

HB 316-FN – AS AMENDED BY THE HOUSE

6Mar2013... 0344h
27Mar2013... 0993h

2013 SESSION

13-0021
10/04

HOUSE BILL **316-FN**

AN ACT relative to regulating alkaline hydrolysis for the disposal of human remains.

SPONSORS: Rep. Vaillancourt, Hills 15; Rep. Long, Hills 42; Rep. Winters, Hills 18

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes procedures for the use of alkaline hydrolysis for the disposal of human remains. This bill requires a facility to be licensed and provides rulemaking authority for the board of funeral directors and embalmers for the purposes of the bill.

Explanation: Matter added to current law appears in **bold italics**.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to regulating alkaline hydrolysis for the disposal of human remains.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Alkaline Hydrolysis of Human Remains. Amend RSA by inserting after
2 chapter 325-A the following new chapter:

3 CHAPTER 325-B

4 ALKALINE HYDROLYSIS OF HUMAN REMAINS

5 325-B:1 Definitions. In this chapter:

6 I. “Alkaline hydrolysis” means the technical process that reduces human remains to bone
7 fragments by use of an American Society of Mechanical Engineers (ASME) certified pressure vessel
8 that operates above atmospheric pressure using the parameters of heat, time, and solution sufficient
9 to achieve complete dissolution of all tissue remains.

10 II. “Alkaline hydrolysis facility” means a building or structure which contains a chamber for
11 alkaline hydrolysis and a holding facility.

12 III. “Alkaline hydrolysis facility authority” means the legal entity subject to licensing by the
13 board to maintain and operate an alkaline hydrolysis facility and perform alkaline hydrolysis.

14 IV. “Authorizing agent” means a person vested with the right to control the disposition of
15 human remains pursuant to RSA 290, including but limited to, family members or funeral directors
16 in charge of the final disposition arrangements.

17 V. “Board” means state board of registration of funeral directors and embalmers, as defined
18 in RSA 325:2.

19 VI. “Bone fragments” means the remaining bone fragments following the alkaline hydrolysis
20 process and prior to powdering.

21 VII. “Casket” means a rigid container made of wood, metal, or other similar material,
22 ornamented and lined with fabric, which is designed for the encasement of human remains.

23 VIII. “Change of ownership” means the change in the controlling interest of an established
24 alkaline hydrolysis facility.

25 IX. “Communicable disease” means communicable disease, as defined by RSA 141-C:2, VI.

26 X. “Delivery receipt form” means a form provided by a funeral establishment to an alkaline
27 hydrolysis facility authority to document the receipt of human remains by such authority for the
28 purpose of alkaline hydrolysis.

29 XI. “Funeral director” means funeral director as defined in RSA 325:1, VIII and licensed in

1 accordance with RSA 325:14.

2 XII. “Holding facility” means an area within an alkaline hydrolysis facility, separate from
3 public areas, designated for the retention of human remains prior to alkaline hydrolysis.

4 XIII. “Human remains” means the body of a deceased person or a human body part, in any
5 stage of decomposition and includes limbs or other portions of human anatomy that are removed
6 from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or
7 medical research.

8 XIV. “Leak proof pouch” means a plastic, vinyl, protein-based, or similar material bag that is
9 made specifically for the containment of human remains.

10 XV. “Next-of-kin” means next-of-kin as defined in RSA 290:16, IV.

11 XVI. “Operator” means the individual responsible for the day-to-day operation of the
12 alkaline hydrolysis facility.

13 XVII. “Owner” means the individual, partnership, or corporation with a controlling interest
14 in the alkaline hydrolysis facility.

15 XVIII. “Permanent container” means a receptacle made of durable material for the long-
16 term placement of remains.

17 XIX. “Powdering” means the process used to reduce bone fragments to unidentifiable
18 remains.

19 XX. “Remains” means the reduction of bone fragments to small particles following
20 powdering.

21 XXI. “Remains receipt form” means a form provided by an alkaline hydrolysis facility
22 authority to an authorizing agent or his or her representative that identifies remains following
23 alkaline hydrolysis and the person authorized to receive such remains.

24 XXII. “Temporary container” means a receptacle made of cardboard, plastic, or other similar
25 material in which remains are placed prior to the placement of such remains in an urn or other
26 permanent container.

27 XXIII. “Violations against a decedent” means actions that desecrate or tamper with human
28 remains or personal effects, lead to the misidentification of a decedent, or allow the commingling of
29 remains of more than one decedent.

30 325-B:2 Alkaline Hydrolysis Facility, License Required. An alkaline hydrolysis facility shall not
31 be established, operated, or maintained in this state except by an alkaline hydrolysis facility
32 authority licensed by the board under this chapter. The board shall issue a license to an alkaline
33 hydrolysis facility authority that satisfies the requirements for licensure under this chapter. Human
34 remains shall not be processed via alkaline hydrolysis in this state except at an alkaline hydrolysis
35 facility operated by an alkaline hydrolysis facility authority licensed under this chapter.

36 325-B:3 Environmental, Building and Location Requirements.

37 I. An alkaline hydrolysis facility shall comply with all applicable environmental statutes and

1 regulations.

2 II. An alkaline hydrolysis facility may be constructed at any location in accordance with all
3 applicable zoning and building codes.

4 III. Alkaline hydrolysis for dissolution of human remains shall comply with the following
5 requirements:

6 (a) The alkaline hydrolysis facility shall only utilize a commercially available, purpose-
7 built system.

8 (b) Dissolution systems which operate above atmospheric pressure shall only employ an
9 American Society of Mechanical Engineers' (ASME) certified pressure vessel as a dissolution
10 chamber.

11 (c) The dissolution system shall use parameters of heat, time, and solution circulation
12 sufficient to achieve complete dissolution of all tissue remains.

13 (d) The alkaline dissolution process shall ensure that the discharge liquid that is a
14 byproduct of the dissolution process meets the facility's sewage collection and treatment facility
15 requirements regarding acceptable temperature, biological oxygen demand/chemical oxygen demand
16 (BOD/COD), and pH level and shall comply with Environmental Protection Agency regulations in 40
17 CFR Part 403.5.

18 (e) Equipment used for alkaline hydrolysis of human remains may not be used for the
19 disposal of animals or other biological materials.

20 (f) No facility using the alkaline hydrolysis process may discharge liquid as a byproduct
21 of the process into a septic system. This prohibition does not prevent the facility from discharging
22 into a holding tank that is periodically pumped and transported to a suitable disposal facility.
23 Facilities who choose to discharge into a holding tank which is transferred to a sewage treatment
24 facility are not exempt from the effluent requirements for BOD/COD and pH levels specified by that
25 facility or compliance with Environmental Protection Agency regulations in 40 CFR Part 403.5.

26 325-B:4 License; Application; Requirements; Fee. An applicant for an initial or renewal license
27 as an alkaline hydrolysis facility authority shall file a written application with the board. The
28 application shall be accompanied by the license fee required under RSA 325-B:7 and a certificate
29 confirming that the operator has attended, prior to issuance of the license, a training course provided
30 by the manufacturer of the alkaline hydrolysis chamber maintained and operated by the alkaline
31 hydrolysis facility authority and shall set forth the full name and address of the applicant, the
32 address and location of the alkaline hydrolysis facility, the name of the alkaline hydrolysis facility
33 operator, the name and address of the owner of the alkaline hydrolysis facility, and additional
34 information as required by the board, including evidence of the applicant's ability to comply with
35 rules adopted under this chapter. The application shall include the applicant's social security
36 number if the applicant is an individual. The social security number shall not be a public record and
37 shall only be used for administrative purposes.

1 325-B:5 License; Expiration. Except as otherwise provided in this chapter, licenses issued
2 pursuant to this chapter shall expire 3 years after the date of issuance. Licenses shall be issued only
3 for the alkaline hydrolysis facility authority named in the application and shall not be transferable
4 or assignable.

5 325-B:6 Change in Location, Ownership, or Name.

6 I. An alkaline hydrolysis facility authority desiring to relocate shall file a written application
7 with the board at least 30 days prior to the designated date of such relocation. The application shall
8 be accompanied by a fee as determined by the board in rules adopted under RSA 541-A.

9 II. An alkaline hydrolysis facility authority desiring to change ownership of an alkaline
10 hydrolysis facility shall file a written application with the board at least 30 days prior to the
11 designated date of such change. The application shall be accompanied by a fee as determined by the
12 board in rules adopted under RSA 541-A.

13 III. An alkaline hydrolysis facility authority desiring to change its name shall file a written
14 application with the board at least 30 days prior to such change. The application shall be
15 accompanied by a fee as determined in rules adopted under RSA 541-A.

16 325-B:7 Licensure; Fees.

17 I. The application for an initial or renewal license as an alkaline hydrolysis facility authority
18 shall include a fee determined in rules adopted under RSA 541-A.

19 II. If the license application is denied, the license fee shall be returned to the applicant,
20 except that the board may retain an administrative fee and may retain the entire license fee if an
21 inspection has been completed prior to such denial.

22 III. The board shall collect a fee for reinstatement of a license that has lapsed or has been
23 suspended. The board shall collect a fee for a duplicate original license.

24 IV. The board shall collect a fee for a certified statement that an alkaline hydrolysis facility
25 authority is licensed in this state and a fee for verification that an alkaline hydrolysis facility
26 authority is licensed in this state.

27 V. All fees collected by the board under this chapter shall be remitted to the state treasurer
28 for deposit in the general fund.

29 325-B:8 Inspection; Board; Duties; Authority for Appointments.

30 I. The board shall, at least once every 3 years, inspect or provide for the inspection of any
31 alkaline hydrolysis facility and operated by an alkaline hydrolysis facility authority licensed under
32 this chapter in such manner and at such times as provided in rules adopted by the board.

33 II. The board shall issue an inspection report and provide a copy of the report to the alkaline
34 hydrolysis authority within 10 working days after the completion of an inspection. The board shall
35 review any findings of noncompliance contained in such report within 20 working days after such
36 inspection.

37 III. If the board determines, after such review, that the evidence supports a finding of

1 noncompliance by an alkaline hydrolysis facility authority with any applicable provisions of this
2 chapter or rules adopted under this chapter, the board may send a letter to the alkaline hydrolysis
3 facility authority requesting a statement of compliance. The letter shall include a description of each
4 alleged violation, a request that the alkaline hydrolysis facility authority submit a statement of
5 compliance within 10 working days, and a notice that the board may take further action if the
6 statement of compliance is not submitted. The statement of compliance shall indicate any actions by
7 the alkaline hydrolysis facility authority which have been or will be taken and the period of time
8 estimated to be necessary to correct each alleged violation. If the alkaline hydrolysis facility
9 authority fails to submit such statement of compliance or fails to make a good faith effort to correct
10 the alleged violations, the board may take further action as provided in this chapter.

11 IV.(a) The board may appoint technical advisors or other investigators to assist with any
12 investigation or adjudication, and may, with the approval of the attorney general, appoint legal
13 counsel for such purposes.

14 (b) To the extent the board lacks budgeted funds to conduct a significant investigation or
15 adjudication, it may, with the approval of the attorney general, petition governor and council to
16 receive funds not otherwise appropriated in order to retain professional advisors in the proceeding.

17 (c) If the governor and council approve the use of funds not otherwise appropriated, the
18 governor is authorized to issue a warrant for the approved amount out of any moneys in the treasury
19 not otherwise appropriated. The board shall then promptly increase its licensing fees to the extent
20 necessary to repay the amount advanced to the general fund during the next fiscal year by means of
21 a fee surcharge.

22 325-B:9 Complaints.

23 I. Any person may submit a complaint to the board and request investigation of an alleged
24 violation of this chapter or rules adopted under this chapter. The board shall review all complaints
25 and determine whether to conduct an investigation relating to such complaints.

26 II. A complaint submitted to the board under this section shall be confidential. A person
27 submitting such complaint shall be immune from criminal or civil liability of any nature, whether
28 direct or derivative, for submitting the complaint or for disclosure of documents, records, or other
29 information to the board relating to such complaint.

30 325-B:10 Imminent Danger; Board Powers.

31 I. If the board determines that an alkaline hydrolysis facility authority is operating an
32 alkaline hydrolysis facility so as to create an imminent danger of death or serious physical harm to
33 persons employed at or in proximity to such alkaline hydrolysis facility, the board may order the
34 temporary suspension or temporary limitation of the license of the alkaline hydrolysis facility
35 authority and may order the temporary closure of the alkaline hydrolysis facility pending further
36 action by the board. A hearing shall be held by the board no later than 10 days after the date of such
37 order. The board shall also simultaneously institute proceedings for revocation, suspension, or

1 limitation of the license of the alkaline hydrolysis facility authority.

2 II. A continuance of the hearing under paragraph I shall be granted by the board upon
3 written request from the alkaline hydrolysis facility authority. Such continuance shall not exceed 30
4 days.

5 III. A temporary suspension or temporary limitation order by the board under this section
6 shall take effect when served upon the alkaline hydrolysis facility authority and shall not exceed 90
7 days. If further action is not taken by the board within such period, the temporary suspension or
8 temporary limitation shall expire.

9 325-B:11 Deny or Refuse to Renew License; Grounds. The board may deny or refuse to renew a
10 license under this chapter or take disciplinary action against an alkaline hydrolysis facility authority
11 licensed under this chapter as provided in RSA 325-B:12 on any of the following grounds:

12 I. Violation of this chapter or rules adopted and pursuant to this chapter;

13 II. Conviction of any crime involving moral turpitude;

14 III. Conviction of a misdemeanor or felony under state law, federal law, or the law of another
15 jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony
16 and which has a rational connection with the fitness or capacity of the alkaline hydrolysis facility
17 authority to operate an alkaline hydrolysis facility;

18 IV. Conviction of a violation pursuant to RSA 325-B:15;

19 V. Obtaining a license as an alkaline hydrolysis facility authority by false representation or
20 fraud;

21 VI. Misrepresentation or fraud in the operation of an alkaline hydrolysis facility; or

22 VII. Failure to allow access by an agent or employee of the board to an alkaline hydrolysis
23 facility operated by the alkaline hydrolysis facility authority for the purposes of inspection,
24 investigation, or other information collection activities necessary to carry out the duties of the board.

25 VIII. Violation of any applicable environmental statute or regulation.

26 325-B:12 Disciplinary Actions.

27 I. The board may impose any one or more of the following types of disciplinary action against
28 an alkaline hydrolysis facility authority licensed under this chapter:

29 (a) A fine not to exceed \$20,000 per violation;

30 (b) A limitation on the license and upon the right of the alkaline hydrolysis facility
31 authority to operate an alkaline hydrolysis facility to the extent, scope, or type of operation, for such
32 time, and under such conditions as the board finds necessary and proper;

33 (c) Placement of the licensee on probation for a period not to exceed 2 years during which
34 the alkaline hydrolysis facility may continue to operate under terms and conditions fixed by the
35 order of probation;

36 (d) Suspension of the license for a period not to exceed 2 years during which the alkaline
37 hydrolysis facility may not operate; and

1 (e) Revocation and permanent termination of the license.

2 II. Any fine imposed and unpaid under this chapter shall constitute a debt to the state of
3 New Hampshire which may be collected in the manner of a lien foreclosure or sued for and recovered
4 in any proper form of action in the name of the state in the superior court of the county in which the
5 alkaline hydrolysis facility is located. The board shall, within 30 days after receipt, remit any such
6 fines to the state treasurer for deposit in the general fund.

7 325-B:13 Appeal. Any party to a decision of the board under this chapter may appeal such
8 decision in accordance with RSA 541.

9 325-B:14 License Reinstatement or Relicensure.

10 I. If the license of an alkaline hydrolysis facility authority has lapsed for nonpayment of fees,
11 such license shall be eligible for reinstatement at any time upon application to the board and
12 payment of the applicable fee as provided in RSA 325-B:7.

13 II. If the license of an alkaline hydrolysis facility authority has been placed on probation,
14 such license shall be eligible for reinstatement at the end of the period of probation upon successful
15 completion of an inspection if the board determines an inspection is warranted.

16 III. If the license of an alkaline hydrolysis facility authority has been suspended, such
17 license shall be eligible for reinstatement at the end of the period of suspension upon successful
18 completion of an inspection and payment of the applicable fee as provided in RSA 325-B:7.

19 IV. If the license of an alkaline hydrolysis facility authority has been suspended, such
20 license may be reinstated by the board prior to the completion of the term of suspension upon
21 petition by the licensee. After reviewing such petition and any material submitted by the licensee
22 with such petition, the board may order an inspection or investigation of the licensee. Based on such
23 review and such inspection or investigation, if any, the board shall grant full reinstatement of the
24 license, modify the suspension, or deny the petition for reinstatement. The board's decision shall
25 become final 30 days after mailing the decision to the licensee unless the licensee requests a hearing
26 within such period. Any requested hearing shall be held according to rules of the board.

27 V. If the license of an alkaline hydrolysis facility authority has been revoked, such alkaline
28 hydrolysis facility authority shall not be eligible for relicensure until 5 years after the date of such
29 revocation. A reapplication for an initial license may be made by the alkaline hydrolysis facility
30 authority at the end of such 5-year period.

31 325-B:15 Acts Prohibited; Penalty.

32 I. Maintaining or operating an alkaline hydrolysis facility in violation of this chapter or any
33 rules of the board is a public nuisance and may be abated as a nuisance as provided by law.

34 II. It shall be a felony to establish, operate, or maintain an alkaline hydrolysis facility
35 subject to this chapter without being licensed as an alkaline hydrolysis facility authority under this
36 chapter, to hold oneself out to the public as an alkaline hydrolysis facility authority without being
37 licensed, or to perform an alkaline hydrolysis without an alkaline hydrolysis authorization form

1 signed by the authorizing agent and a completed burial transit permit for alkaline hydrolysis, and a
2 medical examiner's certificate of alkaline hydrolysis.

3 III. Signing an alkaline hydrolysis authorization form with actual knowledge that the form
4 contains false, incorrect, or misleading information is a felony.

5 IV. A violation of any other provision of this chapter is a misdemeanor.

6 325-B:16 Injunctions. The board may maintain an action in the name of the state for an
7 injunction against any person for establishing, operating, or maintaining an alkaline hydrolysis
8 facility without first obtaining a license as an alkaline hydrolysis facility authority under this
9 chapter. In charging any defendant in a complaint in such action, it shall be sufficient to charge that
10 such defendant did, upon a certain day and in a certain county, establish, operate, or maintain an
11 alkaline hydrolysis facility without obtaining a license as an alkaline hydrolysis facility authority
12 under this chapter, without alleging any further or more particular facts concerning the same.

13 325-B:17 Right to Authorize Alkaline Hydrolysis. The right to authorize the alkaline hydrolysis
14 of human remains and the final disposition of the remains, except in the case of a minor and unless
15 other directions have been given by the decedent in the form of a testamentary disposition or a pre-
16 need contract, vests pursuant to RSA 290.

17 325-B:18 Medical Examiner's Certificate.

18 I. The body of a deceased person shall not be subjected to alkaline hydrolysis within 48
19 hours after his or her death unless he or she died of a contagious or infectious disease. If the death
20 occurred within the state, the body shall not be subjected to alkaline hydrolysis by the alkaline
21 hydrolysis facility authority until authority has received the burial transit permit for alkaline
22 hydrolysis required by law, and a certificate from a medical examiner or deputy medical examiner
23 that he or she has viewed the body and made personal inquiry into the cause and manner of death,
24 and is of the opinion that no further examination or judicial inquiry concerning the same is
25 necessary. If the death occurred within the state but the body is being transferred out of state for
26 alkaline hydrolysis, the transfer shall not occur until the medical examiner has conducted such a
27 view and inquiry and has issued a certificate. If the death occurs outside the state, the reception and
28 alkaline hydrolysis of the body of a deceased person shall be governed by rules adopted by the board
29 after consultation with the chief medical examiner.

30 II. The alkaline hydrolysis facility authority shall forward a copy of the alkaline hydrolysis
31 certificate to the office of the chief medical examiner, accompanied by a \$60 fee. The fee shall be
32 deposited in the medico-legal investigative fund established pursuant to RSA 611-B:28.

33 325-B:19 Alkaline Hydrolysis Facility Authority.

34 I. An alkaline hydrolysis facility authority, upon receiving human remains, shall sign a
35 delivery receipt form and shall hold the human remains, prior to alkaline hydrolysis, as provided in
36 this section. The form shall include the name of the deceased, the time and date of delivery of such
37 remains, and the signatures of the owner of the alkaline hydrolysis facility or his or her

1 representative and the funeral director or his or her representative, or the next-of-kin or designated
2 agent as provided in RSA 290.

3 II. If an alkaline hydrolysis facility authority is unable to perform alkaline hydrolysis on the
4 human remains immediately upon taking receipt thereof, the alkaline hydrolysis facility authority
5 shall place the human remains in a holding facility. A holding facility shall be designed and
6 constructed to comply with all applicable public health laws, provide for the health and safety of
7 persons employed at such facility, and prevent any unauthorized access to such facility.

8 III. An alkaline hydrolysis facility authority may refuse to accept for holding a deceased
9 person from which there is any evidence of leakage of the body fluids from the human remains in a
10 leak proof pouch.

11 IV. If human remains received by the alkaline hydrolysis facility authority are not
12 embalmed, such remains shall be held no longer than 24 hours from the time of death at the alkaline
13 hydrolysis facility unless the human remains are placed within a refrigerated facility in accordance
14 with the laws of this state.

15 325-B:20 Alkaline Hydrolysis Facility Operation; Limitations.

16 I. No person shall be permitted in an alkaline hydrolysis facility, unless authorized by the
17 alkaline hydrolysis facility authority, while any human remains are in the alkaline hydrolysis
18 facility awaiting or undergoing alkaline hydrolysis, or being removed from the chamber.

19 II. The human remains of more than one person shall not be simultaneously subjected to
20 alkaline hydrolysis within the same chamber unless the alkaline hydrolysis facility authority has
21 received specific written authorization from the authorizing agent for the human remains to be so
22 subjected to alkaline hydrolysis.

23 325-B:21 Alkaline Hydrolysis Facility Authority; Requirements.

24 I. An alkaline hydrolysis facility authority shall not accept human remains for alkaline
25 hydrolysis without a proper label placed on the exterior of the leak proof pouch indicating the name
26 of the deceased and the name and location of the funeral establishment, or the name of the next-of-
27 kin or designated agent as provided in RSA 290.

28 II. No alkaline hydrolysis facility authority shall make or enforce any rules requiring that
29 human remains be placed in a casket before alkaline hydrolysis. No alkaline hydrolysis facility
30 authority shall refuse to accept human remains for alkaline hydrolysis if the human remains are
31 received in a casket.

32 325-B:22 Alkaline Hydrolysis Authorization Form.

33 I. An alkaline hydrolysis facility authority shall not subject human remains to alkaline
34 hydrolysis until it has received an alkaline hydrolysis authorization form as provided in paragraph
35 II, a completed and executed burial transit permit for alkaline hydrolysis as required by law or the
36 appropriate alkaline hydrolysis permit from the state from which the human remains were
37 delivered, indicating that the human remains are to be subjected to alkaline hydrolysis, and a

1 delivery receipt form.

2 II. An alkaline hydrolysis authorization form shall be signed by the authorizing agent and
3 shall include, but not be limited to, the following information:

4 (a) The name of the deceased;

5 (b) Date and place of death;

6 (c) The identity of the funeral home, funeral director, next of kin or agent responsible for
7 the delivery of the human remains to the alkaline hydrolysis facility for alkaline hydrolysis;

8 (d) Notification that the death did or did not occur from a disease declared by the board
9 to be infectious, contagious, communicable, or dangerous to the public health;

10 (e) The name of the authorizing agent and the relationship between the authorizing
11 agent and the deceased;

12 (f) Authorization by the authorizing agent for the alkaline hydrolysis facility authority to
13 resomate the human remains;

14 (g) A representation that the authorizing agent is aware of no objection to the human
15 remains being subjected to alkaline hydrolysis by any person who has a right to control the
16 disposition of the human remains;

17 (h) Acknowledgement by way of initials of the authorizing agent to the alkaline
18 hydrolysis facility authority beside the specific statements outlining the requirements and
19 authorization to remove the human remains from the temporary container, casket or same, in
20 addition to the leak-proof pouch, prior to placement of human remains within the alkaline hydrolysis
21 chamber.

22 (i) Acknowledgement by way of initials of the authorizing agent to the alkaline
23 hydrolysis facility authority beside the specific statement acknowledging the fact, as a requirement
24 of the alkaline hydrolysis process, all materials not made entirely of wool or silk must be removed
25 from the human remains prior to placing the human remains within the stainless steel basket for
26 the completion of the alkaline hydrolysis process.

27 (j) The name of the person authorized to claim the remains from the alkaline hydrolysis
28 facility authority; and

29 (k) The intended disposition of the remains.

30 III. An alkaline hydrolysis facility authority shall retain, for at least 7 years after the
31 alkaline hydrolysis, in printed or electronic format with suitable backup, copies of the alkaline
32 hydrolysis authorization form, the burial transit permit for alkaline hydrolysis, the remains receipt
33 form, delivery receipt form, and any other records required under this chapter.

34 325-B:23 Signature.

35 I. Any person signing an alkaline hydrolysis authorization form shall be deemed to warrant
36 the truthfulness of any facts set forth on such form, including the identity of the deceased whose
37 remains are sought to be subjected to alkaline hydrolysis and the authority of the person to

1 authorize such alkaline hydrolysis. Any person signing an alkaline hydrolysis authorization form is
2 personally liable for all damages resulting from false, incorrect, or misleading information contained
3 on such form.

4 II. An alkaline hydrolysis facility authority may subject human remains to alkaline
5 hydrolysis upon the receipt of an alkaline hydrolysis authorization form signed by an authorizing
6 agent, a completed and executed burial transit permit for alkaline hydrolysis as required by law and
7 the required medical examiner certificate of alkaline hydrolysis.

8 325-B:24 Potentially Hazardous Conditions. No human remains shall be subjected to alkaline
9 hydrolysis with the knowledge that the human remains contain jewelry or other valuables unless
10 authorized by the authorizing agent. The authorizing agent shall take all necessary steps to ensure
11 that any jewelry or other valuables are removed prior to alkaline hydrolysis. If the authorizing
12 agent informs the funeral director and the alkaline hydrolysis facility authority on the alkaline
13 hydrolysis authorization form of the presence of jewelry or other valuables on the human remains,
14 the funeral director shall ensure that all necessary steps have been taken to remove the jewelry or
15 other valuables before delivering the human remains to the alkaline hydrolysis facility. A funeral
16 director who knowingly fails to ensure the removal of the jewelry or other valuables prior to delivery
17 and who knowingly delivers such human remains shall be liable for any damages resulting from
18 such failure. If human remains with jewelry or other valuables are in the custody of an alkaline
19 hydrolysis facility authority, such authority shall provide for the removal of such jewelry or other
20 valuables by a licensed funeral director and embalmer or his or her agent.

21 325-B:25 Disputes.

22 I. If an alkaline hydrolysis facility authority or funeral establishment is aware of any
23 dispute concerning the alkaline hydrolysis of human remains, or has a reasonable basis to believe
24 that such a dispute exists or to question any of the representations made by the authorizing agent
25 with respect to such remains, until the alkaline hydrolysis facility authority receives a court order
26 that a dispute with respect to such remains has been settled, the alkaline hydrolysis facility
27 authority or funeral establishment may refuse to accept such human remains for alkaline hydrolysis
28 or to perform an alkaline hydrolysis of such remains.

29 II. If an alkaline hydrolysis facility authority or funeral establishment is aware of any
30 dispute concerning the release or disposition of remains, the alkaline hydrolysis facility authority or
31 funeral establishment may refuse to release remains until the dispute has been resolved or the
32 alkaline hydrolysis facility authority or funeral establishment has been provided with a court order
33 authorizing the release or disposition of the remains.

34 325-B:26 Remains; How Treated.

35 I. To the extent possible, upon completion of the alkaline hydrolysis, all of the recoverable
36 residue of the alkaline hydrolysis shall be removed from the chamber and any foreign matter or
37 anything other than bone fragments shall be removed from such residue and shall be disposed of by

1 the alkaline hydrolysis facility authority. The remaining bone fragments shall be powdered to
2 reduce the fragments to unidentifiable remains. This paragraph shall not apply when the
3 commingling of human remains during alkaline hydrolysis is otherwise authorized by law.

4 II. The remains with proper identification shall be placed in a temporary container or
5 permanent container selected or provided by the authorizing agent. The remains shall not be
6 contaminated with any other object unless specific written authorization to the contrary has been
7 received from the authorizing agent.

8 III. If the entirety of the remains will not fit within a temporary container or permanent
9 container, the remainder of such remains shall be returned to the authorizing agent or his or her
10 representative in a separate container with proper identification.

11 IV. If the remains are to be shipped, the temporary container or permanent container shall
12 be packed securely in a suitable shipping container that complies with the requirements of the
13 shipper. Unless otherwise directed in writing by the authorizing agent, remains shall be shipped
14 only by a method which includes an internal tracking system and which provides a receipt signed by
15 the person accepting delivery of such remains.

16 325-B:27 Remains; Final Disposition.

17 I. The delivery of the remains to the authorizing agent or his or her representative shall
18 constitute final disposition. If, after a period of 60 days after the date of alkaline hydrolysis, the
19 authorizing agent or his or her representative has not directed or otherwise arranged for the final
20 disposition of the remains or claimed the remains for final disposition as provided in this section, the
21 alkaline hydrolysis facility authority or the funeral establishment in possession of the remains may
22 dispose of the remains after making a reasonable attempt to contact the authorizing agent or his or
23 her representative. This method of disposition may be used by any alkaline hydrolysis facility
24 authority or funeral establishment to dispose of all remains in the possession of an alkaline
25 hydrolysis facility authority or funeral establishment on or after the effective date of this chapter.

26 II. Remains following alkaline hydrolysis shall be delivered or released by the alkaline
27 hydrolysis facility authority to the representative specified by the authorizing agent on the alkaline
28 hydrolysis authorization form. The owner of the alkaline hydrolysis facility authority or his or her
29 representative and the party receiving the remains shall sign a remains receipt form. The form shall
30 include the name of the deceased, the date, time, and place of receipt of the remains, and the
31 signatures of the owner of the alkaline hydrolysis facility or his or her representative and the
32 authorizing agent or his or her representative. If the remains are shipped, a form used by the
33 shipper may be used in lieu of a completed remains receipt form if the shipper's form contains the
34 information required for a remains receipt form. Both the party delivering such remains and the
35 party receiving such remains shall retain a copy of the remains receipt form or shipper's form. Upon
36 delivery, the remains may be further transported within this state in any manner without a permit.

37 325-B:28 Rulemaking. The board shall adopt rules, pursuant to RSA 541-A relative to:

1 I. Procedures for licensure of alkaline hydrolysis facility authorities.

2 II. Establishing all required fees.

3 III. The content of all forms.

4 IV. Conditions under which human remains of persons whose death was caused by a disease
5 declared by the board to be infectious, contagious, communicable, or dangerous to the public health
6 may be transported in this state to an alkaline hydrolysis facility for the purpose of alkaline
7 hydrolysis. The board shall consult with the chief medical examiner on rules adopted under this
8 paragraph.

9 V. Minimum sanitation standards for all alkaline hydrolysis facilities.

10 VI. Inspection procedures for alkaline hydrolysis facilities as required under RSA 325-B:8.

11 325-B:29 Alkaline Hydrolysis Facility Authority; Bylaws. An alkaline hydrolysis facility
12 authority may enact reasonable bylaws not inconsistent with this chapter for the management and
13 operation of an alkaline hydrolysis facility operated by such authority. Nothing in this section shall
14 prevent an alkaline hydrolysis facility authority from enacting bylaws which contain more stringent
15 requirements than those provided in this chapter.

16 2 Repeal. RSA 325-A:30, II, relative to prohibiting the disposal of human remains through a
17 reductive process utilizing alkaline hydrolysis, is repealed.

18 3 Effective Date. This act shall take effect January 1, 2014.

19

HB 316 FISCAL NOTE

AN ACT relative to regulating alkaline hydrolysis for the disposal of human remains.

FISCAL IMPACT:

The Departments of Justice and Corrections, Judicial Branch, Judicial Council, Board of Registration of Funeral Directors and Embalmers, and New Hampshire Association of Counties state this bill, **as amended by the House (Amendment #2013-0993h)**, will increase state and county expenditures, and state revenue by an indeterminable amount in FY 2014 and each year thereafter. There will be no fiscal impact on county and local revenue, or local expenditures.

METHODOLOGY:

The Department of Justice states this bill places licensing and regulatory authority over alkaline hydrolysis with the Board of Registration of Funeral Directors and Embalmers. The Department indicates the misdemeanor and felony offenses will have no fiscal impact on the Department of Justice as these offenses are typically prosecuted by county attorney's offices or district court prosecutors. The Department states the pre-disposal examination of remains by a medical examiner and the \$60 fee paid to the medico-legal fund mirror current provisions relating to cremations. The Department assumes that alkaline hydrolysis will be used as an alternative to cremation and there would be no overall increase in the number of examinations required or the number of fees paid. The Department anticipates the Board will require assistance with the promulgation of rules and the administrative enforcement of violations. The Department states it may also become involved in the prosecution of licensing actions. The Department is not able to project the number of administrative enforcement or licensing actions and therefore cannot estimate the fiscal impact.

The Judicial Branch states the proposed bill provides a comprehensive licensing and regulatory scheme governing alkaline hydrolysis of human remains, including provisions for administrative fines and penalties. The Branch indicates the following sections of the proposed law may have a fiscal impact on the Branch:

- RSA 325-B:12, II - Collection of fines by superior court action;
- RSA 325-B:13 - Appeals of administrative actions to the Supreme Court;
- RSA 325-B:15, I - Unspecified felony to operate without a license;
- RSA 325-B:15, II - Unspecified felony to sign a false authorization form;

- RSA 325-B:15, IV - Unspecified misdemeanor for any other violation of the chapter;
- RSA 325 B-16 - Authorizes the board to maintain an action in the name of the state for an injunction against any person for establishing, operating, or maintaining an alkaline hydrolysis facility without obtaining a license;
- RSA 325 B-23, I - Personal liability to the signor for damages resulting from false information on an alkaline hydrolysis form;
- RSA 325 B-24 - Liability for a funeral director for damages resulting from knowingly failing to remove jewelry or other valuables prior to delivery of the human remains to the alkaline hydrolysis facility; and
- RSA 325 B-25 – Provision for courts to settle disputes concerning the alkaline hydrolysis or disposition of human remains.

The Branch states, with so many of points of potential financial impact, it is likely the additional cost to the Branch would exceed \$10,000. The Branch is not able to estimate the fiscal impact.

The Judicial Council states almost all violations of the proposed statute would take place within the context of someone's employment in, or ownership or management of a facility conducting alkaline hydrolysis. It is unlikely that an owner, manager, or employee would meet the eligibility standards for the appointment of counsel. The Council indicates RSA 325-A:14, authorizing the licensing and operation of crematoriums, and authorizing criminal penalties for violation of its terms, has not yielded any prosecutions requiring indigent defense expenditures. The Council does not expect this bill would have a fiscal impact on indigent defense expenditures.

The Board of Registration of Funeral Directors and Embalmers estimates this bill will have a fiscal impact of less than \$10,000 and the actual fees will be established through rulemaking.

The Department of Corrections states there would be no fiscal impact to the Department for class A misdemeanors since the term of incarceration for a class A misdemeanor is less than one year and sentences of one year or less are served at the county correctional facilities. The Department is not able to predict the number of individuals who would be found guilty of a felony, but states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2012 was \$35,071. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2012 was \$608.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.