

# Guidelines for Medical Practitioners Applying for Appointment as a NSW Medical Referee

## What is a medical referee?

A medical referee provides independent medical advice as to whether there is a need to further examine the remains of a deceased person prior to cremation.

Under Schedule 7 of the *Public Health Regulation 2022* a medical referee must be

- (a) a public health officer who is a registered medical practitioner, or
- (b) the medical superintendent of a public hospital, within the meaning of the *Health Services Act 1977*, or
- (c) a registered medical practitioner who has been appointed by the Secretary as a medical referee for this Regulation.

## What is the role of a medical referee?

The principal task of the medical referee is to issue (or decline to issue) a cremation permit. Under the 2022 change to the Regulation, the medical referee does **not** need to conduct an external examination of the body to issue a cremation permit; however, they may conduct one if they consider it necessary.

## Documentation required for cremation

Under Section 103 of the Regulation a cremation authority must not cremate the body of a dead person unless the authority has **all** of the following documents:

- a) An application for permission for cremation (usually completed by the next of kin)
- b) A cremation permit issued by a medical referee or coroner
- c) Cremation risk advice from a relevant medical practitioner
- d) A death certificate or an order by a coroner authorising the disposal of the remains

## Cremation risk advice

Refers to written advice about the [risk](#), if any, that the cremation may pose because of the presence in the body of a pacemaker, other battery operated device or radioactive implant or material. Batteries will generally explode inside the cremator, whilst certain radioactive substances may be released during cremation leading to a potential health risk to workers or to members of the public.

Cremation risk advice is provided by a medical practitioner who attended the person immediately before, or during their illness terminating in death, or who has relevant knowledge of the person's medical history (e.g. usual GP)


## Cremation permit forms

These are the most commonly used NSW Health approved forms:

- Medical referee's cremation [permit](#) (other than a still-born child)

## CONTACT US

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- Medical referee's [permit](#) for cremation of body of still-born child

Before the medical referee signs a cremation permit, he/she must:

- Be certain that the deceased died of natural causes\*
- Be satisfied that the deceased left no written objection to his/her body being cremated
- In the case of an application with respect to a stillborn child, ensure that the child was stillborn

### When should a “medical referee’s cremation permit” be declined?

Reason for Declining	Remedy
Incorrect or incomplete application to cremate forms	Ensure forms are correctly completed
A medical certificate as to cause of death has not been provided or is incomplete or incorrect	Ensure the certificate is provided and completed correctly
The deceased has left a written note that their body is not to be cremated	Decline. The cremation cannot take place
The identity of the body is unclear or incorrect	Decline until the identity has been verified and documents corrected
Death was due to violent or unnatural causes	Decline. Refer the matter to the coroner*
There are suspicious circumstances surrounding the death	Decline. Refer the matter to the coroner*
The Medical Referee: <ul style="list-style-type: none"><li>• completed the death certificate</li><li>• completed the cremation risk advice</li><li>• is close relative of the deceased person</li><li>• provided medical treatment or care to the deceased in the previous 6 months</li><li>• has a pecuniary interest in the death of the deceased</li></ul>	Decline and ask the funeral director to allocate to another medical referee

\*if the coroner has authorised disposal of the remains the medical referee may issue a cremation permit.

### Who can become a medical referee?

Registered medical practitioners who have practised medicine recently, that is for at least three of the last five years, can apply for appointment as a NSW medical referee.

### Applications to become a medical referee

To apply to be appointed as a medical referee, medical practitioners are required to complete the application form located on the [South Eastern Sydney Local Health District \(SESLHD\) Public Health Unit Medical Referees](#) webpage and to return it via email to the Administration Team (the email address on the application form).

Upon receipt, the application form will be reviewed, the applicant's AHPRA registration status will be verified, and the application processed for appointment to the NSW Medical Referee Register. NSW crematoriums are then notified of any new appointments or withdrawals on a quarterly basis, with the SESLHD Public Health Unit website updated to reflect any changes to the Register.

Appointments of medical referees generally occur within two weeks of an application being received at the Public Health Unit, and the NSW Register uploaded onto the [Public Health Unit website](#) regularly.

Successful applicants are notified in writing and are provided with a copy of clauses 106 and 107 of the *Public Health Regulation 2022* which outline their duties and responsibilities. Once the application has been approved, it is the responsibility of the medical practitioner to advise the Public Health Unit of any changes in address or contact details.

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A funeral director can assist the medical practitioner in applying, but cannot apply on their behalf.

A medical practitioner associated with an anatomy laboratory licensed in NSW under the *Anatomy Act 1977* may apply to become a medical referee for the purpose of permitting cremation of the remains of donors to the anatomy laboratory.

A salaried medical officer employed within a NSW public health organisation (other than a person employed as a medical superintendent or equivalent, who is *ex officio* a medical referee) may apply to become a medical referee; however, as a form of secondary employment this should be approved by the medical officer's line manager beforehand, and a determination of appointment will be made by the delegate on a case by case basis.

Any applicant who is deemed not suitable to be appointed will be notified in writing with a reason provided.

*Note: if possible, please submit your application by email; because we sometimes need to check confidential and sensitive details with you, please use an email address **specific to the applicant** (i.e. not a generic email address for your practice).*

*All written applications will be acknowledged in writing; those received by email will be acknowledged by the Administration Team within two working days.*

### **Overseas and interstate applicants**

Applications will not be approved for a medical practitioner who resides overseas.

Interstate applicants from the ACT, Queensland, Victoria and South Australia are considered if they live or work in proximity to the New South Wales border. Interstate applicants are to provide additional information to explain why they are seeking appointment in NSW.

### **Monitoring of medical registration status**

The Health Professional Council of NSW sends a weekly report to the Public Health Unit listing registered health practitioners whose registration status has changed. On a case by case basis, consideration of conditions on medical registration may lead to the appointment as a medical referee being temporarily or permanently revoked by the delegate. Examples of reasons for withdrawal of the appointment include:

- Practitioner suspended, deregistered or directed 'Not to practise medicine'
- Assessment indicates poor record keeping
- Condition includes a requirement for close supervision.

**If you are concerned that you may not be able perform the duties of a medical referee, please do not hesitate to contact the Public Health Unit to discuss.**

## Final Arrangements of the Deceased - Cremation

### Public Health Regulation 2022 – Q & A

The *Public Health Act 2010* and *Public Health Regulation 2022* regulate the storage and preparation of the bodies of deceased persons by the funeral industry and members of the public for burial and cremation.

The *Public Health Regulation 2022* commenced on 1 September 2022.

#### What has changed under the new Regulation for cremation?

- An attending practitioner's cremation certificate is no longer required
- Instead, a medical practitioner needs to provide written advice about the physical risk of cremation of the body of a deceased person. The medical practitioner in this context is a medical practitioner who:
  - Attended the person immediately before or during the illness terminating in the death of a person, or
  - Has relevant knowledge of the dead person's medical history.
- Medical referees are no longer required to, but may make an external examination of the body of a deceased person before issuing a cremation permit if they think it is necessary.

#### What does cremation risk advice mean?

- Cremation risk advice is written advice by the attending medical practitioner on a specified form about the risks of cremating bodies. For example, if a body has:
  - A pacemaker
  - Contains implanted or attached battery operated medical devices, surgical equipment, or
  - Has undergone certain therapeutic radioactive injections in the 12 months prior to death.

#### Where can I get a copy of the cremation risk advice form?

- [Cremation Risk Advice form](#)

#### Under the Public Health Regulation, is there a prescribed fee?

- No, there is no prescribed fee
- Medical referees may charge a fee, usually via the funeral director.

#### Where can I get a copy of the new cremation forms?

- [Cremation risk advice form](#)
- [Medical referee cremation permit other than still born children](#)
- [Coroner's cremation permit \(Deceased persons other than still-born children\)](#)
- [Medical referees permit for cremation of body of still-born child](#)
- [Application for permission for cremation of still-born child with statutory declaration](#)
- [Application for permission for cremation \(other than still-born children\) with statutory declaration](#)

### Do I need to use the forms now?

- Yes, the legislation commenced on 1 September 2022.

### How are medical referees managed in NSW?

- South Eastern Sydney Local Health District (SESLHD) Public Health Unit undertakes the following functions on behalf of the Secretary of Health:
  - Processes the appointment of medical referees and maintains the NSW Register of Medical Referees,
  - Regularly updates the Register in consultation with the Medical Council of NSW and Australian Health Practitioner Regulation Authority (AHPRA).
- To find a medical referee, visit [SESLHD Public Health Unit](#) website
- Apply for [appointment](#) as a NSW medical referee

### For more information

SESLHD Public Health Unit

Telephone: (02) 9382 8333 option 5 (business hours only)

Email: [SESLHD-PublicHealthUnitAdminTeam@health.nsw.gov.au](mailto:SESLHD-PublicHealthUnitAdminTeam@health.nsw.gov.au)

### Helpful Links

- [NSW Health guidelines: Final arrangements of the deceased](#)
- [Public Health Regulation 2022](#)
- [Application to appoint NSW medical referee](#)
- [SESLHD Public Health Unit Medical Referees Website](#)