



Advisory Committee
May 21, 2019

DRAFT LANGUAGE
LICENSURE AND REGULATION OF ALKALINE HYDROLYSIS

(1) Amend Section 2310 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2310. Regulatory Charge

(a) The annual regulatory charge to be paid by every cemetery authority operating a cemetery under the Act is fixed at the sum of four hundred dollars (\$400). An additional quarterly charge of eight dollars and fifty cents (\$8.50) for each burial, entombment, or inurnment made during the preceding quarter shall be paid to the Bureau. If the cemetery authority performs a burial, entombment, or inurnment, and the cremation or hydrolysis was performed at a crematory or hydrolysis facility located on the grounds of the cemetery and under common ownership with the cemetery authority, the total of all additional charges shall be eight dollars and fifty cents (\$8.50).

(b) The annual regulatory charge to be paid by every licensed crematory is fixed at the sum of four hundred dollars (\$400). An additional quarterly charge of eight dollars and fifty cents (\$8.50) for each cremation made during the preceding quarter shall be paid to the Bureau.

(c) The annual regulatory charge to be paid by every licensed hydrolysis facility is fixed at the sum of one thousand dollars (\$1000). An additional quarterly charge of eight dollars and fifty cents (\$8.50) for each hydrolysis made during the preceding quarter shall be paid to the Bureau.

Note: Authority cited: Sections ~~9630~~ 7606, 7712.10, 7730.10 and ~~9765~~ 7730.11, Business and Professions Code. Reference cited: Sections ~~9765~~ 7730.10, 7712.9 and ~~9786~~ 7730.11, Business and Professions Code.

(2) Amend Section 2311 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2311. Filing Fee

(a) An initial filing fee of four hundred dollars (\$400) shall accompany an original application for a certificate of authority to operate a cemetery. In the event the expenses

of the bureau's investigation, computed at the rate of one hundred dollars (\$100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars (\$900).

(b) An initial filing fee of four hundred dollars (\$400) shall accompany an original application for a crematory license. In the event the expenses of the bureau's investigation, computed at the rate of one hundred dollars (\$100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed nine hundred dollars (\$900).

(c) An initial filing fee of one thousand dollars (\$1000) shall accompany an original application for a hydrolysis facility. In the event the expenses of the bureau's investigation, computed at the rate of one hundred dollars (\$100) per day per person, shall exceed this amount, the applicant shall, within five (5) days after request therefore, deposit such additional sums as deemed necessary by the bureau provided that the total sum shall not exceed fifteen hundred dollars (\$1500).

Note: Authority cited: Sections ~~9630, 9717~~ 7706, 7639.04, 7730.11 and 9783 7653, Business and Professions Code. Reference cited: Sections ~~9717 7653 and 9783 7712.5~~, Business and Professions Code.

(3) Add Section 2326.05 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.05. Application for Hydrolysis Facility License

Application for a hydrolysis facility license shall be filed on bureau form 23-HF (01/20), Application for Hydrolysis Facility License, which is hereby incorporated by reference, at the principal office of the bureau. In addition to the payment of the fees required by section 2311 of these rules, each application shall be accompanied by the following:

(a) A copy of:

(1) Articles of Incorporation, if a corporation, certified by the Secretary of State, or partnership agreement, if a partnership.

(2) Land use or zoning permit certified by the city or county.

(3) Permit to operate a hydrolysis facility issued by the local department of public health.

(4) Deed, lease or other instrument which provides the applicant with the right to possess and use the property where the business will be located.

(5) Approval of hydrolysis chamber issued by State Department of Public Health.

(b) A statement signed by the applicant if the applicant is an individual; signed by the majority and verified by one (1) of the directors, if the applicant is a corporation; or signed and verified by a majority of the partners, if applicant is a partnership, which statement shall set forth:

(1) A complete and detailed financial statement showing assets, liabilities, and reserves.

(2) A statement of proposed plan of operation which shall include the type of selling.

(3) A full, true, and complete copy of the standard agreement which will be used for funding of prearranged hydrolysis.

(c) Plans and specifications of the hydrolysis facility and building, which must be sufficient to allow the bureau to determine, among other things:

(1) Adequacy of storage for hydrolyzed and unhydrolyzed remains.

(2) Such other matters as the bureau may require by written notice to the applicant.

Note: Authority cited: Sections 7606 and 7639.04, Business and Professions Code. Reference: Sections 7639, 7639.04, 7639.06, and 7639.08, Business and Professions Code.

(4) Amend section 2326.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.1. Managers

(a) Each cemetery for which a new certificate of authority is required shall be operated under the supervision of a cemetery manager qualified as such by the bureau. If the applicant for a new certificate of authority is a limited liability company, the cemetery manager shall not have an ownership interest as a member of the limited liability company.

(1) The applicant for a new certificate of authority, in addition to the requirements of section 2326, will designate the cemetery manager. There shall be submitted with the application a written statement from the cemetery manager demonstrating that he or she has two (2) years' experience in the cemetery business, or equivalent experience, which experience shall be commensurate with the size, type, and scope of the proposed activities of the cemetery authority. Additional cemetery managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the cemetery manager in the event of death, resignation, disability, voluntary surrender of license, or other inability to perform the required duties, as provided for in Business and Professions Code section 7653.6.

(b) Each crematory for which a crematory license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Additional crematory managers who have been qualified and examined by the bureau may be designated by the applicant and can succeed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided for in Business and Professions Code section 7713.

(c) Each hydrolysis facility for which a hydrolysis facility license is required shall be operated under the supervision of a crematory manager designated by the applicant and qualified as such by the bureau. Additional crematory managers who have been qualified and certified by the bureau may be designated by the applicant and can succeed the crematory manager in the event of death, resignation, disability, or other inability to perform the required duties, as provided for in Business and Professions Code section 7712.11.

(1) For the purpose of subsection (c) certification shall mean a written statement from the hydrolysis manufacturer demonstrating that the crematory manager has received the proper training for the operation of the hydrolysis chamber and the proposed activities of the licensed hydrolysis facility.

Note: Authority cited: Sections 7606 and 7653, Business and Professions Code.
Reference: Sections 7613.4, 7613.5, 7652.8, 7653, 7653.6, 7712.10, 7712.11 and 7713, Business and Professions Code.

(5) Add Section 2329.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2329.1 Abandonment of Application for Hydrolysis Facility License

An application shall be deemed abandoned and all fees previously paid shall be deemed forfeited if the applicant for a hydrolysis facility license refuses or fails to

comply with the provisions of Section 2326.05 within one (1) year from the date of written notification by the bureau of the documents or information required to be submitted. The applicant shall be notified in writing of such action. Any application so abandoned may not be reinstated; however, the applicant may file a new application accompanied by the required fees and documents.

Note: Authority cited: Section 142 and 7606, Business and Professions Code.
Reference: Sections 142, 7639.04, 7639.06 and 7652.10, Business and Professions Code.

(6) Amend section 2339 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2339. Form and Content of Crematory and Hydrolysis Contracts

(a) Pursuant to Sections ~~9784~~ 7639.10 and 7712.6 of the Code, every contract shall be in writing and shall contain all of the agreements of the parties. Such a contract shall clearly state the following:

- (1) The total contract price.
- (2) Terms of payment.
- (3) An itemized statement of charges including, as applicable, the following:
 - (A) Charges for preparation of the body.
 - (B) Charges for storage.
 - (C) Charges for permits.
 - (D) Charges for cremation or hydrolysis and disposition.
 - (E) Charges for transportation.
 - (F) Any other charges, which shall be particularized.

(b) Any contract, arrangement or plan for the prearrangement of cremation or cremation services or hydrolysis or hydrolysis services shall provide in sufficient detail the manner in which funds paid on account of such arrangements are to be handled including, but not limited to, the following:

(1) The name or names of the persons, firm or entity with custodial responsibility for such funds.

(2) The manner in which such funds and earnings thereon are held.

(3) A provision that any such prearrangement is wholly revocable at any time and that the person establishing such arrangement may recover funds and earnings thereon. Such funds, less an amount not to exceed ten (10) percent of the earned income as a revocation fee, shall be furnished to the person establishing such arrangement within fifteen (15) days of receipt of a notice of revocation as provided in the prearrangement contract.

Note: Authority cited: Sections ~~9630~~ 7606 and 7639.08, Business and Professions Code. Reference: Sections ~~9784~~ 7639.10 and 7712.6, Business and Professions Code.

(7) Amend Section 2340 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2340. Maintenance of Records

(a) Each crematory licensee, each licensed hydrolysis facility, and each holder of a certificate of authority who operates a crematory or a hydrolysis facility shall keep a record of all remains cremated or hydrolyzed and such record shall contain the following:

(1) Name and address, if known, of the deceased.

(2) Date burial permit was issued.

(3) County issuing burial permit.

(4) Name, address, and relationship of person or persons authorizing cremation or hydrolysis and disposition.

(5) Date of the contract for cremation or hydrolysis.

(6) Date, time, and place remains were picked up or received by the licensee.

(7) Date and time of cremation or hydrolysis.

(8) Date, time, place, and type of disposition of the cremated remains or hydrolyzed remains, or name of person or entity to whom the cremated remains or hydrolyzed remains were released.

(b) Upon abandonment of the license or termination of licensure, records required by this section shall be turned over to a cemetery approved by the bureau or to the bureau.

(c) This section shall not be interpreted to require the holder of a certificate of authority to maintain a separate set of records pertaining to cremations or hydrolysis.

Note: Authority cited: Section ~~9630~~ 7606, Business and Professions Code. Reference: Sections ~~9719~~ 7653.1 and ~~9785~~ 7712.8, Business and Professions Code; and Section 8374, Health and Safety Code.

(8) Amend Section 2351 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2351. Crematory or Hydrolysis Facility Report

Each crematory and hydrolysis facility licensee shall file annually with the bureau a written report on the form prescribed by the bureau setting forth:

- (a) Total number of cremations or hydrolysis made.
- (b) Disposition of cremations or hydrolysis indicating the number which were:
 - (1) Burials at sea.
 - (2) Released to a cemetery authority.
 - (3) Released to the person or persons who authorized cremation or hydrolysis.
 - (4) Other dispositions (describe).
- (c) The amount collected and funded for prearranged cremations or hydrolysis.
- (d) The amount of funds invested in each of the investments authorized by Section 8778 of the Health and Safety Code.

(e) Each annual report by a crematory or hydrolysis facility licensee accepting funds for prearranged cremations or hydrolysis shall be accompanied by a financial statement prepared by an independent licensed certified public accountant or public accountant.

(f) Each annual report by a hydrolysis facility licensee shall also include records of the annual maintenance performed in the preceding year on the hydrolysis chamber.

Note: Authority cited: Sections ~~9630~~ 7606, 7639.06 and ~~9783~~ 7712.5, Business and Professions Code. Reference cited: Sections ~~9785~~ 7639.06 and 7712.8, Business and Professions Code; and Section 8376, Health and Safety Code.

(9) Amend Section 2370 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2370. Special Trusts

Trusts established for burial purposes pursuant to Section 8775 of the Health and Safety Code including cremation, hydrolysis, or other commodities or services furnished at the time of and in connection with such cremation, hydrolysis, or interment are under the supervision of the bureau and must comply with the following requirements:

(a) All moneys paid directly or indirectly and all securities delivered under the trust agreement or any agreement collateral thereto shall constitute the “trust corpus.”

(b) None of the trust corpus shall be used for payment of commission or other expenses of trust administration.

(c) The trust agreement shall specifically set forth any expenses to be charged to the trustor out of income to the trust or any portion of the trust corpus to be retained by the trustees or cemetery authority upon revocation and a copy thereof shall be delivered to the trustor; provided, however, such revocation fee to be retained by the trustee or cemetery authority shall not exceed ten (10) percent of the trust corpus.

(d) Other than as provided in Subsection (c) hereof, the trust income shall be used solely for the purposes authorized by Section 8775 of the Health and Safety Code.

(e) Unless specific property or securities are placed in trust by the trustor, investments of these funds shall be in investments authorized by law -for example, as authorized by Health and Safety Code Sections 8751 and 8751.1 as well as Civil Code Sections 2228 through 2239 and 2261.

Note: Authority cited: Section ~~9630~~ 7606, Business and Professions Code. Reference: Section 8775, Health and Safety Code.