

(5) A funeral service establishment or funeral service director who relies in good faith on the instructions of a person claiming the right of disposition under this part is immune from civil and criminal liability and disciplinary action in carrying out the disposition of a decedent's remains in accordance with that person's instructions.

Section ~~58-9-606~~6. Section **58-9-611** is amended to read:

58-9-611. Disposition of cremated remains.

(1) (a) An authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the final disposition of the cremated remains, if known.

(b) The funeral services establishment shall retain a copy of the statement.

(2) (a) The authorizing agent is responsible for the disposition of the cremated remains.

(b) If the authorizing agent or the agent's representative has not specified the ultimate disposition of or claimed the cremated remains within 60 days from the date of the cremation, the funeral service establishment may dispose of the remains in any manner permitted by law, except scattering.

(c) The authorizing agent shall reimburse the funeral services establishment for all reasonable costs incurred in disposing of the cremated remains under Subsection (2)(b).

HB0121S01 compared with HB0121

(d) The person or entity disposing of cremated remains under this section:

(i) shall make and keep a record of the disposition of the remains; and

(ii) is discharged from any legal obligation or liability concerning the remains once the disposition has been made.

(e) Subsection (2)(d)(ii) applies to cremated remains in the possession of a funeral services establishment or other responsible party as of May 5, 2008, or any time after that date.

(3) (a) An authorizing agent may direct a funeral service establishment to dispose of or arrange for the disposition of cremated remains:

(i) in a crypt, niche, grave, or scattering garden located in a dedicated cemetery;

(ii) by scattering [~~them over inhabited~~] the cremated remains over uninhabited public land, the sea, or other public waterways subject to health and environmental laws and regulations; or

(iii) in any manner on the private property of a consenting owner.

(b) If cremated remains are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the funeral service establishment with the written consent of the property owner prior to disposal of the remains.

(c) In order to scatter cremated remains under Subsection (3)(a)(ii) or (iii), the remains must be reduced to a particle size of one-eighth inch or less and removed from their closed container.

(4) A funeral service establishment may not release cremated remains for scattering under this section to the authorizing agent or the agent's designated representative until the funeral service establishment is given a receipt that shows the proper filing has been made with the local registrar of births and deaths.

Section ~~6~~7. Section **58-9-613** is enacted to read:

58-9-613. Authorization for alkaline hydrolysis -- Penalties for removal of items from human remains.

(1) Except as otherwise provided in this section, a funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment has received:

(a) an alkaline hydrolysis authorization form signed by an authorizing agent;

(b) a completed and executed burial transit permit or similar document, as provided by

HB0121S01 compared with HB0121

state law, indicating that disposition of the human remains is to be by alkaline hydrolysis; and

(c) any other documentation required by the state, county, or municipality.

(2) (a) The alkaline hydrolysis authorization form shall contain, at a minimum, the following information:

(i) the identity of the human remains and the time and date of death, including a signed declaration of visual identification of the deceased or refusal to visually identify the deceased;

(ii) the name of the funeral director and funeral service establishment that obtained the alkaline hydrolysis authorization;

(iii) notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health;

(iv) the name of the authorizing agent and the relationship between the authorizing agent and the decedent;

(v) a representation that the authorizing agent has the right to authorize the disposition of the decedent by alkaline hydrolysis and that the authorizing agent is not aware of any living person with a superior or equal priority right to that of the authorizing agent, except that if there is another living person with a superior or equal priority right, the alkaline hydrolysis authorization form shall contain a representation that the authorizing agent has:

(A) made reasonable efforts to contact that person;

(B) been unable to do so; and

(C) no reason to believe that the person would object to the disposition of the decedent by alkaline hydrolysis;

(vi) authorization for the funeral service establishment to use alkaline hydrolysis for the disposition of the human remains;

(vii) the name of the person authorized to receive the human remains from the funeral service establishment;

(viii) the manner in which the final disposition of the human remains is to take place, if known;

(ix) a listing of each item of value to be delivered to the funeral service establishment along with the human remains, and instructions as to how each item should be handled;

(x) the signature of the authorizing agent, attesting to the accuracy of all

HB0121S01 compared with HB0121

representations contained on the alkaline hydrolysis authorization form;

(xi) if the alkaline hydrolysis authorization form is being executed on a preneed basis, the disclosure required for preneed programs under this chapter; and

(xii) except for a preneed alkaline hydrolysis authorization, the signature of the funeral director of the funeral service establishment that obtained the alkaline hydrolysis authorization.

(b) (i) The person referred to in Subsection (2)(a)(xii) shall execute the alkaline hydrolysis authorization form as a witness and is not responsible for any of the representations made by the authorizing agent.

(ii) The funeral director or the funeral service establishment shall warrant that the human remains delivered to the funeral service establishment have been positively identified by the authorizing agent or a designated representative of the authorizing agent as the decedent listed on the alkaline hydrolysis authorization form.

(iii) The authorizing agent or the agent's designee may make the identification referred to in Subsection (2)(b)(ii) in person or by photograph.

(3) (a) A funeral service establishment may not accept unidentified human remains for alkaline hydrolysis.

(b) If a funeral service establishment takes custody of an alkaline hydrolysis container subsequent to the human remains being placed within the container, the funeral service establishment can rely on the identification made before the remains were placed in the container.

(c) The funeral service establishment shall place appropriate identification on the exterior of the alkaline hydrolysis container based on the prior identification.

(4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos from human remains:

(i) with purpose to deprive another over control of the property is guilty of an offense and subject to the punishments provided in Section 76-6-412;

(ii) with purpose to exercise unauthorized control and with intent to temporarily deprive another of control over the property is guilty of an offense and subject to the punishments provided in Section 76-6-404.5; and

(iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without specific written permission of the individual who has the right to control those remains is guilty

HB0121S01 compared with HB0121

of a class B misdemeanor.

(b) The fact that residue or any unavoidable dental gold or dental silver or other precious metals remain in alkaline hydrolysis equipment or a container used in a prior alkaline hydrolysis process is not a violation of Subsection (4)(a).

Section ~~77~~8. Section **58-9-614** is enacted to read:

58-9-614. Recordkeeping.

(1) (a) A funeral service establishment shall furnish to the person who delivers human remains to the establishment for alkaline hydrolysis a receipt signed by a representative of the establishment and the person making the delivery, showing:

(i) the date and time of the delivery;

(ii) the type of casket or alternative container delivered;

(iii) the name of the person from whom the human remains were received;

(iv) the name of the funeral establishment or other entity with whom the person making the delivery is affiliated;

(v) the name of the person who received the human remains on behalf of the funeral service establishment; and

(vi) the name of the decedent.

(b) The funeral service establishment shall keep a copy of the receipt in the funeral service establishment's permanent records for a period of seven years.

(2) (a) Upon release of human remains after alkaline hydrolysis, a funeral service establishment shall furnish to the person who receives the human remains a receipt signed by a representative of the funeral service establishment and the person who receives the human remains, showing:

(i) the date and time of the release;

(ii) the name of the person to whom the human remains were released; and

(iii) if applicable:

(A) the name of the funeral establishment, cemetery, or other entity with whom the person receiving the human remains is affiliated;

(B) the name of the person who released the human remains on behalf of the funeral service establishment; and

(C) the name of the decedent.

HB0121S01 compared with HB0121

(b) (i) The receipt shall contain a representation from the person receiving the human remains confirming that the remains will not be used for any improper purpose.

(ii) Upon release of the human remains, the person to whom the human remains were released may transport the human remains in any manner in the state, without a permit, and dispose of the human remains in accordance with this chapter.

(c) The funeral service establishment shall retain a copy of the receipt in the funeral service establishment's permanent records for a period of seven years.

(3) (a) The funeral service establishment shall maintain at the funeral service establishment's place of business a permanent record of each disposition by alkaline hydrolysis that took place at the funeral service establishment.

(b) The permanent record shall contain:

(i) the name of the decedent;

(ii) the date of disposition by alkaline hydrolysis;

(iii) the final disposition of the human remains; and

(iv) any other document required by this chapter.

Section ~~8~~9. Section **58-9-615** is enacted to read:

58-9-615. Accepting remains for alkaline hydrolysis.

(1) A funeral service establishment may not make or enforce a rule requiring that human remains be placed in a casket before alkaline hydrolysis.

(2) A funeral service establishment may not refuse to accept human remains for alkaline hydrolysis because the human remains are not in a casket.

Section ~~9~~10. Section **58-9-616** is enacted to read:

58-9-616. Procedure for alkaline hydrolysis.

(1) A funeral service establishment may not perform alkaline hydrolysis on human remains until the funeral service establishment:

(a) completes and files a death certificate with the Office of Vital Statistics and the county health department as indicated on the regular medical certificate of death or the coroner's certificate; and

(b) complies with the provisions of Section 26-4-29.

(2) While human remains are in the area where alkaline hydrolysis takes place, both before and during the alkaline hydrolysis process and while being removed from the alkaline

HB0121S01 compared with HB0121

hydrolysis chamber, only authorized persons are permitted in the area.

(3) Simultaneous alkaline hydrolysis of the human remains of more than one person within the same alkaline hydrolysis chamber is not allowed.

(4) A funeral service establishment shall:

(a) verify the identification of human remains as indicated on an alkaline hydrolysis container immediately before performing alkaline hydrolysis;

(b) attach an identification tag to the alkaline hydrolysis container;

(c) remove the identification tag from the alkaline hydrolysis container; and

(d) place the identification tag near the alkaline hydrolysis chamber where the identification tag shall remain until the alkaline hydrolysis process is complete.

(5) Upon completion of the alkaline hydrolysis process, the funeral service establishment shall:

(a) dispose of liquid remains in accordance with state and local requirements;

(b) to the extent possible, remove all of the recoverable residue of the remains of the alkaline hydrolysis process from the alkaline hydrolysis chamber;

(c) separate all other residue from the alkaline hydrolysis process from remaining bone fragments, to the extent possible, and process the bone fragments so as to reduce them to unidentifiable particles; and

(d) remove anything other than the unidentifiable bone particles from the remains of the alkaline hydrolysis process, to the extent possible, and dispose of that material.

(6) (a) A funeral service establishment shall pack the remains of the alkaline hydrolysis process, which consist of the unidentifiable bone particles and the identification tag described in Subsection (4), in an urn or temporary container ordered by the authorizing agent.

(b) The urn or temporary container shall be packed in clean packing materials and not be contaminated with any other object, unless otherwise directed by the authorizing agent.

(c) If the remains of the alkaline hydrolysis process cannot fit within the designated urn or temporary container, the funeral service establishment shall:

(i) return the excess remains to the authorizing agent or the agent's representative in a separate urn or temporary container; and

(ii) mark both urns or temporary containers on the outside with the name of the decedent and an indication that the remains of the named decedent are in both urns or

HB0121S01 compared with HB0121

temporary containers.

(7) (a) If the remains are to be shipped, the funeral service establishment shall pack the designated temporary container or urn in a suitable, sturdy container.

(b) The funeral service establishment shall have the remains shipped only by a method that:

(i) has an available tracking system; and

(ii) provides a receipt signed by the person accepting delivery.

Section ~~10~~11. Section **58-9-617** is enacted to read:

58-9-617. Final disposition of remains from the alkaline hydrolysis process.

(1) (a) An authorizing agent shall provide the person with whom alkaline hydrolysis arrangements are made with a signed statement specifying the final disposition of the remains from the alkaline hydrolysis process, if known.

(b) The funeral service establishment shall retain a copy of the statement.

(2) (a) The authorizing agent is responsible for the final disposition of the remains from the alkaline hydrolysis process.

(b) If the authorizing agent or the agent's representative has not specified the ultimate disposition of or claimed the remains from the alkaline hydrolysis process within 60 days from the date of the alkaline hydrolysis process, the funeral service establishment may dispose of the remains in any manner permitted by law, except scattering.

(c) The authorizing agent shall reimburse the funeral service establishment for all reasonable costs incurred in disposing of the remains from the alkaline hydrolysis process under Subsection (2)(b).

(d) The person or entity disposing of remains from the alkaline hydrolysis process under this section:

(i) shall make and keep a record of the final disposition of the remains; and

(ii) is discharged from any legal obligation or liability concerning the remains once the final disposition has been made.

(3) (a) An authorizing agent may direct a funeral service establishment to dispose of or arrange for the final disposition of remains from the alkaline hydrolysis process:

(i) in a crypt, niche, grave, or scattering garden located in a dedicated cemetery;

(ii) by scattering the remains over uninhabited public land, the sea, or other public

HB0121S01 compared with HB0121

waterways subject to health and environmental laws and regulations; or

(iii) in any manner on the private property of a consenting owner.

(b) If remains from the alkaline hydrolysis process are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the funeral service establishment with the written consent of the property owner before disposal of the remains.

(c) In order to scatter remains from the alkaline hydrolysis process under Subsection (3)(a)(ii) or (iii), the remains must be reduced to a particle size of one-eighth inch or less and removed from the remains' closed container.

(4) Under this section, a funeral service establishment may not release remains from the alkaline hydrolysis process to the authorizing agent or the agent's designated representative for scattering until the funeral service establishment is given a receipt that shows the proper filing has been made with the local registrar of births and deaths.

Section ~~{11}~~12. Section **58-9-618** is enacted to read:

58-9-618. Limitation of liability.

(1) An authorizing agent who signs an alkaline hydrolysis authorization form warrants the truthfulness of the facts set forth on the form, including:

(a) the identity of the deceased whose remains are to undergo the alkaline hydrolysis process; and

(b) the authorizing agent's authority to order the alkaline hydrolysis process.

(2) A funeral service establishment may rely upon the representations made by an authorizing agent under Subsection (1).

(3) The authorizing agent is personally and individually liable for all damage resulting from a misstatement or misrepresentation made under Subsection (1).

(4) (a) A funeral service establishment may arrange for the alkaline hydrolysis process upon receipt of an alkaline hydrolysis authorization form signed by an authorizing agent.

(b) A funeral service establishment that arranges the alkaline hydrolysis process or releases or disposes of human remains from the alkaline hydrolysis process pursuant to an alkaline hydrolysis authorization form is not liable for an action the funeral service establishment takes pursuant to that authorization.

(5) A funeral service establishment is not responsible or liable for any valuables

HB0121S01 compared with HB0121

delivered to the establishment with human remains.

(6) A funeral service establishment may refuse to arrange for the alkaline hydrolysis process of a decedent, to accept human remains for the alkaline hydrolysis process, or to perform the alkaline hydrolysis process:

(a) if the establishment is aware of a dispute concerning the disposition of the human remains and the funeral service establishment has not received a court order or other suitable confirmation that the dispute has been resolved;

(b) if the establishment has a reasonable basis for questioning any of the representations made by an authorizing agent; or

(c) for any other lawful reason.

(7) (a) If a funeral service establishment is aware of a dispute concerning the release or disposition of remains from the alkaline hydrolysis process in the funeral service establishment's possession, the establishment may refuse to release the remains until:

(i) the dispute has been resolved; or

(ii) the funeral service establishment has received a court order authorizing the release or disposition of the remains.

(b) A funeral service establishment is not liable for its refusal to release or dispose of remains from the alkaline hydrolysis process in accordance with this Subsection (7).

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Legislative Review Note

Office of Legislative Research and General Counsel