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Ontario funeral directors fight for the right to dissolve the dead

By Pascale Malenfant | Submitted November 14, 2019

All Trevor Charbonneau wanted was a licence to dissolve his clients. After two years of trials, testimonies, and suspensions, he might finally be getting that licence for good.

“[The Bereavement Authority of Ontario] is exhausting every legal avenue that they have,” said Charbonneau, owner and director of the Newcastle Funeral Home in Newcastle, Ont. So far, he has spent more than \$300,000 in legal and equipment-maintenance fees fighting the Bereavement Authority for the right to operate his water crematory.

Water cremation — known by those within the industry as alkaline hydrolysis — is a form of cremation which uses a combination of water and alkali to decompose the soft tissue of the body, leaving behind only bone fragments, medical devices, and a tea-coloured liquid.

When Charbonneau received his alkaline hydrolysis licence in November 2017, he invited the Bereavement Authority to perform an inspection to ensure there were no misunderstandings about how the machine worked.

“Typically, the Bereavement Authority would come out and do an inspection of a facility before granting a licence of a new crematory or funeral home,” he said.

“I invited them to come and witness the first cycle [of the machine], because even the inspectors weren’t 100 per cent familiar with the process given it was relatively new at the time.”

One common misconception — that alkaline hydrolysis involves dissolving the body using acid — is what makes this process difficult for even regulatory authorities to grasp, said Samantha Sieber, vice-president of research at Bio-Response Solutions in Danville, Ind.

“When you have the chemical catalyst — alkali — present in the water, the water molecules split, and that’s what actually performs the decomposition,” she said.

“The chemical by itself wouldn’t do anything if there wasn’t water present for it to use.”

According to Charbonneau, the Bereavement Authority did not send inspectors to evaluate his facility until February 2018, when his clients’ “90 per cent selection rate” for water cremation began to catch the attention of flame crematoriums in the Toronto area.

“For me in particular, my funeral home is located in a residential area,” he said.

“I would never be able to get zoning for a typical flame crematorium, but with [water cremation] not having any smokestacks or anything like that, the zoning wasn’t an issue.”

Though all names were redacted from the official court transcripts, Charbonneau was convinced the flame crematoriums that lobbied the Bereavement Authority to further inspect his facility were primarily those that provided cremation services for Newcastle’s clients before it began to offer alkaline hydrolysis.

Within the same month, a province-wide moratorium was placed on all future alkaline hydrolysis licensing.

Charbonneau attributed water cremation’s immediate popularity among his clients to the scientific community’s recent billing of the process as a “greener” form of body disposition than burial and flame cremation.

A [first-of-its-kind study](#) conducted by Elisabeth Keijzer, a graduate student at the University of Groningen in Groningen, Netherlands, outlined the environmental impacts of these three options, looking specifically at resource and energy use, as well as air and water emissions.

Keijzer's study scored traditional burial as the least sustainable option when accounting for the resources required to extract, manufacture, and ship the raw materials required for the average funeral process.

Particular blame was placed on cement for burial vaults, wood and cotton for coffins, chemicals used in embalming, and refined stone for grave markers.

Burial also proved to be the largest emitter of greenhouse gases, with flame cremation coming in as a close second — even in Keijzer's native country of the Netherlands, where regulations regarding the release flue gas are some of the strictest in the world, according to her report.

Though water cremation did not come out of the study unscathed — scoring poorly for high energy consumption — Keijzer concluded “the funeral sector has high potential to decrease its environmental impact by adopting the new technique of [water cremation].”

This is linked both to how accessible alkali is as a resource, as well as the “material recycling” that is made possible by only destroying the soft tissue of the body, said Sieber.

“[Alkali] is something that we can make all over the world, and is in abundant supply,” she said.

“Alkaline hydrolysis also gets a huge environmental credit back because of its ability to recycle the precious metals in medical implants,” Sieber added. “A lot of medical implants are titanium, and though that's the sixth most abundant material in the world, to mine it and refine it takes an insane amount of energy.”

In order to further reduce water cremation's carbon footprint, many funeral directors, including Charbonneau, have turned to newer, low-temperature alkaline hydrolysis machines.

Not only do these machines require less energy to operate, said Charbonneau, but they also cost \$35,000 less than the average \$200,000 high-temperature alkaline hydrolysis machine.

“The whole point of offering water cremation was to provide another option to families that was much more environmentally friendly,” he said. “Why wouldn't I go with the machine that was more energy-efficient?”

In June 2018, the Bereavement Authority conducted an impromptu inspection of Charbonneau's alkaline hydrolysis facility.

When finished, rather than provide Charbonneau the conventional 30-day rectifying period to renovate his facility according to its recommendations, the Bereavement Authority delivered a notice one week later telling him his water cremation licence was to be suspended indefinitely.

“Up until this point, there had been no guidance from the Bereavement Authority as to what they expected to see in an alkaline hydrolysis facility,” Charbonneau said.

“When they came in, they took issue with some things about the facility, things like it was a concrete floor that they thought should have been sealed — minor things that easily could have been fixed,” he added. “But, at the end of the day, they never gave me an opportunity to fix them.”

Charbonneau has since appealed to the Licence Appeal Tribunal of Ontario, though has had his licence granted and suspended twice due to counter-appeals put forth by the Bereavement Authority to progressively higher provincial courts.

In response to Charbonneau's most recent push for relicensing, the Bereavement Authority commissioned a [Public Health Ontario report](#) on whether low-temperature alkaline hydrolysis is capable of destroying harmful bacteria in liquified remains, something that must be done before they can be processed as regular sewage by municipal plants.

The report's key findings, found solely through already existing studies and documentation, recognized high-temperature alkaline hydrolysis as "an acceptable method for disinfection and disposal of human remains," though concluded more research on the low-temperature method would be required before Public Health Ontario could confirm its effectiveness.

As a result, the Bereavement Authority refused to lift its moratorium on alkaline hydrolysis licensing, regardless of temperature, and did not reinstate Charbonneau's licence.

In order to counter the Bereavement Authority's claims, Charbonneau commissioned a study on the ability of low-temperature alkaline hydrolysis to destroy harmful substances which might have been found within liquefied remains.

A few months and \$25,000 later, Gerald A. Denys, senior research professor of pathology and laboratory medicine at Indiana University, conducted an experiment involving the decomposition of a disease-ridden pig using the same machine Charbonneau had installed at his funeral home.

[The study](#) concluded "complete inactivation of spores and digestion of animal tissue" as a result of low-temperature alkaline hydrolysis, providing the evidence necessary for the Divisional Court of Ontario to reinstate Charbonneau's licence.

The Bereavement Authority plans to appeal to the Ontario Appeal Court within the month, and though Charbonneau is confident he will receive a ruling in his favour, waiting for a court date could result in having his licence suspended for another year — and even more legal fees.

“The frustrating thing in this process is that the Bereavement Authority has a lot of resources, and any time they drag us into court, it’s not coming out of anybody’s pocket, it just comes out of their government funding,” he said.

“Every time this happens for us, I have to pay for it directly out of my own money.”

Despite Charbonneau’s tentative success, other funeral homes have yet to win the right to perform water cremations in their communities.

Professionals wishing to offer water cremation services are still able to apply for a licence, though should expect processing delays “as some of the technical issues surrounding the alkaline hydrolysis method are currently being debated in judicial forum,” said John Park, general counsel for the Bereavement Authority.

However, many licence applicants say the Bereavement Authority’s delays came without warning or proper justification.

John Cunningham, owner and managing director of Community Alternative Funeral & Cremation Services Ltd. in Peterborough, Ont., said he had initially decided to invest in an alkaline hydrolysis machine after several funeral homes in the province successfully started offering the service.

“There was already four [water crematories] operating in the province, so I felt that the technology was mature enough in Ontario that I could enter the field without an issue,” he said.

“I went and got the list of all the requirements from our bereavement authority in Ontario, and I followed every one of them to the letter of the law. I was 100 per cent ready to go... sent in my fully-completed application with no errors or omissions.”

Several weeks later, the Bereavement Authority announced the ban, rejecting Cunningham on the basis of the process “needing more study.”

“[They] knew full well that I was [one of the] only facilities in Ontario completed and awaiting licensing,” Cunningham said.

“They could have very easily issued my licence and then sent out the notice.”

Cunningham is not alone in his frustration. Pilon Family Funeral Home director André Pilon in Arnprior, Ont., who received his official rejection from the Bereavement Authority only one day after the ban was announced, said months of frustration prompted him to join Charbonneau in taking legal action.

In November 2018, he and his wife formed the Alkaline Hydrolysis Coalition of Ontario, setting up a petition online and hiring a lobbyist “to expose and make [the provincial government] aware of what was going on through the Bereavement Authority.”

“Because they had accepted fees for our applications, because they had sent us lists of things we had to do in order to get our licences, we had the right to be licensed,” said Pilon.

Despite the costs Charbonneau has racked up during the legal process, it is his clients’ lack of choice that has taken the largest toll on him.

“The Bereavement Authority is in place to protect the consumer, not to protect funeral homes, and we clearly understand that,” he said. “But I feel what they’re doing is they’re impeding consumers by creating the confusion around the safety of this process.”

“All I want is for those who think choosing an environmental way for the body to be dealt will make their grieving process easier to have that choice,” Charbonneau added.

“As a funeral director, that’s what I’m here to do — make dealing with death easier.”