

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. CEMETERY AND FUNERAL BUREAU
PROPOSED REGULATORY LANGUAGE
LICENSURE AND REGULATION OF REDUCTION FACILITIES

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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Amend Section 2302 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

- (a) For the purpose of the rules and regulations contained in this chapter, the term “bureau” means the Cemetery and Funeral Bureau; the term “Code” means Business and Professions Code; and the term “Act” means the Cemetery Act.
- (b) For the purpose of cemetery section development or modification after January 1, 1990, the term “development” means the creation of new interment spaces through the construction of a mausoleum, columbarium, or an in-ground interment section (excluding private mausoleums and/or columbariums) and the term “modification” means the addition, deletion or reconfiguration of interment spaces within an existing cemetery section, mausoleum, and/or columbarium.
- (c) For the purpose of reduced human remains, pursuant to Section 7010.3 (b), of the Health and Safety Code, “processing” means the removal of foreign objects, pursuant to Section 7051, and any necessary preparation for the reduced human remains to be integrated into the soil. For the purpose of this section, “any necessary preparation” shall include but not be limited to reduction of the particle size of reduced human remains by mechanical means, including, but not limited to, grinding, crushing, and pulverizing to a consistency appropriate to be integrated into soil.
- (d) Pursuant to Section 7051.5 of the Health and Safety Code, “The fact that residue and any unavoidable dental gold or dental silver, or other precious metals remain in the cremation chamber, reduction chamber, hydrolysis chamber, or other equipment or a container used in a prior cremation, reduction, or hydrolysis is not a violation of this section.” For purposes of this section, “residue” means reduced human soil, bone fragments, prostheses, and disintegrated material resulting from the reduction process that cannot be removed through reasonable manual contact using sweeping or scraping

equipment. Material remaining in the chamber after completion of the reduction process that can be reasonably removed shall not be considered residue.

NOTE: Authority cited: Sections ~~9630-7606~~ and ~~9631-7610.1~~, Business and Professions Code and Sections 7010.3 and 7051.5, Health and Safety Code. Reference: Sections 8550(d), 7010.3, and 7051.5 Health and Safety Code.

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 seven hundred and fifty dollars (\$750). An additional quarterly charge of eleven dollars and fifty cents (\$11.50) 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 seven hundred and fifty dollars (\$750). An additional quarterly charge of eleven dollars and fifty cents (\$11.50) 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 nine hundred dollars (\$900). An additional quarterly charge of eleven dollars and fifty cents (\$11.50) for each hydrolysis made during the preceding quarter shall be paid to the bureau.

(1) Each hydrolysis facility shall submit to the bureau annual maintenance records of the hydrolysis chamber for the preceding year with the annual renewal application. The hydrolysis facility license shall not be renewed without proof of annual maintenance of the hydrolysis chamber.

(2) Each hydrolysis facility that discharges hydrolysate to a sewer collection system shall submit to the bureau the current Department of Public Health evaluation with the annual renewal application pursuant to Business and Professions Code section 7639.08(e). The hydrolysis facility license shall not be renewed without proof of the evaluation.

(d) The bureau shall not renew the license of any cemetery authority, crematory, ~~or hydrolysis, or reduction~~ facility that has failed to pay the quarterly regulatory charge prescribed under this section.

(e) The annual regulatory charge to be paid by every licensed reduction facility is fixed at the sum of one thousand dollars (\$1,000). An additional fee of eight dollars and fifty cents (\$8.50) for each reduction made during the preceding quarter shall be paid to the Bureau. For the purpose of this section, "additional fee" also refers to the quarterly regulatory charge prescribed in this section.

(f) Each reduction facility shall submit to the Bureau annual maintenance records of each of the reduction chambers in use for the preceding year with the annual renewal application. The reduction facility license shall not be renewed without proof of annual maintenance of the reduction chambers.

Note: Authority cited: Sections 7606, 7639.08, ~~and 7712.5, and 7730.12~~, Business and Professions Code. Reference cited: Sections 7639.06, 7639.08, 7712.9, 7730.10, ~~and 7730.11, and 7730.12~~, Business and Professions Code.

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 seven hundred and fifty dollars (\$750) 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 seven hundred and fifty dollars (\$750) 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 nine hundred dollars (\$900) shall accompany an original application for a hydrolysis facility.

(d) An initial filing fee of one thousand dollars (\$1,000) shall accompany an original application for a reduction facility.

Note: Authority cited: Sections 7606, 7653, ~~and 7712.5~~, and 7730.12, Business and Professions Code. Reference cited: Sections 7653, 7712.5, ~~and 7730.11~~, and 7730.12, Business and Professions Code.

Add Section 2326.06 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2326.06. Application for Reduction Facility License

(a) An application for a reduction facility license shall be filed on Bureau form RF-23 (New 1/27), "Application for Reduction Facility License", which is hereby incorporated by reference, at the principal office of the Bureau. In addition to the payment of the filing fees required by section 2311(d) of Title 16 of the California Code of Regulations, each application shall be accompanied by a copy of all of the following:

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

(2) Land use or zoning permit certified by the city or county for the land proposed to be used by the applicant for the location of the reduction facility.

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

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

(5) Approval of reduction chamber issued by the California Department of Public Health.

(6) Written contract with a licensed cemetery for final disposition of reduced remains that are in its possession within 90 days of the date of death.

(7) Written contract with, or ownership of, a conservation area, as defined in Health and Safety Code 7054.5, where the reduction facility may lawfully integrate the reduced human remains into the soil. The facility may integrate into the soil any reduced human remains that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.

(b) A signed and certified statement by the individual if the applicant is an individual, by the chief executive officer and one of the directors of the corporation if the applicant is a corporation, by both partners if the partnership has no more than two partners, or the majority of partners if the applicant is a partnership with more than two partners. Each 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 services proposed to be sold by the facility.

(3) A complete and accurate copy of the standard agreement the applicant proposes to use for funding of prearranged reductions.

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

(1) Amount of storage for reduced and unreduced remains.

(2) The relative placement of structures and equipment in the reduction facility.

Note: Authority cited: Section 7606, 7714, 7714.1, 7714.3 and 7730.12 Business and Professions Code. Reference: Sections 7714, 7714.1, and 7714.3, and 7730.12, Business and Professions Code.

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. Each report of change of designation of a crematory manager submitted shall comply with section 2317.2 of Title 16 of the California Code of Regulations. 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 in Business and Professions Code section 7712.11. For the purpose of certifying a crematory manager pursuant to this subdivision, the bureau shall require a written statement from the hydrolysis chamber 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.

(d) Each reduction facility for which a reduction 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. Each report of change of designation of a crematory manager submitted shall comply with section 2317.2 of Title 16 of the California Code of Regulations. 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 in Business and Professions Code section 7714.4. For the purpose of certifying a crematory manager pursuant to this subdivision, the bureau shall require a written statement from the reduction chamber manufacturer demonstrating that the crematory manager has received the proper training for the operation of the reduction chamber and the proposed activities of the licensed reduction 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, and 7714.4, Business and Professions Code.

Add Section 2329.2 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2329.2. Abandonment of Application for Reduction Facility License

An application shall be deemed abandoned and all fees previously paid shall be deemed forfeited if the applicant for a reduction facility license refuses or fails to comply with the provisions of sections 2326.06 and 2326.1(d) of Title 16, of the California Code of Regulations, 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 7639.04, 7639.06 and 7652.10, Business and Professions Code.

Add section 2333.1 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2333.1. Reduction Facility Sanitation

All areas of a reduction facility which are open to public use or occupancy shall be kept and maintained in a sanitary and clean and orderly condition, as defined below, so as not to endanger the public health and safety.

- (1) “Sanitary” means free from bodily fluids, spills are cleaned immediately, and areas of public access are kept free from hazards.
- (2) “Clean and orderly” means free from dirt, clutter, hazards, and offensive odors; organized in a manner that allows for safe and respectful operations.
 - i. Equipment operating during business hours that may be a hazard to the public must be clearly marked with caution indicators.

Note: Authority cited: Sections 7606 and 7653, Business and Professions Code. Section 7002.7 Health and Safety Code.
Reference cited: Sections 1216, Title 16, California Code of Regulations, 7606 and 7653, Business and Professions Code; and Section 7002.7 Health and Safety Code.

Add section 2339.2 of Division 23 of Title 16 of the California Code of Regulations to read as follows:

§ 2339.2. Form and Content of Reduction Contracts

(a) Pursuant to Sections 7714.4 of the Business and Professions 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 reduction and disposition.

(E) Charges for transportation.

(F) Estimate of the volume of the reduced human remains that will be received and shall offer the following options:

(1) Person entitled to custody of the remains may choose to receive all of the reduced human remains in one or more reduced human remains containers, the number of containers to be specified by the person.

(2) Person entitled to custody of the remains may choose to receive part of the reduced human remains in one or more reduced human remains containers, the amount received to be specified by the person and the balance of the remains to be integrated into the soil by the reduction facility in a conservation area pursuant to Section 7054.5 of the Health and Safety Code.

(3) Person entitled to custody of the remains may choose to receive

none of the reduced human remains and to have the reduction facility integrate the remains into the soil in a conservation area pursuant to Section 7054.5 of the Health and Safety Code.

(G) If the person entitled to custody of the remains chooses not to receive all of the reduced human remains pursuant to subsection (a)(3)(F)(1) through (3), the reduction facility shall notify the person of the location of the conservation area into which the reduced human remains will be integrated.

(H) Any other charges, which shall be particularized.

(b) Any contract, arrangement or plan held in a funeral preneed trust for reduction 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 7606 and 7714.4, Business and Professions Code.
Reference: Sections 7714.4, Business and Professions Code.

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, reduction, 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: Sections 7606 and 7740, Business and Professions Code.
Reference: Section 8775, Health and Safety Code.