

1 State of Arkansas
2 95th General Assembly
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4
5 By: Senator D. Wallace
6
7

A Bill

SENATE BILL 440

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING EMBALMERS AND
10 FUNERAL DIRECTORS; TO REGULATE THE USE OF ALKALINE
11 HYDROLYSIS; TO REGULATE ALKALINE HYDROLYSIS
12 FACILITIES; AND FOR OTHER PURPOSES.

Subtitle

16 TO AMEND THE LAW CONCERNING EMBALMERS
17 AND FUNERAL DIRECTORS; TO REGULATE THE
18 USE OF ALKALINE HYDROLYSIS; AND TO
19 REGULATE ALKALINE HYDROLYSIS FACILITIES.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 17-29-304(b)(1)(A), concerning the
24 requirements for a full-time manager of a funeral establishment, is amended
25 to read as follows:

26 (b)(1)(A) Except as provided in subdivision (b)(2) of this section,
27 the board shall not issue a license to operate a full-service funeral
28 establishment unless the establishment has employed a full-time manager who:

29 (i) Is a licensed funeral director in good standing;
30 (ii) Actively supervises the staff of the
31 establishment; ~~and~~

32 (iii) Is not employed by a nonaffiliated funeral
33 establishment;

34 (iv) Is responsible for reports and documents
35 prescribed by the board;

36 (v) Is responsible to report any changes of



- 1 information to the board;
 2 (vi) Conspicuously displays all current and valid
 3 licenses for the funeral establishment and current registered apprentices;
 4 (vii) Is responsible for ensuring all licenses are
 5 renewed timely; and
 6 (viii) Resides within fifty (50) miles of the
 7 funeral establishment.

8
 9 SECTION 2. Arkansas Code § 17-29-311(a), concerning the prohibited
 10 conduct of licensees for the practice of embalming or funeral directing, is
 11 amended to read as follows:

12 (a) The State Board of Embalmers, Funeral Directors, Cemeteries, and
 13 Burial Services may issue letters of reprimand or caution, refuse to issue or
 14 renew a license, suspend or revoke any license for the practice of embalming,
 15 ~~or~~ funeral directing, or operating a crematory retort, or may place the
 16 holder thereof on a term of probation after proper hearing upon finding the
 17 holder of the license to be guilty of acts of commission or omission,
 18 including the following:

- 19 (1) Conviction of a felony listed under § 17-3-102;
 20 (2) Misrepresentations made or fraud committed as a holder of a
 21 license;
 22 (3) False or misleading advertising;
 23 (4) Solicitation of dead human bodies by the licensee, his or
 24 her agents, assistants, or employees, whether the solicitation occurs after
 25 death or while death is impending, provided that this prohibition shall not
 26 be deemed to prohibit general advertising;
 27 (5) Employment directly or indirectly of an apprentice, agent,
 28 assistant, employee, or other person on a part-time or full-time basis or on
 29 a commission for the purpose of calling upon individuals or institutions by
 30 whose influence dead human bodies may be turned over to a particular funeral
 31 establishment;
 32 (6) The direct or indirect payment or offer of payment of a
 33 commission by the licensee, his or her agents, assistants, or employees for
 34 the purpose of securing business;
 35 (7) Allowing a person who is not licensed under this subchapter
 36 to execute a contract for funeral arrangements;

1 (8) Aiding or abetting an unlicensed person to practice
2 embalming or funeral directing;

3 (9) Violation of any provision of this subchapter ~~and § 17-29-~~
4 ~~201 et seq. [repealed]~~;

5 (10) Violation of any state law or rule or of any municipal or
6 county ordinance or regulation affecting the handling, custody, care,
7 transportation, or final disposition of dead human bodies;

8 (11) Fraud or misrepresentation in obtaining or renewing a
9 license;

10 (12) Refusing to properly release a dead human body to the
11 custody of the person or entity having the legal right to effect such a
12 release if all other applicable laws and rules have been followed by the
13 holder of the license;

14 (13) Willful failure to secure a permit for the removal or burial
15 or other disposition of a dead human body;

16 (14) Knowingly making a false statement on a certificate of
17 death;

18 (15) Violations of applicable law or rules with regard to
19 prearranged or prepaid funeral services or funeral merchandise. However, the
20 proper regulatory agency for prearranged or prepaid funeral services or
21 funeral merchandise shall have determined that such a violation has occurred;

22 (16) Discriminating in services because of race, creed, color, or
23 national origin;

24 (17) Failure to meet continuing education requirements; or

25 (18) Failure to answer a complaint within the fifteen-day time
26 period.

27
28 SECTION 3. Arkansas Code § 17-29-311(e), concerning unlicensed
29 activities as transacting or practicing embalming or funeral directing or
30 operating or maintaining a funeral establishment, is amended to read as
31 follows:

32 (e) It shall be unlawful for any person, partnership, corporation, or
33 association that has not been licensed or registered as specified in this
34 subchapter to transact, practice, or hold himself or herself or itself out as
35 transacting or practicing embalming or funeral directing or operating or
36 maintaining a funeral establishment, alkaline hydrolysis facility, or

1 crematory within this state.

2

3 SECTION 4. Arkansas Code § 17-29-311(f), concerning the requirements
4 for storage of a dead human body, is amended to read as follows:

5 (f)(1) A dead human body that is not buried or otherwise disposed of
6 within an allotted time as determined by rule of the board shall be embalmed
7 or stored under refrigeration as determined by the Department of Health or
8 its successor or successors concerning the preservation of bodies.

9 (2)(A) When taking custody of the dead human body under this
10 subchapter or § 23-61-1101 et seq. or when the dead human body is stored
11 under refrigeration as determined by the department, a funeral establishment,
12 alkaline hydrolysis facility, or crematory shall maintain the dead human body
13 in a manner that provides for complete coverage of the dead human body and
14 prevents leakage or spillage by properly storing the dead human body in a
15 refrigeration or preparation room at all times except during:

16 (i) Identification, embalming, or preparation of an
17 unembalmed dead human body for final disposition;

18 (ii) Restoration and dressing of a dead human body
19 in preparation for final disposition; or

20 (iii) Viewing during a visitation or funeral
21 service.

22 (B) The funeral establishment, alkaline hydrolysis
23 facility, or crematory shall treat the dead human body with dignity and
24 respect as determined by rule of the board.

25 (3)(A) If a funeral establishment, alkaline hydrolysis facility,
26 or crematory is unable to secure or store a dead human body as required under
27 subdivision (f)(1) of this section due to an unforeseen circumstance, the
28 funeral establishment, alkaline hydrolysis facility, or crematory shall
29 transfer the dead human body and notify the board and the person or entity
30 having the legal right to arrange for the final disposition of the dead human
31 body.

32 (B) The notice required under subdivision (f)(3)(A) of
33 this section shall:

34 (i) Be provided within twenty-four (24) hours after
35 the occurrence of the unforeseen circumstance; and

36 (ii) Include the:

1 (a) Name and location of the facility where
2 the dead human body is being transferred;

3 (b) Reason for the transfer; and

4 (c) Method of storage.

5 (4) A dead human body shall not be embalmed or artificially
6 preserved without:

7 (A) The express permission of a person or entity with the
8 legal right to arrange for the final disposition of the dead human body under
9 the Arkansas Final Disposition Rights Act of 2009, § 20-17-102; or

10 (B) A court order.

11 (5) A funeral establishment, alkaline hydrolysis facility, or
12 crematory shall not store a dead human body until final disposition at a
13 funeral establishment, alkaline hydrolysis facility, or crematory without a
14 license under this subchapter or § 23-61-1101 et seq.

15 (6) A funeral establishment, alkaline hydrolysis facility,
16 crematory, or transport service of human remains licensed under this
17 subchapter shall not transport or store a dead human body together with
18 animal remains in the same confined space.

19
20 SECTION 5. Arkansas Code § 17-29-313 is amended to read as follows:

21 17-29-313. Permit required – Crematorium construction – Operation of
22 crematorium.

23 (a)(1) A crematorium shall not be constructed in this state without a
24 permit issued by the State Board of Embalmers, Funeral Directors, Cemeteries,
25 and Burial Services.

26 (2) In order to receive a permit to construct a crematorium, a
27 person shall:

28 (A)(i) Publish a notice in a local newspaper, or a state-
29 wide newspaper if a local newspaper is not published weekly, of general
30 circulation in the county where the crematorium is proposed to be constructed
31 stating that the applicant intends to construct a crematorium at a designated
32 location.

33 (ii) The notice shall:

34 (a)(1) Be published on the Sunday and
35 Wednesday no more than ~~fifteen (15) days nor less than seven (7) days~~ two (2)
36 weeks before submitting an application to the board.

1 (2) Publication as described in
 2 subdivision (a)(2)(A)(ii)(a)(1) of this section is sufficient if the notice
 3 is published in the newspaper's print edition or digital edition, or both;
 4 and

5 (b) ~~Invite~~ Inform members of the public ~~to~~
 6 that:

7 (1) The public has ten (10) business
 8 days from the date of the notice to submit written protest ~~to~~ regarding the
 9 construction of the proposed crematorium to the board at the address
 10 designated by the board; and

11 (2) A written protest may include a
 12 request that the board hold a public hearing regarding the construction of
 13 the proposed crematorium; and

14 (B)(i) Submit an application to the board for a permit to
 15 construct a crematorium.

16 (ii) The application for a permit to construct a
 17 crematorium shall include:

18 (a) Proof of publication of the notice
 19 required under subdivision (a)(2)(A) of this section; and

20 (b) A copy of the permit issued by the
 21 Division of Environmental Quality under § 8-4-203 to construct the
 22 crematorium; ~~and~~

23 ~~(c) The fee as prescribed in § 17-29-208~~
 24 ~~{repealed}.~~

25 (b)(1) Upon receiving a written protest ~~to an application for the~~
 26 ~~construction of a crematorium~~ requesting a public hearing, the board, in its
 27 discretion, shall+

28 ~~(A)~~ review the written protest and decide if a public
 29 hearing is warranted.

30 (2) If the board decides a public hearing is warranted under
 31 subdivision (b)(1) of this section, the board shall:

32 (A) Schedule a public hearing on the application; and

33 (B)(i) Direct the applicant to publish in a local
 34 newspaper, or a state-wide newspaper if a local newspaper is not published
 35 weekly, having general circulation within the county where the crematorium is
 36 proposed to be constructed a notice of the date and time of a public hearing

1 on the application.

2 (ii) The notice shall be published ~~on the Sunday and~~
 3 ~~Wednesday no more than fifteen (15) days nor less than seven (7) at least ten~~
 4 (10) calendar days before the public hearing.

5 (2) The public hearing shall be held in the city or county in
 6 which the proposed crematorium is to be located.

7 (c)(1) A crematorium shall not be operated in this state without a
 8 license issued by the board.

9 (2) A person who desires to operate a crematorium in this state
 10 shall:

11 (A) Make application to the board on forms furnished by
 12 the board;

13 (B) Provide the necessary information as determined by the
 14 board;

15 (C) Attach the fee as prescribed by the board;

16 (D) Satisfy the requirements of the board for the safe and
 17 sanitary operation of a crematorium as determined by the board; and

18 (E)(i) Provide to the board proof of liability insurance.

19 (ii) The board shall develop and promulgate rules to
 20 establish minimum levels of general liability insurance coverage for licensed
 21 crematoriums.

22 (3) The board shall grant the application if the board finds
 23 that the proposed crematorium:

24 (A) Complies with all state and federal laws concerning
 25 environmental and public health; and

26 (B) Will serve the public interest.

27
 28 SECTION 6. Arkansas Code § 17-29-401 is amended to read as follows:
 29 17-29-401. Criminal penalties.

30 ~~A person who practices the science of embalming, engages in the~~
 31 ~~business of funeral directing, operates a funeral establishment, operates a~~
 32 ~~crematorium, conducts cremations, transports human remains, or operates a~~
 33 ~~transport service without a license under § 23-61-1101 et seq. and § 17-29-~~
 34 ~~301 et seq. is guilty of a Class D felony and subject to the punishment~~
 35 ~~prescribed for Class D felonies in the Arkansas Criminal Code~~ A violation of
 36 this chapter is a Class D felony.

1
2 SECTION 7. Arkansas Code Title 17, Chapter 29, is amended to add an
3 additional subchapter to read as follows:
4

5 Subchapter 8 – Alkaline Hydrolysis Facilities
6

7 17-29-801. Definitions.

8 As used in this subchapter:

9 (1)(A) "Alkaline hydrolysis" means a water-based dissolution
10 process that uses alkaline chemicals and heat that may involve agitation or
11 pressure to accelerate the natural decomposition that results in effluent.

12 (B) "Alkaline hydrolysis" includes the disposal of the
13 liquid and the processing and pulverization to dry bone residue;

14 (2) "Alkaline hydrolysis chamber" means an enclosed space:

15 (A) Within which the alkaline hydrolysis process takes
16 place; and

17 (B) That is exclusively used for the alkaline hydrolysis
18 of human remains;

19 (3) "Alkaline hydrolysis facility" means a funeral establishment
20 licensed under this subchapter;

21 (4) "Authorized person" means:

22 (A) A licensed embalmer or funeral director;

23 (B) A registered apprentice or mortuary student;

24 (C) A public official or representative in the discharge
25 of his or her official duties;

26 (D) Licensed medical personnel;

27 (E) A trained alkaline hydrolysis facility operator; and

28 (F) A person with the right to control the disposition of
29 the remains of a deceased person under § 20-17-102 and his or her designee;

30 (5)(A) "Body part" means a limb or other portions of the human
31 body that are removed from a living person for medical purposes during
32 biopsy, treatment, or surgery.

33 (B) "Body part" includes a dead human body that has been
34 donated to science for purposes of medical education or research and parts of
35 the dead human body that were removed for those purposes;

36 (6) "Effluent" means bone fragments and neutral liquid resulting

1 from the alkaline hydrolysis process;

2 (7) "Operator" means a crematory retort operator licensed under
3 § 17-29-314;

4 (8) "Political subdivision" means:

5 (A) A county;

6 (B) A city of the first class or city of the second class;

7 or

8 (C) An incorporated town;

9 (9) "Processing" means the reduction of an identifiable bone
10 fragment after the completion of the alkaline hydrolysis process into an
11 unidentifiable bone fragment by manual means;

12 (10) "Pulverization" means the reduction of identifiable bone
13 fragments after the completion of the alkaline hydrolysis and processing the
14 bone fragments into granulated particles by manual or mechanical means;

15 (11) "Resomation" means the alkaline hydrolysis process that is
16 used to break down a dead human body into ashes;

17 (12) "Temporary container" means a receptable for resomated
18 remains that is:

19 (A) Composed of cardboard, plastic, metal, or another
20 material that can be closed in a manner that prevents leakage or spillage of
21 resomated remains and prevents the entrance of foreign material; and

22 (B) Sufficient in size to hold the resomated remains until
23 the resomated remains are placed in an urn or scattered; and

24 (13) "Urn" means a receptable designed to permanently encase the
25 resomated remains.

26
27 17-29-802. License required – General requirements.

28 (a)(1) An alkaline hydrolysis facility is required to be licensed by
29 the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial
30 Services.

31 (2) A dead human body may only be hydrolyzed in this state at a
32 alkaline hydrolysis facility that is licensed under this subchapter.

33 (b)(1) A building that is to be used as an alkaline hydrolysis
34 facility shall comply with all applicable building codes, zoning laws and
35 ordinances, wastewater management regulations, and environmental statutes,
36 rules, and standards of a political subdivision and the state.

1 (2) An alkaline hydrolysis facility shall have:

2 (A) A purpose built human alkaline hydrolysis system on
3 site that is approved for human alkaline hydrolysis;

4 (B) A system for drying the hydrolyzed remains;

5 (C) A motorized mechanical device for processing
6 hydrolyzed remains; and

7 (D)(i) A holding facility approved for human resomation by
8 the board for the retention of dead human bodies awaiting alkaline
9 hydrolysis.

10 (ii) The holding facility described in subdivision
11 (b)(2)(D)(i) of this section shall:

12 (a) Be secure to prevent access by anyone
13 except the authorized personnel of the alkaline hydrolysis facility;

14 (b) Preserve the dignity of the remains; and

15 (c) Protect the health and safety of the
16 personnel of the alkaline hydrolysis facility.

17
18 17-29-803. Flooring, walls, ceiling, doors, and windows – Equipment
19 and supplies.

20 (a)(1)(A) Any room where an alkaline hydrolysis chamber is located and
21 the room that is used for the storage of chemicals used for the alkaline
22 hydrolysis process shall:

23 (i) Have nonporous flooring to ensure sanitary
24 conditions;

25 (ii) Be private and have no general passageway
26 through it; and

27 (iii) Display in a conspicuous place a sign that
28 indicates that the room is private and access is limited.

29 (B) The room shall be secure at all times from the
30 entrance of unauthorized persons.

31 (2) The walls and ceiling of any room where an alkaline
32 hydrolysis chamber is located and any room that is used for the storage of
33 chemicals used for the alkaline hydrolysis process shall run from floor to
34 ceiling and be covered with tile, plaster, or sheetrock painted with washable
35 paint or other appropriate material to ensure sanitary conditions.

36 (3) Any door, wall, ceiling, and window of a room where an

1 alkaline hydrolysis chamber is located and a room that is used for the
2 storage of chemicals used for the alkaline hydrolysis process shall be
3 constructed to prevent odors from entering any other part of the building.

4 (4)(A) A window or other opening to the outside of any room
5 where an alkaline hydrolysis chamber is located and any room that is used for
6 the storage of chemicals used for the alkaline hydrolysis process shall be
7 screened.

8 (B)(i) A window shall be treated in a manner that prevents
9 viewing into any room where the alkaline hydrolysis chamber is located.

10 (ii) A viewing window for an authorized family
11 member or a designee of an authorized family member is not a violation of
12 subdivision (a)(4)(B)(i) of this section.

13 (b) An alkaline hydrolysis facility shall have a functional emergency
14 eye wash and quick drench shower.

15 (c) An authorized person who is present in or enters any room where
16 the alkaline hydrolysis chamber is located while a body is being prepared for
17 final disposition shall be attired according to all applicable state laws and
18 rules and federal regulations regarding the control of infectious disease and
19 occupational and workplace health and safety.

20
21 17-29-804. Application procedure – Documentation – Initial inspection.

22 (a) An application to license and operate an alkaline hydrolysis
23 facility shall be submitted to the State Board of Embalmers, Funeral
24 Directors, Cemeteries, and Burial Services.

25 (b) An application described in subsection (a) of this section shall
26 include:

27 (1) A completed application form, as provided by the board;

28 (2) Proof of liability insurance coverage that demonstrates an
29 applicant's ability to respond to damages for liability arising from the
30 ownership, maintenance, management, or operation of an alkaline hydrolysis
31 facility; and

32 (3) Copies of wastewater and other environmental regulatory
33 permits and environmental regulatory licenses necessary to conduct operations
34 of an alkaline hydrolysis facility.

35
36 17-29-805. Alkaline hydrolysis facility operator – Duties.

1 (a)(1) An operator may schedule the time of the resomation of a dead
2 human body to occur at the operator's own convenience at any time after the
3 operator receives the following:

4 (A)(i) The identity of the human remains.

5 (ii) Permissible methods of identifying the remains
6 include:

7 (a) Verifying the name on the hospital
8 bracelet or anklet with the fact sheet;

9 (b) Verifying the name on the funeral home
10 bracelet;

11 (c) Using a photo of the decedent;

12 (d) Confirmation of the decedent's identity by
13 an authorized person; or

14 (e) Proof of identity as submitted to the
15 crematory authority directly by law enforcement or by any other appropriate
16 legal or governmental authority;

17 (B) The name of the authorized person and the relationship
18 between the authorized person and the decedent;

19 (C) An authorization for the alkaline hydrolysis facility
20 to resomate the human remains;

21 (D) A resomation final disposition rights form or a
22 representation that the authorized person is unaware of any objection to the
23 human remains being resomated by a person who has a right to control the
24 disposition of the human remains;

25 (E) The name of the person authorized to claim the human
26 remains from the alkaline hydrolysis facility;

27 (F) A completed and executed burial transit permit or
28 other disposition authorization signed by the authority having jurisdiction
29 to authorize final disposition of a dead human body, as provided in the laws
30 of the state or territory where death occurred, indicating that the human
31 remains are to be resomated;

32 (G) A death certificate, fetal death certificate, or other
33 disposition authorization signed by the authority having jurisdiction to
34 authorize final disposition of a dead human body in the state, territory, or
35 country where death occurred; and

36 (H) Any other documentation required by a political

1 subdivision.

2 (2) The operator is responsible for a dead human body or a body
3 part when the dead human body or body part has been delivered to or accepted
4 by the alkaline hydrolysis facility or an employee or agent of the alkaline
5 hydrolysis facility.

6 (b)(1) An operator of an alkaline hydrolysis facility shall do the
7 following:

8 (A) Upon receipt of a dead human body at the alkaline
9 hydrolysis facility that has not been embalmed, the body may be placed in a
10 holding facility within the first twenty-four (24) to forty-eight (48) hours
11 after death unless ordered by the Department of Health to embalm or
12 refrigerate for the control of infectious disease and the protection of the
13 public;

14 (B) The body shall be held in a refrigerated facility
15 forty-eight (48) hours after death, if not embalmed;

16 (C) The body shall remain in the holding facility until
17 near the time of the resomation process commences within the first twenty-
18 four (24) to forty-eight (48) hours after death; and

19 (D) The body shall remain in the refrigerated facility
20 until near the time of the resomation process commences after the first
21 forty-eight (48) hours, if not embalmed.

22 (2) Upon receipt of a dead human body that has been embalmed,
23 the operator shall place the body in the holding facility at the alkaline
24 hydrolysis facility and keep the body in the holding facility until the
25 resomation process commences.

26 (c)(1) An operator shall remove the dead human body from the
27 container, if any, in which the body was delivered or accepted by the
28 alkaline hydrolysis facility.

29 (2) An authorized person shall be informed about a casket or an
30 alternative container, unless biodegradable, that is to be removed from
31 encasing the dead human body before resomation.

32 (3) The alkaline hydrolysis facility shall not be held liable
33 for removing a dead human body from a casket or an alternative container for
34 the purpose of preventing damage to the alkaline hydrolysis chamber.

35 (4) If the alkaline hydrolysis facility has to remove a dead
36 human body from a casket or an alternative container, the funeral

1 establishment in charge of the at-need arrangements shall pick up the casket
2 or the alternative container with the human remains.

3 (d) An operator shall not:

4 (1)(A) Simultaneously resomate more than one (1) dead human body
5 or body parts removed from more than one (1) dead human body or living person
6 in the same alkaline hydrolysis chamber without permission from the
7 authorized person.

8 (B) Subdivision (d)(1)(A) of this section does not
9 prohibit the use of alkaline hydrolysis equipment that contains more than one
10 (1) alkaline hydrolysis chamber; or

11 (2) Permit a person other than an employee of the alkaline
12 hydrolysis facility, a licensed embalmer, or a person authorized pursuant to
13 the instructions of the decedent, or the decedent's legal next of kin, if
14 any, to be present in the holding facility or resomation room while:

15 (A) A dead human body or body parts are being held in the
16 holding facility or resomation room;

17 (B) A dead human body or body parts are being resomated;
18 or

19 (C) Resomated remains are being removed from the
20 resomation chamber.

21 (e)(1) An operator shall not remove dental gold or silver, body parts,
22 organs, or other items of value from a dead human body before the resomation
23 or from the resomated remains after resomation unless the operator was acting
24 under instructions of the decedent or the decedent's legal next of kin that
25 specifically authorize the removal of dental gold or silver, body parts,
26 organs, or other items of value.

27 (2) An operator who removes dental gold or silver, body parts,
28 organs, or other items of value from a dead human body, or assists in the
29 removal of dental gold or silver, body parts, organs, or other items of value
30 from a dead human body shall not charge a fee for doing so that exceeds the
31 actual cost to the alkaline hydrolysis facility for performing or assisting
32 in the removal of dental gold or silver, body parts, organs, or other items
33 of value from a dead human body.

34
35 17-29-806. Recoverable remains.

36 (a) Upon completion of the resomation process, the operator of an

1 alkaline hydrolysis facility shall remove from the resomation chamber all
2 resomation residue that is practicably recoverable.

3 (b)(1) If the recovered resomated remains do not fit in the urn
4 selected or in the temporary container, the operator shall place the
5 remainder in a separate temporary container.

6 (2) Resomated remains placed in a separate temporary container
7 shall be delivered, released, or disposed of together with those in the urn
8 or other temporary container.

9 (c) Subdivision (b)(1) of this section does not require an operator to
10 recover a specified quantity or quality of resomated remains upon the
11 completion of a resomation.

12 (d)(1) An operator shall not knowingly represent that an urn or
13 temporary container contains the recovered resomated remains of a specific
14 dead human body or of body parts removed from a specific dead human body or
15 living person if the urn or container does not contain the recovered
16 resomated remains of the specific dead human body or of body parts removed
17 from a specific dead human body or living person.

18 (2) Subdivision (d)(1) of this section does not prohibit the
19 making of a representation because of the presence in the recovered resomated
20 remains of de minimis amounts of the resomated remains of another dead human
21 body or of body parts.

22 (e) An operator or a funeral director shall ship or cause to be
23 shipped any resomated remains by a class or method of mail, common carrier
24 service, or delivery service that has an internal system for tracing the
25 location of the resomated remains during shipment and that requires a signed
26 receipt from the individual who accepts delivery of the resomated remains.

27 (f) An operator shall establish and maintain a system for:

28 (1) Accurately identifying a dead human body in possession of
29 the alkaline hydrolysis facility; and

30 (2) Identifying a dead human body or living person from whom
31 body parts in the possession of the alkaline hydrolysis facility were removed
32 throughout all phases of the holding and resomation process.

33 (g) An operator shall not knowingly use or allow the use of the same
34 alkaline hydrolysis chamber for the resomation of a dead human body or body
35 parts and a body or body parts of an animal.

36

1 17-29-807. Final Disposition of remains – Unclaimed resomated remains.

2 (a) Except as provided in subsection (b) of this section, an operator
3 shall not:

4 (1) Dispose of the resomated remains of a dead human body or
5 body parts in a manner or in a location that the resomated remains are
6 commingled with those of another dead human body or body parts removed from
7 another dead human body or living person; or

8 (2) Place the resomated remains of more than one (1) dead human
9 body, or of body parts removed from more than one (1) dead human body or
10 living person, in the same urn or temporary container.

11 (b) Notwithstanding subsection (a) of this section, an operator may:

12 (1) If complying with specific instructions from the decedent or
13 decedents or an heir or personal representative designated by the decedent or
14 decedents:

15 (A) Scatter resomated remains at sea, by air, or in a
16 dedicated area at a cemetery used exclusively for the scattering on the
17 ground of the resomated remains of a dead human body or body parts;

18 (B) Commingle resomated remains of more than one (1) dead
19 human body or of body parts removed from more than one (1) dead human body or
20 living person; or

21 (C) Place in the same urn or temporary container of the
22 resomated remains of more than one (1) dead human body, or of body parts
23 removed from more than one (1) dead human body or living person; and

24 (2) If the operator is operating under the decedent's
25 instructions, commingle the resomated remains or body parts removed from
26 another dead human body or living person, after receipt of the resomated
27 remains or the body parts, with those of another dead human body or body
28 parts removed from another dead human body or living person.

29 (c)(1) Unless otherwise specified by written agreement between the
30 operator or funeral establishment and the person or entity requesting the
31 resomation of human remains, resomated human remains unclaimed ninety (90)
32 calendar days from the date of resomation may be interred, entombed, or
33 inurned by the operator.

34 (2) The operator or funeral establishment shall make a record of
35 the disposition of the unclaimed resomated human remains available for
36 inspection on weekdays between the hours of 8:00 a.m. and 4:30 p.m.

1
2 17-29-808. Written receipt for remains – Records.

3 (a) An operator shall provide a written receipt to an individual who
4 delivers a dead human body or body parts to the alkaline hydrolysis facility
5 for resomation.

6 (b)(1) If a dead human body was not donated to science for the purpose
7 of medical education or research, the written receipt shall be signed by both
8 a representative of the alkaline hydrolysis facility and the individual who
9 delivered the dead human body to the alkaline hydrolysis facility.

10 (2) The written receipt under subdivision (b)(1) of this section
11 shall include:

12 (A) The name of the decedent;

13 (B) The date and time of delivery;

14 (C) The type of casket or container, if any, in which the
15 dead human body was delivered to the alkaline hydrolysis facility;

16 (D) The name of the individual who delivered the dead
17 human body to the facility, if applicable;

18 (E) The name of the funeral home or other establishment
19 with whom the individual delivering the dead human body is affiliated; and

20 (F) The name of the individual who received the dead human
21 body on behalf of the alkaline hydrolysis facility.

22 (c) If a dead human body was donated to science for purposes of
23 medical education or research, then the written receipt described under
24 subsection (a) of this section shall indicate the name of the individual who
25 received the dead human body on behalf of the alkaline hydrolysis facility.

26 (d)(1)(A) At the time of releasing resomated remains, an operator
27 shall ensure that a written receipt signed by both a representative of the
28 alkaline hydrolysis facility and the individual who received the resomated
29 remains is provided to the individual who received the resomated remains.

30 (B) Except for the resomated remains of a dead human body
31 that was donated to science for the purpose of medical education or research
32 or body parts of a dead human body that was donated to science for the
33 purpose of medical education or research, the written receipt under
34 subdivision (d)(1)(A) of this section shall indicate:

35 (i) The name of the decedent;

36 (ii) The date and time of the release of the

1 resomated remains;

2 (iii) The name of the individual who received the
3 released resomated remains;

4 (iv) If applicable, the name of the funeral home,
5 cemetery, or other entity to whom the resomated remains were released; and

6 (v) The name of the individual who released the
7 resomated remains on behalf of the alkaline hydrolysis facility.

8 (2)(A) If the resomated remains are of a dead human body that
9 was donated to science for purposes of medical education or research or are
10 those of body parts of a dead human body that was donated to science for
11 purposes of medical education or research, then the written receipt under
12 subdivision (d)(1)(A) of this section shall:

13 (i) Be signed by both a representative of the
14 alkaline hydrolysis facility and the individual who received the resomated
15 remains; and

16 (ii) Indicate the date and time of the release of
17 the resomated remains.

18 (B) For other resomated remains, the written receipt shall
19 accompany the resomated remains.

20 (C) The signature of the individual whose name is on the
21 delivery receipt to accept delivery of the resomated remains satisfies the
22 requirement of this section that the person receiving the resomated remains
23 sign the written receipt provided by the alkaline hydrolysis facility.

24 (e)(1) An alkaline hydrolysis facility engaged in the business of
25 resomating a dead human body or body parts shall keep the following for a
26 period of at least seven (7) years after each resomation to which the
27 information applies:

28 (A) A copy of each written receipt issued upon acceptance
29 by or delivery to the alkaline hydrolysis facility of a dead human body;

30 (B) A record of each resomation conducted at the alkaline
31 hydrolysis facility, containing at least:

32 (i) The name of the decedent or, in the case of body
33 parts, the name of the decedent or living person from whom the body parts
34 were removed;

35 (ii) The date and time of the resomation; and

36 (iii) The final disposition made of the resomated

1 remains;

2 (C) A copy of each delivery receipt issued under this
3 section; and

4 (D) A separate record of the resomated remains of each
5 dead human body or the body parts removed from each dead human body or living
6 person that were disposed of containing:

7 (i) The name of the decedent;

8 (ii) The date and time of the resomation; and

9 (iii) The location, date, and manner of final
10 disposition of the resomated remains; and

11 (2) Following the period described under subdivision (e)(1) of
12 this section and subject to any other laws requiring retention of records,
13 the alkaline hydrolysis facility may:

14 (A) Place the records in storage or reduce them to
15 microfilm, microfiche, laser disc, or any other method that can produce an
16 accurate reproduction of the original records; or

17 (B) Transfer the records to the Arkansas State Archives or
18 the Division of Arkansas Heritage for permanent storage.

19 (f) A record required to be maintained under this section is subject
20 to inspection by the board, or an authorized representative of the board,
21 upon reasonable notice and at a reasonable time.

22

23 17-29-809. Alkaline hydrolysis facility operator liability.

24 (a) Unless an action or omission by an operator was made with
25 malicious purpose, in bad faith, or in a wanton or reckless manner, the
26 operator is not liable for damages in a civil action for:

27 (1) Having performed the resomation of a dead human body or
28 having released or disposed of the resomated remains according to the
29 instructions of the decedent or an heir or personal representative of the
30 decedent;

31 (2) Having performed the resomation of the dead human body or
32 body parts removed from the dead human body or living person or having
33 released or disposed of the resomated remains according to the instructions
34 of the decedent or an heir or personal representative of the decedent;

35 (3) Failing to correctly identify a dead human body before
36 resomation;

1 (4) Having actual knowledge that there is a dispute between
2 those sharing the same right of final disposition regarding the resomation of
3 the dead human body or body parts, and the operator has not received
4 confirmation that the dispute is resolved or an order of the court having
5 jurisdiction ordering the resomation of the dead human body or body parts;

6 (5) Having a reasonable basis for questioning the accuracy of
7 the information or statements provided to the operator with respect to the
8 resomation of the dead human body or body parts; or

9 (6) Having any other lawful reason for refusing to accept the
10 dead human body or body parts or to perform the resomation.

11 (b) An operator is not liable for damages in a civil action in
12 connection with the resomation of or disposition of the resomated remains of
13 dental gold or silver, jewelry, or other items of value delivered to the
14 facility with a dead human body or body parts unless the actions or omissions
15 of the operator were made with malicious purpose, in bad faith, or in a
16 wanton or reckless manner.

17 (c) This section does not:

18 (1) Create a new cause of action or substantive legal right
19 against the operator; or

20 (2) Affect an immunity from civil liability or a defense
21 established by law to which the operator may be entitled.

22
23 17-29-810. Delay of resomation.

24 (a) If a death comes under the authority of the coroner or medical
25 examiner, the dead human body or body parts shall not be received by the
26 alkaline hydrolysis facility until the alkaline hydrolysis facility receives
27 authorization for resomation from the coroner of the county in which death
28 occurred or the medical examiner.

29 (b) If the alkaline hydrolysis facility is authorized to perform a
30 funeral in addition to a resomation, the restriction under subsection (a) of
31 this section for the receipt of human remains is applicable, but resomation
32 shall not take place until authorization is given by the coroner or medical
33 examiner to the alkaline hydrolysis facility.

34 (c)(1) This subchapter does not permit the resomation of body parts
35 from a dead human body or a living person at the request of a hospital or
36 other institution.

1 (2) Only an individual from whose body the body parts were
2 removed or the individual's appointed representative may make arrangements
3 with an alkaline hydrolysis facility for the resomation of a body part.
4

5 SECTION 8. Arkansas Code § 23-61-1103(a)(3)(D), concerning the rules
6 promulgated by the State Board of Embalmers, Funeral Directors, Cemeteries,
7 and Burial Services, is amended to read as follows:

8 (D) To establish qualifications necessary to:
9 (i) Practice the science of embalming;
10 (ii) Engage in the business of funeral directing;
11 (iii) Practice cremation;
12 (iv) Practice alkaline hydrolysis;
13 (v) Transport human remains; and
14 ~~(v)~~(vi) Operate a funeraestablishment, mortuary
15 service, crematorium, retort, alkaline hydrolysis facility, or transport
16 service firm to transport human remains;
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