



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FUNERAL SERVICES AND PROFESSIONS ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 28, 2019. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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FUNERAL SERVICES AND PROFESSIONS ACT

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FUNERAL SERVICES AND PROFESSIONS ACT

CHAPTER F-17

INTERPRETATION AND APPLICATION

1. Definitions

(1) In this Act

- (a) “**apprentice**” means an Apprentice Embalmer or an Apprentice Funeral Director;
- (b) “**Apprentice Embalmer**” means an individual who holds, or is deemed to hold, an Apprentice Embalmer’s License;
- (c) “**Apprentice Embalmer’s License**” means a license to engage in apprenticeship training in embalming issued under this Act;
- (d) “**Apprentice Funeral Director**” means an individual who holds, or is deemed to hold, an Apprentice Funeral Director’s License;
- (e) “**Apprentice Funeral Director’s License**” means a license to engage in apprenticeship training in the provision of funeral services issued under this Act;
- (f) “**Association**” means the Prince Edward Island Funeral Directors and Embalmers Association continued under subsection 2(1);
- (g) “**Board**” means the Prince Edward Island Funeral Services and Professions Board established under subsection 5(1);
- (h) “**bylaws**” means, unless the context indicates otherwise, the bylaws made by the Board under section 9;
- (i) “**Canadian jurisdiction**” means a Canadian jurisdiction as defined in the *Labour Mobility Act* R.S.P.E.I. 1988, Cap. L-1.1;
- (j) “**Co-operative**” means the Prince Edward Island Co-operative Funeral Directors and Embalmers Association Limited established under the *Co-operative Associations Act* R.S.P.E.I. 1988, Cap. C-23;
- (k) “**Department**” means the Department of Justice and Public Safety;
- (l) “**Embalmer**” means an individual who holds, or is deemed to hold, an Embalmer’s License;
- (m) “**Embalmer’s License**” means a license to perform embalming issued under this Act;
- (n) “**embalming**” means the preservation and disinfection of human remains by the use of chemical substances, fluids or gases ordinarily used, prepared or intended for such purposes, either by
 - (i) the outward application of the chemical substances, fluids, or gases on the human remains, or

- (ii) the introduction of the chemical substances, fluids, or gases into the human remains by vascular or hypodermic injection or by direct application into the organs or cavities;
- (o) “**embalming facility**” means premises, other than a funeral home, where embalming is performed;
- (p) “**Embalming Facility Operator**” means a person who holds, or is deemed to hold, an Embalming Facility Operator’s License;
- (q) “**Embalming Facility Operator’s License**” means a license to operate an embalming facility issued under this Act;
- (r) “**extra-provincial certificate**” means, in relation to an individual, a certificate, license, registration or other form of official recognition issued by a professional regulatory body regulating the provision of funeral services or the performance of embalming in a Canadian jurisdiction other than Prince Edward Island, that attests that the individual is qualified and authorized to provide funeral services or perform embalming or to use a title or designation of “**funeral director**” or “**embalmer**” or a related title or designation implying the person is qualified and authorized to provide funeral services or perform embalming;
- (s) “**former Act**” means the *Prince Edward Island Funeral Directors and Embalmers Association Act S.P.E.I. 1958, Cap.-39*;
- (t) “**Funeral Director**” means, unless the context indicates otherwise, an individual who holds, or is deemed to hold, a Funeral Director’s License;
- (u) “**Funeral Director’s License**” means a license to provide funeral services issued under this Act;
- (v) “**funeral home**” means a premises that is primarily used or intended to be used for the provision of funeral services;
- (w) “**Funeral Home Operator**” means a person who holds, or is deemed to hold, a Funeral Home Operator’s License;
- (x) “**Funeral Home Operator’s License**” means a license to operate a funeral home issued under this Act;
- (y) “**funeral services**” means
 - (i) the care and preparation, other than embalming, of human remains for interment or cremation,
 - (ii) the coordination of bereavement rites and ceremonies, and
 - (iii) such other services as are prescribed;
- (z) “**human remains**” means a dead human body or a part thereof, but does not include the cremated remains of a dead human body or a part thereof;
- (aa) “**inspector**” means an inspector appointed under subsection 31(1);
- (bb) “**license**” means, unless the context indicates otherwise, a valid and subsisting license issued under this Act;
- (cc) “**licensee**” means a person who holds or is deemed to hold a license;
- (dd) “**Minister**” means the Minister of Justice and Public Safety and Attorney General;
- (ee) “**operator**” means a Funeral Home Operator, an Embalming Facility Operator or a Transfer Service Operator;
- (ff) “**Register**” means the Register kept under subsection 10(3);
- (gg) “**Registrar**” means the Registrar appointed under subsection 10(1);
- (hh) “**transfer service**” means a business or undertaking providing for the transportation of human remains;

- (ii) “**Transfer Service Operator**” means a person who holds, or is deemed to hold, a Transfer Service Operator’s License;
- (jj) “**Transfer Service Operator’s License**” means a license to operate a transfer service issued under this Act.

Application of Act, rites, ceremonies and ambulance services excepted

- (2) Nothing in this Act prevents
 - (a) the conduct of
 - (i) a religious rite or ceremony traditionally provided in a place of worship, or
 - (ii) a bereavement rite or ceremony by a family member of the deceased, or another person, who is not in the business of providing funeral services and does not receive a fee or other remuneration in respect of the rite or ceremony; or
 - (b) the transportation of human remains in the course of the operation of a business or undertaking providing ambulance services. *2012(2nd),c.10,s.1; 2019,c.27,s.10.*

PART I — FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION

2. Funeral Directors and Embalmers Association continued

- (1) The Prince Edward Island Funeral Directors and Embalmers Association constituted as a body corporate under section 3 of the former Act is continued under this Act as a body corporate.

Members

- (2) The Association is composed of those persons who, immediately before the date this section comes into force, are members of the Association, and such other persons as are admitted to membership of the Association in accordance with its bylaws.

Powers

- (3) The Association has the powers of a company incorporated under the *Companies Act R.S.P.E.I. 1988, Cap. C-14. 2012(2nd),c.10,s.2.*

3. Purposes

The purposes of the Association are

- (a) to foster public awareness of the funeral service and embalming professions;
- (b) to represent its members in relations with other provincial or national agencies;
- (c) to promote continuing education and encourage high standards of service; and
- (d) to pursue such other goals as the Association considers necessary to advance the funeral service and embalming professions and further the interests of its members. *2012(2nd),c.10,s.3.*

4. Executive

- (1) The affairs of the Association shall be governed by a Council composed of a president, vice-president and such other members as may be required by, and as are elected in accordance with, the bylaws of the Association.

Officers, agents and employees

- (2) The Council may appoint such other officers, agents or employees at such salary or other remuneration, and for such term of office, as the Council considers necessary to assist it in carrying out its duties under this Act.

Bylaws

- (3) The Council may make bylaws not inconsistent with this Act or the regulations relating to the management and operation of the Association, including bylaws
- (a) respecting the governance procedures of the Association;
 - (b) respecting the election of members of the Council or appointment of officers, agents or employees;
 - (c) respecting the qualifications, terms of office, powers, duties, remuneration and removal of the members of the Council or the officers, agents and employees of the Association;
 - (d) respecting the establishment and operation of committees of the Association and the Council;
 - (e) providing for the holding of meetings of the Association and the Council and committees of the Association and the Council, including quorum requirements and the conduct of meetings;
 - (f) respecting membership in the Association, including establishing classes of membership and setting eligibility requirements for membership and classes of membership;
 - (g) establishing dues and any other assessment of members of the Association;
 - (h) establishing the duties, remuneration and allowances of members of the Council and committees of the Council, and providing for the payment of necessary expenses of the Council and committees of the Council;
 - (i) establishing the seal of the Association;
 - (j) providing for the execution of documents by the Association; and
 - (k) establishing procedures for the making, amendment and revocation of the bylaws of the Association. *2012(2nd),c.10,s.4.*

PART II — FUNERAL SERVICES AND PROFESSIONS BOARD

Establishment, Composition and Members

5. Board

- (1) There is hereby established a body corporate to be known as the Prince Edward Island Funeral Services and Professions Board.

Composition

- (2) The Board shall be composed of the following members appointed by the Minister:
- (a) two individuals who are members of the Association, nominated by the Association;
 - (b) two individuals who are members of the Co-operative, nominated by the Co-operative;
 - (c) one public representative who
 - (i) is an individual, and

- (ii) has never provided funeral services, performed embalming, or operated a funeral home, an embalming facility or a transfer service;
- (d) one representative of the Department.

Term of office

- (3) Subject to subsection (4), a Board member shall be appointed for a three-year term and may be reappointed.

Initial appointments

- (4) The Minister shall vary the terms of the initial appointments of members to the Board to ensure that the terms of all members do not expire at the same time. *2012(2nd),c.10,s.5.*

6. Termination of membership

- (1) A member of the Board ceases to be a member of the Board
 - (a) in the case of a member who resigns from the Board by notice in writing delivered to the Board, on the later of
 - (i) the day the notice is delivered, and
 - (ii) the day the resignation is to take effect, as specified in the notice;
 - (b) on the member ceasing to reside in the province;
 - (c) in the case of a member appointed under clause 5(2)(a), on the member ceasing to be a member of the Association;
 - (d) in the case of a member appointed under clause 5(2)(b), on the member ceasing to be a member of the Co-operative;
 - (e) on the death of the member; and
 - (f) on the revocation of the member's appointment.

Revocation of a member's appointment

- (2) The Minister may revoke the appointment of a member of the Board where the member
 - (a) fails to attend three consecutive meetings of the Board without, in the opinion of the Minister, a reasonable excuse;
 - (b) is convicted of an offence that, in the opinion of the Minister, renders the member unsuitable to continue to hold office as a member;
 - (c) commits an act, other than one referred to in clause (b), that, in the opinion of the Minister, undermines the ability of the member to act credibly as a member; or
 - (d) is, in the opinion of the Minister, likely to be unable to fulfil his or her duties on the Board due to physical or mental incapacity.

Notice, effect

- (3) The Minister shall give a member of the Board notice in writing of the revocation of the member's appointment, and the revocation shall be effective on the service of the notice on the member or on such later date as is specified in the notice.

Replacement of representative of the Association

- (4) Where a member of the Board who was appointed under clause 5(2)(a) ceases to hold office before his or her term expires, the Minister may, under that clause, appoint a new member, nominated by the Association, to hold office for the unexpired portion of the term.

Replacement of representative of the Co-operative

- (5) Where a member of the Board who was appointed under clause 5(2)(b) ceases to hold office before his or her term expires, the Minister may, under that clause, appoint a new member, nominated by the Co-operative, to hold office for the unexpired portion of the term.

Replacement of public or Department representative

- (6) Where a member of the Board who was appointed under clause 5(2)(c) or (d) ceases to hold office before his or her term expires, the Minister may, under that clause, appoint a new member to hold office for the unexpired portion of the term. *2012(2nd),c.10,s.6.*

7. Chair and executive officers

The Board shall elect one of its members who was appointed under clause 5(2)(a) or (b) as the chair of the Board and may appoint, from among its members, such other executive officers as it considers appropriate. *2012(2nd),c.10,s.7.*

Objects and Functions

8. Objects of Board

- (1) The objects of the Board are
- (a) to protect the public from untrained and unqualified persons providing funeral services or performing embalming;
 - (b) to oversee and facilitate apprenticeship training;
 - (c) to ensure that funeral homes and embalming facilities are maintained and equipped as required by this Act and the regulations;
 - (d) to ensure that vehicles used or intended to be used for the transportation of human remains are maintained and equipped as required by this Act and the regulations; and
 - (e) to ensure that funeral services are provided, embalming is performed, and that funeral homes, embalming facilities and transfer services are operated, in accordance with this Act and the regulations.

Functions of Board

- (2) The functions of the Board are
- (a) to establish the initial and continuing educational, competency and other qualifications or requirements for the issuance, renewal or reinstatement of a Funeral Director's License or an Embalmer's License;
 - (b) to assess applications for the issuance, renewal or reinstatement of a license;
 - (c) to develop or adopt and administer examinations to, or approve examinations developed or adopted and administered by another entity to, applicants for a Funeral Director's License or an Embalmer's License;
 - (d) to establish the initial and continuing educational, competency and other qualifications or requirements for the issuance, renewal or reinstatement of an Apprentice Funeral Director's License or an Apprentice Embalmer's License;
 - (e) to establish the minimum requirements and standards for
 - (i) the premises of a funeral home or embalming facility,
 - (ii) the equipment used to provide funeral services or perform embalming, and
 - (iii) the equipment and vehicles used in the transportation of human remains,

and other qualifications or requirements for the issuance, renewal or reinstatement of a Funeral Home Operator's License, an Embalming Facility Operator's License or a Transfer Service Operator's License;

- (f) to establish or adopt standards, codes and guidelines of practice, professional conduct and ethics for Funeral Directors, Embalmers and apprentices;
- (g) to monitor adherence by licensees to this Act, the regulations and established or adopted standards, codes and guidelines of practice, professional conduct and ethics;
- (h) to ensure that the premises of funeral homes and embalming facilities and the vehicles and equipment used in the operation of a funeral home, embalming facility or a transfer service are inspected in accordance with this Act and the regulations;
- (i) to ensure that investigations and hearings are conducted, in accordance with this Act and the regulations, in respect of any complaints against Funeral Directors, Embalmers and apprentices that are made to the Board; and
- (j) to discipline, in accordance with this Act and the regulations, Funeral Directors, Embalmers and apprentices. *2012(2nd),c.10,s.8.*

9. Bylaws

The Board may make bylaws not inconsistent with this Act or the regulations, including bylaws

- (a) respecting the management, operation and governance procedures of the Board;
- (b) respecting the qualifications, appointment, terms of office, powers, duties and removal of the officers, including the Registrar, and the agents and employees of the Board;
- (c) respecting the establishment and operation of committees of the Board;
- (d) providing for the holding of meetings of the Board and committees of the Board, including quorum requirements and the conduct of meetings;
- (e) establishing the duties, remuneration and allowances of members of the Board and its committees, and providing for the payment of necessary expenses of the Board and its committees;
- (f) respecting the making, amending and revoking of bylaws;
- (g) establishing the fees that are payable
 - (i) to apply for, obtain, renew or reinstate a license, including penalties for late payment, and
 - (ii) to take an examination;
- (h) establishing the seal of the Board; and
- (i) providing for the execution of documents by the Board. *2012(2nd),c.10,s.9.*

Registrar and Register

10. Registrar

- (1) The Board shall appoint a Registrar from among the members of the Board.

Powers and duties

- (2) The Registrar may exercise the powers and shall perform the duties conferred or imposed on the Registrar by or under this Act under the supervision of the Board.

Register

- (3) The Registrar shall keep a Register in which shall be entered
- (a) the name, business address and business contact information of each Funeral Director, Embalmer and apprentice;
 - (b) the name, business address and business contact information of each operator, and the name and address of the funeral home, embalming facility or transfer service the operator is licensed to operate; and
 - (c) any other information required to be entered in the Register by the regulations.

Notification of change in information

- (4) A licensee shall notify the Registrar without delay of any change in the information referred to in subsection (3) in respect of the licensee. *2012(2nd),c.10,s.10.*

Information

11. Information to Minister

The Board shall provide to the Minister any information respecting matters related to the functions of the Board under this Act, and in such manner and within such period of time, as the Minister may request. *2012(2nd),c.10,s.11.*

PART III — LICENSES

Funeral Director's License

12. Application for Funeral Director's License

- (1) A person who wishes to apply for a Funeral Director's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications and requirements as set out in subsection (3);
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue a Funeral Director's License to the applicant where the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) is at least 18 years old;
 - (c) has successfully completed secondary school or holds a secondary school equivalency diploma;
 - (d) has either
 - (i) successfully completed
 - (A) a funeral education program at a school approved by the Board, and

- (B) a prescribed period of apprenticeship training in the provision of funeral services that meets the requirements of the regulations, or
- (ii) successfully completed a prescribed period of apprenticeship training in the provision of funeral services that meets the requirements of the regulations;
- (e) has passed an examination administered or approved by the Board;
- (f) has, where he or she completed apprenticeship training more than three years immediately preceding the date of application,
 - (i) maintained professional competence by actively providing funeral services in accordance with the regulations, or
 - (ii) successfully completed the refresher courses, retraining or examinations required by the Board;
- (g) is in good standing with the professional regulatory bodies regulating the provision of funeral services in the jurisdictions in which he or she previously provided or was authorized to provide funeral services;
- (h) has not been found guilty of an offence that, in the Board's opinion, renders the applicant unsuitable to provide funeral services;
- (i) has not been disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the applicant unsuitable to provide funeral services;
- (j) has professional liability insurance as required by the regulations; and
- (k) meets any other requirements as set out in the regulations.

Exception

- (4) An applicant who holds an extra-provincial certificate that is, in the opinion of the Board, equivalent to a Funeral Director's License is deemed to meet the requirements of clauses (3)(c) to (e).

Funeral Director's License and registration

- (5) On receipt of a direction from the Board under subsection (3), the Registrar shall
 - (a) issue a Funeral Director's License to the applicant; and
 - (b) register the applicant in the Register.

Licensed Funeral Director - transitional

- (6) Subject to subsection (7), a person who, immediately before the date this section comes into force,
 - (a) is a Licensed Funeral Director under the former Act;
 - (b) holds a license to practice as a Funeral Director granted by the Certification Board of the Co-operative; or
 - (c) is engaged in providing funeral services at a funeral home, as determined in accordance with the regulations,

is deemed, on and after the date this section comes into force, to hold a Funeral Director's License.

Expiry

- (7) A license deemed to be held by a person under subsection (6) expires 90 days after the date this section comes into force, unless the license is sooner revoked under this Act, and may be renewed in accordance with section 25. *2012(2nd), c.10, s.12.*

Embalmer's License

13. Application for Embalmer's License

- (1) A person who wishes to apply for an Embalmer's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications and requirements as set out in subsection (3);
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue an Embalmer's License to the applicant where the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) is at least 18 years old;
 - (c) has successfully completed secondary school or holds a secondary school equivalency diploma;
 - (d) has either
 - (i) successfully completed
 - (A) an embalming program at a school approved by the Board, and
 - (B) a prescribed period of apprenticeship training in embalming that meets the requirements of the regulations, or
 - (ii) successfully completed a prescribed period of apprenticeship training in embalming that meets the requirements of the regulations;
 - (e) has passed an examination administered or approved by the Board;
 - (f) has, where he or she completed apprenticeship training more than three years immediately preceding the date of application,
 - (i) maintained professional competence by actively performing embalming in accordance with the regulations, or
 - (ii) successfully completed the refresher courses, retraining or examinations required by the Board;
 - (g) is in good standing with the professional regulatory bodies regulating embalming in the jurisdictions in which he or she previously performed or was authorized to perform embalming;
 - (h) has not been found guilty of an offence that, in the Board's opinion, renders the applicant unsuitable to perform embalming;
 - (i) has not been disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the applicant unsuitable to perform embalming;
 - (j) has professional liability insurance as required by the regulations; and
 - (k) meets any other requirements as set out in the regulations.

Exception

- (4) An applicant who holds an extra-provincial certificate that is, in the opinion of the Board, equivalent to an Embalmer's License is deemed to meet the requirements of clauses (3)(c) to (e).

Embalmer's License and registration

- (5) On receipt of a direction from the Board under subsection (3), the Registrar shall
- (a) issue an Embalmer's License to the applicant; and
 - (b) register the applicant in the Register.

Licensed Embalmer - transitional

- (6) Subject to subsection (7), a person who, immediately before the date this section comes into force,
- (a) is a Licensed Embalmer under the former Act;
 - (b) holds a license to practice as an Embalmer granted by the Embalming Board of the Co-operative; or
 - (c) is engaged in embalming, as determined in accordance with the regulations,
- is deemed, on and after the date this section comes into force, to hold an Embalmer's License.

Expiry

- (7) A license deemed to be held by a person under subsection (6) expires 90 days after the date this section comes into force, unless the license is sooner revoked, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.13.*

Apprentice Funeral Director's License**14. Application for Apprentice Funeral Director's License**

- (1) A person who wishes to apply for an Apprentice Funeral Director's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications and requirements as set out in subsection (3);
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue an Apprentice Funeral Director's License to the applicant where the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) is at least 18 years old;
 - (c) has successfully completed secondary school or holds a secondary school equivalency diploma;
 - (d) has entered into an agreement, with a Funeral Director approved by the Board, for supervised apprenticeship training in the provision of funeral services;
 - (e) has not been found guilty of an offence that, in the Board's opinion, renders the applicant unsuitable to provide funeral services;
 - (f) has not been disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the applicant unsuitable to provide funeral services; and
 - (g) meets any other requirements as set out in the regulations.

Apprentice Funeral Director's License and registration

- (4) On receipt of a direction from the Board under subsection (3), the Registrar shall
- (a) issue an Apprentice Funeral Director's License to the applicant; and
 - (b) register the applicant in the Register.

Apprentice Funeral Director - transitional

- (5) Subject to subsection (6), a person who, immediately before the date this section comes into force, is
- (a) registered as a student by the Certification Board of the Co-operative; or
 - (b) engaged in apprenticeship training in the provision of funeral services, as determined in accordance with the regulations, with a person referred to in subsection 12(6),
- is deemed, on and after the date this section comes into force, to hold an Apprentice Funeral Director's License.

Expiry

- (6) A license deemed to be held by a person under subsection (5) expires 90 days after the date this section comes into force, unless the license is sooner revoked under this Act, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.14.*

Apprentice Embalmer's License

15. Application for Apprentice Embalmer's License

- (1) A person who wishes to apply for an Apprentice Embalmer's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications and requirements as set out in subsection (3);
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue an Apprentice Embalmer's License to the applicant where the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) is at least 18 years old;
 - (c) has successfully completed secondary school or holds a secondary school equivalency diploma;
 - (d) has entered into an agreement, with an Embalmer approved by the Board, for supervised apprenticeship training in embalming;
 - (e) has not been found guilty of an offence that, in the Board's opinion, renders the applicant unsuitable to perform embalming;
 - (f) has not been disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the applicant unsuitable to perform embalming; and
 - (g) meets any other requirements as set out in the regulations.

Apprentice Embalmer's License and registration

- (4) On receipt of a direction from the Board under subsection (3), the Registrar shall
- (a) issue an Apprentice Embalmer's License to the applicant; and
 - (b) register the applicant in the Register.

Apprentice Embalmer - transitional

- (5) Subject to subsection (6), a person who, immediately before the date this section comes into force, is
- (a) registered as a student by the Embalming Board of the Co-operative; or
 - (b) engaged in apprenticeship training in embalming, as determined in accordance with the regulations, with a person referred to in subsection 13(6),
- is deemed, on and after the date this section comes into force, to hold an Apprentice Embalmer's License.

Expiry

- (6) A license deemed to be held by a person under subsection (5) expires 90 days after the date this section comes into force, unless the license is sooner revoked under this Act, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.15.*

Funeral Home Operator's License**16. Application for Funeral Home License**

- (1) A person who wishes to apply for Funeral Home Operator's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that the qualifications and requirements as set out in subsection (3) have been met;
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue a Funeral Home Operator's License to the applicant to operate a funeral home, under the name and at the premises specified in the application, where the Board is satisfied that
- (a) the applicant has submitted an application in accordance with subsections (1) and (2);
 - (b) where the applicant is an individual, he or she is at least 18 years old;
 - (c) the applicant owns, rents or leases the premises specified in the application;
 - (d) the premises specified in the application, including any particular room or area of those premises, meet such minimum standards as are required by the regulations;
 - (e) the premises specified in the application have equipment for the provision of funeral services of such type or class as is required by the regulations and that equipment meets such minimum standards as are required by the regulations;
 - (f) where the applicant intends to offer to provide embalming at the funeral home, the premises specified in the application have equipment for the performance of embalming that is of the type or class, and meets the minimum standards, required by the regulations;

- (g) the applicant holds such public liability insurance, as is required by the regulations, for the specified premises;
- (h) any vehicles that the applicant intends to use for the transportation of human remains
 - (i) are of the type or class, and meet the minimum standards, required by the regulations, and
 - (ii) are covered by such public liability insurance, held by the applicant, as is required by the regulations; and
- (i) the applicant meets any other requirements as are set out in the regulations.

Condition

- (4) Where clause (3)(f) or (h) does not apply to the applicant or the premises specified in the application, the equipment in the premises or the vehicles the applicant intends to use do not meet a requirement of clause (3)(f) or (h), as the case may be, the Board shall,
 - (a) under subsection (3), direct the Registrar to issue a Funeral Home Operator's License to the applicant; and
 - (b) pursuant to subsection 18(2), impose a condition on the license prohibiting the performance of embalming at the funeral home or the transportation of human remains in the operation of the funeral home, as the case may be.

Inspection

- (5) Where an application is made under subsection (1), the Board may direct an inspector to inspect
 - (a) the premises specified in the application;
 - (b) the equipment at the specified premises for the provision of funeral services or the performance of embalming; and
 - (c) any vehicles that the applicant intends to use for the transportation of human remains, to ensure the premises, equipment and vehicles meet the requirements of subsection (3).

Funeral Home License and registration

- (6) On receipt of a direction from the Board under subsection (3), the Registrar shall
 - (a) issue a Funeral Home Operator's License to the applicant to operate a funeral home under the name and at the premises specified on the license; and
 - (b) register the applicant in the Register.

License applies to only one funeral home

- (7) A Funeral Home Operator's License applies in respect of a single funeral home at the location specified on the license.

Agreement

- (8) For greater certainty, where a Funeral Home Operator's License has a condition imposed on it prohibiting the performance of embalming at the funeral home or the transportation of human remains in the operation of the funeral home, the Funeral Home Operator may offer to provide embalming or the transportation of human remains to the public under an agreement with an Embalming Facility Operator or a Transfer Service Operator, as the case may be.

Funeral home operator - transitional

- (9) Subject to subsection (10), a person who, immediately before the date this section comes into force, owns and operates a funeral home, as determined in accordance with the regulations, is

deemed on and after the date this section comes into force to hold a Funeral Home Operator's License in respect of that funeral home.

Expiry

- (10) A license deemed to be held by a person under subsection (9) expires 90 days after the date this section comes into force, unless the license is sooner revoked under this Act, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.16.*

Embalming Facility Operator's License**16.1 Application for Embalming Facility Operator's License**

- (1) A person who wishes to apply for an Embalming Facility Operator's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that the qualifications and requirements as set out in subsection (3) have been met;
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue an Embalming Facility Operator's License to the applicant to operate an embalming facility, under the name and at the premises specified in the application, where the Board is satisfied that
- (a) the applicant has submitted an application in accordance with subsections (1) and (2);
 - (b) where the applicant is an individual, he or she is at least 18 years old;
 - (c) the applicant owns, rents or leases the premises specified in the application;
 - (d) the premises specified in the application, including any particular room or area of those premises, meet such minimum standards as are required by the regulations;
 - (e) the premises specified in the application have equipment for the performance of embalming that is of the type or class, and meets the minimum standards, required by the regulations;
 - (f) the applicant holds such public liability insurance, as is required by the regulations, for the specified premises; and
 - (g) the applicant meets any other requirements as are set out in the regulations.

Inspection

- (4) Where an application is made under subsection (1), the Board may direct an inspector to inspect
- (a) the premises specified in the application; and
 - (b) the equipment at the specified premises for the performance of embalming.

Embalming Facility Operator's License and registration

- (5) On receipt of a direction from the Board under subsection (3), the Registrar shall
- (a) issue an Embalming Facility Operator's License to the applicant to operate an embalming facility under the name and at the premises specified on the license; and
 - (b) register the applicant in the Register.

License applies to only one embalming facility

- (6) An Embalming Facility Operator's License applies in respect of a single embalming facility at the location specified on the license.

Embalming facility operator - transitional

- (7) Subject to subsection (8), a person who, immediately before the date this section comes into force, owns and operates an embalming facility, as determined in accordance with the regulations, is deemed on and after the date this section comes into force to hold an Embalming Facility Operator's License in respect of that embalming facility.

Expiry

- (8) A license deemed to be held by a person under subsection (7) expires 90 days after the date this section comes into force, unless the license is sooner revoked under this Act, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.16.1.*

Transfer Service Operator's License

17. Application for Transfer Service License

- (1) A person who wishes to apply for a Transfer Service Operator's License shall submit to the Board an application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that the qualifications and requirements as set out in subsection (3) are met;
 - (b) payment of the fees established by the bylaws.

Eligibility

- (3) Subject to section 28, the Board shall direct the Registrar to issue a Transfer Service Operator's License to the applicant to operate the transfer service named in the application, where the Board is satisfied that
- (a) the applicant has submitted an application in accordance with subsections (1) and (2);
 - (b) where the applicant is an individual, he or she is at least 18 years old;
 - (c) the applicant owns the transfer service specified in the application;
 - (d) the applicant holds such public liability insurance, as is required by the regulations, for the vehicles that the applicant intends to use in the operation of the transfer service;
 - (e) the vehicles and equipment that the applicant intends to use in the operation of that service are of the type or class, and meet the minimum standards, required by the regulations; and
 - (f) the applicant and the transfer service meet any other requirements as are set out in the regulations.

Inspection

- (4) Where an application is made under subsection (1), the Board may direct an inspector to inspect the vehicles and equipment that the applicant intends to use in the operation of the transfer service to ensure that the vehicles and equipment meet the requirements of subsection (3).

Transfer Service License and registration

- (5) On receipt of a direction from the Board under subsection (3), the Registrar shall
- (a) issue a Transfer Service Operator's License to the applicant to operate the transfer service named on the license; and
 - (b) register the applicant in the Register.

Transfer service operator - transitional

- (6) Subject to subsection (7), a person who, immediately before the date this section comes into force, owns and operates a transfer service, as determined in accordance with the regulations, is deemed on and after the date this section comes into force to hold a Transfer Service Operator's License in respect of that transfer service.

Expiry

- (7) A license deemed to be held by a person under subsection (6) expires 90 days after the date this section comes into force, unless the license is sooner revoked, and may be renewed in accordance with section 25. *2012(2nd),c.10,s.17.*

General**18. Terms and conditions on license**

- (1) A license is subject to any terms and conditions imposed by the regulations.

Idem

- (2) In addition to the terms and conditions referred to in subsection (1), the Board may, when issuing, renewing or reinstating a license, impose any terms and conditions on the license that it considers appropriate on a license.

Terms and conditions effective when served

- (3) The imposition of terms and conditions on a license under subsection (2) is not effective until notice of the imposition and the right to appeal the terms and conditions under section 30 is served on the licensee. *2012(2nd),c.10,s.18.*

19. License not transferable

A license is not transferable. *2012(2nd),c.10,s.19.*

20. Expiry of license

Unless the Board specifies a sooner expiry date on a license or this Act otherwise provides, a license expires on March 31st next following the day on which it is issued or renewed. *2012(2nd),c.10,s.20.Licensees*

21. Duties of Funeral Directors

- (1) Every Funeral Director shall
- (a) comply with this Act and the regulations and any order made under this Act or the regulations;
 - (b) hold and maintain such professional liability insurance as required by the regulations;
 - (c) keep such records for such period of time as is required by the regulations; and

- (d) provide such information respecting the Funeral Director or the funeral services he or she provides, and in such manner and within such period of time, as may be requested by the Registrar, the Board or an inspector.

Duties of Embalmers

- (2) Every Embalmer shall
 - (a) comply with this Act and the regulations and any order made under this Act or the regulations;
 - (b) hold and maintain such professional liability insurance as required by the regulations;
 - (c) keep such records for such period of time as is required by the regulations; and
 - (d) provide such information respecting the Embalmer or the embalming he or she performs, and in such manner and within such period of time, as may be requested by the Registrar, the Board or an inspector. *2012(2nd),c.10,s.21.*

22. Duties of Funeral Home Operator

- (1) A Funeral Home Operator shall operate a funeral home
 - (a) under the name and at the premises specified in that operator's license; and
 - (b) in compliance with this Act, the regulations, and any order made under this Act or the regulations.

Funeral services and embalming

- (2) A Funeral Home Operator shall ensure that
 - (a) any funeral services that are provided at, or in connection with the operation of, the funeral home are provided or directed by a Funeral Director or an Apprentice Funeral Director acting under the supervision of a Funeral Director;
 - (b) any embalming performed at the funeral home is performed by an Embalmer or an Apprentice Embalmer acting under the supervision of an Embalmer; and
 - (c) every licensee or apprentice who
 - (i) provides or directs the provision of funeral services at, or in connection with the operation of, the funeral home, or
 - (ii) performs embalming at the funeral home,complies with this Act, the regulations, and any order made under this Act or the regulations.

Insurance, records and supply of information

- (3) A Funeral Home Operator shall
 - (a) hold and maintain public liability insurance, as required by the regulations,
 - (i) for the premises of the funeral home, and
 - (ii) any vehicles that the applicant uses or intends to use for the transportation of human remains;
 - (b) keep such records for such period of time as is required by the regulations; and
 - (c) provide such information respecting the operation of the funeral home, in such manner and within such period of time, as may be requested by the Registrar, the Board or an inspector. *2012(2nd),c.10,s.22.*

22.1 Duties of Embalming Facility Operator

- (1) An Embalming Facility Operator shall operate an embalming facility
 - (a) under the name and at the premises specified in that operator's license; and
 - (b) in compliance with this Act, the regulations, and any order made under this Act or the regulations.

Idem

- (2) An Embalming Facility Operator shall ensure that
 - (a) any embalming performed at the embalming facility is performed by an Embalmer or an Apprentice Embalmer acting under the supervision of an Embalmer; and
 - (b) every licensee or apprentice who performs embalming at the embalming facility complies with this Act, the regulations, and any order made under this Act or the regulations.

Insurance, records and supply of information

- (3) An Embalming Facility Operator shall
 - (a) hold and maintain public liability insurance, as required by the regulations for the embalming facility;
 - (b) keep such records for such period of time as is required by the regulations; and
 - (c) provide such information respecting the operation of the embalming facility, in such manner and within such period of time, as may be requested by the Registrar, the Board or an inspector. *2012(2nd),c.10,s.22.1.*

23. Duties of Transfer Service Operator

- (1) A Transfer Service Operator shall operate the transfer service named in the Operator's license in compliance with this Act, the regulations, and any order made under this Act or the regulations.

Insurance, records and supply of information

- (2) A Transfer Service Operator shall
 - (a) hold and maintain public liability insurance for the vehicles used or intended to be used for the transportation of human remains in the operation of the transfer service, as required by the regulations;
 - (b) keep such records for such period of time as required by the regulations; and
 - (c) provide such information respecting the operation of the transfer service, in such manner and within such period of time, as may be requested by the Registrar, the Board or an inspector. *2012(2nd),c.10,s.23.*

24. Notification of discipline or offence

- (1) A Funeral Director, Embalmer or apprentice who
 - (a) is found guilty of an offence; or
 - (b) is disciplined by a professional regulatory body other than the Board,shall notify the Board without delay of that finding or discipline, as the case may be.

Notification - insurance

- (2) A Funeral Director, Embalmer or operator who ceases to hold professional liability insurance as required by the regulations shall notify the Board without delay of that fact.

Notification – apprenticeship training

- (3) An Apprentice Funeral Director who ceases to be engaged in the supervised apprenticeship training referred to in clause 15(3)(d) shall notify the Board without delay of that fact.

Idem

- (4) An Apprentice Embalmer who ceases to be engaged in the supervised apprenticeship training referred to in clause 16(3)(d) shall notify the Board without delay of that fact.

Notification – operator’s license

- (5) An operator who ceases to meet any eligibility requirement for the operator’s license under this Act or the regulations shall notify the Board without delay of that fact. *2012(2nd),c.10,s.24.*

Renewal of Licenses

25. Renewal of license

- (1) A licensee who wishes to apply for the renewal of his or her license shall, at least 15 days before the expiry of the license, submit to the Board a renewal application in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with a renewal application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications as set out in subsection (3), (4) or (5), as the case may be;
 - (b) payment of the fees established by the bylaws.

Eligibility – Funeral Director’s License or Embalmer’s License

- (3) Subject to section 28, the Board shall direct the Registrar to renew a Funeral Director’s License or an Embalmer’s License, if the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) has fulfilled the applicable requirements for currency of professional knowledge and skills as set out in the regulations;
 - (c) has fulfilled the applicable continuing education requirements as set out in the regulations;
 - (d) has not been found guilty of an offence that, in the Board’s opinion, renders the applicant unsuitable to provide funeral services or perform embalming, as the case may be;
 - (e) has not been disciplined by a professional regulatory body for conduct that, in the Board’s opinion, renders the applicant unsuitable to provide funeral services or perform embalming, as the case may be;
 - (f) holds professional liability insurance as required by the regulations; and
 - (g) meets any other requirements as set out in the regulations.

Exception for deemed licensee

- (4) Notwithstanding subsection (3), clauses (3)(b) and (c) do not apply to a person referred to in subsection 12(6) or 13(6) the first time the person applies to renew his or her license.

Eligibility – Apprentice Funeral Director’s License or Apprentice Embalmer’s License

- (5) Subject to section 28, the Board shall direct the Registrar to renew an Apprentice Funeral Director’s License or an Apprentice Embalmer’s License, if the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) has entered into an agreement, with a Funeral Director approved by the Board, for supervised apprenticeship training in the provision of funeral services or with an Embalmer approved by the Board, for supervised apprenticeship training in embalming, as the case may be;
 - (c) has not been found guilty of an offence that, in the Board’s opinion, renders the applicant unsuitable to provide funeral services or perform embalming, as the case may be;
 - (d) has not been disciplined by a professional regulatory body for conduct that, in the Board’s opinion, renders the applicant unsuitable to provide funeral services or perform embalming, as the case may be; and
 - (e) meets any other requirements as set out in the regulations.

Eligibility – Funeral Home License or Transfer Service License

- (6) Subject to section 28, the Board shall direct the Registrar to renew a Funeral Home Operator’s License, an Embalming Facility Operator’s License or a Transfer Service Operator’s License, if the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) meets the requirements in clauses 16(3)(b) to (h), 16.1(3)(b) to (g) or 17(3)(b) to (e), as the case may be; and
 - (c) meets any other requirements as set out in the regulations.

Inspection

- (7) Subsections 16(4) and (5) apply, or subsection 16.1(4) or 17(4) applies, as the case may be, with such changes as the circumstances require, in respect of an application made under subsection (1).

Renewal

- (8) On receipt of a direction from the Board under subsection (3), (5) or (6), the Registrar shall renew the applicant’s license.

Extension

- (9) Notwithstanding subsection (1) and section 20, on the written request of a licensee, the Board may, in writing,
- (a) extend the time for making an application for the renewal of a license; or
 - (b) extend a license beyond its expiry date for a period not exceeding 30 days.
2012(2nd),c.10,s.25.

Surrender of License**26. Surrender of license**

A licensee may, at any time, surrender his or her license to the Registrar. *2012(2nd),c.10,s.26.*

Reinstatement of License

27. Application for reinstatement of registration and license

- (1) A former Funeral Director, Embalmer or apprentice whose license has expired or has been surrendered may, within two years after the date of the expiry or surrender, apply to the Board for the reinstatement of the license, and the application shall be in a form approved by the Board.

Application and fees

- (2) An applicant shall provide the following with an application made under subsection (1):
- (a) proof satisfactory to the Board that he or she meets the qualifications as set out in subsection (3) or (4), as the case may be;
 - (b) payment of the fees established by the bylaws.

Eligibility for reinstatement – Funeral Director or Embalmer

- (3) Subject to section 28, the Board shall direct the Registrar to reinstate the license of an applicant who is a former Funeral Director or former Embalmer, if the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) meets the requirements for renewal of the license as set out in subsection 25(3)(b) to (f); and
 - (c) meets any other requirements as set out in the regulations.

Eligibility for reinstatement - apprentice

- (4) Subject to section 28, the Board shall direct the Registrar to reinstate the license of an applicant who is a former apprentice, if the Board is satisfied that the applicant
- (a) has submitted an application in accordance with subsections (1) and (2);
 - (b) meets the requirements for renewal of the license as set out in clauses 25(5)(b) to (d); and
 - (c) meets any other requirements as set out in the regulations.

Reinstatement of registration and license

- (5) On receipt of a direction from the Board under subsection (3) or (4), the Registrar shall reinstate the applicant's license by issuing the applicant a new license. *2012(2nd),c.10,s.27.*

Refusal, Suspension or Revocation

28. Refusal to issue, renew or reinstate license

- (1) The Board shall refuse an application for the issuance, renewal or reinstatement of a license where the Board determines that the applicant does not meet the requirements for the issuance, renewal or reinstatement of the license under this Act or the regulations.

Refusal to consider application

- (2) The Board may refuse to consider an application for the issuance, renewal or reinstatement of a license by an applicant who
- (a) has an outstanding charge for an offence; or
 - (b) is under investigation by a professional regulatory body,

until the matter has been resolved.

Suspension or revocation of Funeral Director's or Embalmer's License

- (3) The Board may suspend or revoke the license of a Funeral Director or an Embalmer who
- (a) is found guilty of an offence that, in the Board's opinion, renders the Funeral Director or Embalmer unsuitable to provide funeral services or perform embalming, as the case may be;
 - (b) is disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the Funeral Director or Embalmer unsuitable to provide funeral services or perform embalming, as the case may be; or
 - (c) ceases to hold professional liability insurance as required by the regulations.

Suspension or revocation of apprentice's license

- (4) The Board may suspend or revoke the license of an apprentice who
- (a) is found guilty of an offence that, in the Board's opinion, renders the apprentice unsuitable to provide funeral services or perform embalming, as the case may be;
 - (b) is disciplined by a professional regulatory body for conduct that, in the Board's opinion, renders the apprentice unsuitable to provide funeral services or perform embalming, as the case may be;
 - (c) in the case of an Apprentice Funeral Director, ceases to be engaged in the supervised apprenticeship training in the provision of funeral services referred to in clause 14(3)(d); or
 - (d) in the case of an Apprentice Embalmer, ceases to be engaged in the supervised apprenticeship training in embalming referred to in clause 15(3)(d).

Notice and opportunity to respond

- (5) Before suspending or revoking a license under this section, the Board shall
- (a) cause to be served on the licensee written notice of
 - (i) the Board's intention to suspend or revoke the license and the reasons therefor, and
 - (ii) the licensee's opportunity to respond under clause (b);
 - (b) give the licensee an opportunity to respond in writing within seven days after the service on the licensee of the written notice under clause (a); and
 - (c) consider any written response made by the licensee within the time period referred to in clause (b).

Notice of decision and right to appeal

- (6) Where the Board
- (a) refuses to issue, renew or reinstate a license or consider an application; or
 - (b) suspends or revokes a license,
- under this section, the Board shall serve on the affected person a written notice of
- (c) the refusal, suspension or revocation and the reasons therefor; and
 - (d) the affected person's right to appeal the refusal, suspension or revocation under section 29.

Suspension or revocation not effective until notice

- (7) The suspension or revocation of a license under this section is not effective until written notice of the suspension or revocation, as required under subsection (6), is served on the licensee. *2012(2nd),c.10,s.28.*

29. Appeal

- (1) A person who is aggrieved by
- (a) the imposition of terms and conditions on his or her license by the Board under subsection 18(2); or
 - (b) a refusal of the Board, or the suspension or revocation of a license by the Board, under section 28,

may appeal the imposition, refusal, suspension or revocation to the Supreme Court within 30 days after being served with notice of the imposition, refusal, suspension or revocation.

Powers of court

- (2) On hearing an appeal, the court may
- (a) confirm, revoke or vary the terms and conditions imposed by the Board, or the refusal, suspension or revocation appealed from;
 - (b) refer the matter, or any issue, back to the Board for further consideration; or
 - (c) provide any direction that it considers appropriate. *2012(2nd),c.10,s.29.*

PART IV — ENFORCEMENT

Complaints Against Operators

30. Complaint about operator

- (1) Any person may make a complaint to the Registrar alleging that an operator has contravened this Act, the regulations or an order made under this Act or the regulations.

Form of complaint

- (2) A person who wishes to make a complaint under subsection (1) shall
- (a) state the complaint and the grounds for the complaint in writing; and
 - (b) sign the complaint.

Board may request an inspection

- (3) Where the Registrar
- (a) receives a complaint under subsection (1); or
 - (b) has reasonable grounds to believe that an operator has contravened this Act, the regulations or an order made under this Act or the regulations,

the Registrar may direct an inspector to inspect the funeral home, embalming facility or transfer service operated by the operator, as the case may be, in accordance with section 31. *2012(2nd),c.10,s.30.*

Inspection

31. Inspectors

- (1) The Board may appoint persons as inspectors for the purposes of this Act.

Entry and inspection

- (2) For the purpose of ensuring compliance with this Act and the regulations and any order made under this Act or the regulations, an inspector may, without notice during business hours and on the production of a copy of his or her appointment, enter any premises or part of any premises used or intended to be used for the purpose of operating a funeral home, an embalming facility or a transfer service to carry out an inspection.

Powers of inspector

- (3) For the purposes of an inspection, an inspector may
- (a) examine, extract information from and make copies of all records, documents and other relevant information required to carry out the inspection;
 - (b) inspect all facilities, equipment and vehicles used or intended to be used in the operation of the funeral home, embalming facility or transfer service, as the case may be;
 - (c) examine and conduct the tests that the inspector considers necessary on materials or substances;
 - (d) remove materials or substances for examination or the conduct of tests; and
 - (e) interview or request information from any employee or other person providing services in the operation of the funeral home, embalming facility or transfer service.

Cooperation and information

- (4) The operator of a funeral home, embalming facility or transfer service that is subject to inspection, and any employee or other person providing services in the operation, shall cooperate with an inspector and provide all records, documents or information requested by the inspector in connection with the inspection.

Failure to comply

- (5) Where a person fails to comply with subsection (4), without reasonable cause, the inspector
- (a) may apply to the Supreme Court, without notice, for a warrant authorizing the inspector to enter the premises and carry out an inspection in accordance with subsection (3); and
 - (b) shall report the failure to comply to the Board. *2012(2nd),c.10,s.31.*

Inspection Report

32. Report

- (1) An inspector shall, on completion of an inspection under section 31, report, in writing, to the operator of the funeral home, embalming facility or transfer service that was inspected and to the Board his or her findings and recommendations, if any, for remedying any contravention of this Act, the regulations or an order made under this Act or the regulations.

Submission

- (2) The operator of a funeral home, embalming facility or transfer service that was inspected may, within 10 days after receipt of a report of an inspector under subsection (1), make a written submission to the Board regarding the findings and any recommendations of the inspector.

Order

- (3) Where, after considering the findings and any recommendations of the inspector reported under subsection (1) and any submissions of the operator made under subsection (2), the Board finds that an operator has contravened this Act, the regulations or an order made under this Act or the regulations, the Board may make one or more of the following orders:
- (a) an order that the operator take any steps necessary to comply with this Act or the regulations or an order made under this Act or the regulations;
 - (b) an order imposing a fine on the operator in the amount permitted by the regulations;
 - (c) an order suspending the license of the operator for a specified period of time or until the occurrence of a specified future event;
 - (d) an order revoking the license of the operator.

Notice

- (4) Where the Board makes an order under subsection (3), the Board shall serve the order on the operator who is the subject of the order together with a written notice of
- (a) reasons for the order; and
 - (b) the operator's right to appeal the order under section 34.

Order in effect when served

- (5) An order of the Board made under subsection (3)
- (a) is in effect when it is served on the operator who is the subject of the order; and
 - (b) remains in effect pending an appeal unless the Supreme Court, on application, stays the order pending the appeal. *2012(2nd), c.10, s.32.*

Interim Order

33. Interim order

- (1) Notwithstanding any other provision of this Act, where the Board has reasonable grounds to believe that the conduct of an operator poses a demonstrable risk of harm to the operator's clients or to the general public, the Board may make an order
- (a) imposing terms and conditions on the operator's license; or
 - (b) suspending the operator's license.

Service of order and referral

- (2) Where the Board makes an order under subsection (1), the Board shall
- (a) serve on the operator who is the subject of the order
 - (i) a copy of the order,
 - (ii) written reasons for the order, and
 - (iii) written notice of the right to appeal under section 34;
 - (b) serve a copy of the order on the Registrar; and

- (c) direct an inspector to inspect the funeral home, embalming facility or transfer service operated by the operator, in accordance with section 31, if an inspection has not been carried out in respect of the matter.

Order in effect when served

- (3) An order of the Board made under subsection (1)
 - (a) is in effect when it is served on the operator who is the subject of the order; and
 - (b) is valid for the period, not exceeding 90 days, that is specified in the order. *2012(2nd),c.10,s.33.*

34. Appeal

- (1) A person who is aggrieved by an order of the Board made under subsection 32(3) or 33(1) may appeal the order to the Supreme Court within 30 days after being served with notice of the order.

Powers of court

- (2) On hearing an appeal, the court may
 - (a) confirm, revoke or vary the order appealed from;
 - (b) refer the matter, or any issue, back to the Board for further consideration; or
 - (c) provide any direction that it considers appropriate. *2012(2nd),c.10,s.34.*

PART V — DISCIPLINE

Interpretation

35. Definitions

In this Part and in Part VI,

- (a) “**complainant**” means
 - (i) a person who makes a complaint to the Registrar under subsection 38(1), or
 - (ii) the Registrar, in respect of a complaint initiated by the Registrar under subsection 38(3);
- (b) “**complaint**” means a complaint made or initiated under section 38 or referred to the investigation committee under clause 50(2)(c);
- (c) “**conduct**” includes an act or an omission;
- (d) “**hearing committee**” means the hearing committee appointed by the Board under subsection 51(1);
- (e) “**investigation committee**” means the investigation committee appointed by the Board under subsection 37(1);
- (f) “**investigator**” means an investigator appointed by the Board under subsection 37(5);
- (g) “**respondent**” means a Funeral Director, Embalmer or apprentice, or a former Funeral Director, Embalmer or apprentice, who is the subject of a complaint. *2012(2nd),c.10,s.35.*

36. Professional misconduct

- (1) The conduct of a respondent that is the subject of a complaint may be found under this Part to constitute professional misconduct if
- (a) the respondent contravenes this Act or the regulations in a manner that, in the opinion of the investigation committee or the hearing committee, relates to the respondent's suitability to provide funeral services or perform embalming, as the case may be;
 - (b) the respondent is found guilty of an offence that, in the opinion of the investigation committee or the hearing committee, relates to the respondent's suitability to provide funeral services or perform embalming, as the case may be;
 - (c) the respondent refuses or fails to cooperate fully in respect of the investigation or hearing of a complaint;
 - (d) the respondent contravenes an order made under this Act or the regulations; or
 - (e) the conduct of the respondent constitutes professional misconduct as defined in the regulations.

Incompetence

- (2) The conduct of a respondent that is the subject of a complaint may be found under this Part to constitute incompetence where
- (a) the respondent's conduct
 - (i) demonstrates a lack of knowledge, skill or judgment,
 - (ii) demonstrates disregard for the welfare of a client or for public safety, or
 - (iii) constitutes incompetence as defined in the regulations; or
 - (b) the respondent is unable to provide funeral services or perform embalming, as the case may be, in accordance with accepted professional standards for any reason, including that the respondent is impaired by a disability, illness, addiction or condition. *2012(2nd),c.10,s.36.*

Investigation Committee

37. Investigation committee

- (1) The Board shall appoint an investigation committee composed of the following persons:
- (a) one person who is a member of the Association;
 - (b) one person who is a member of the Co-operative;
 - (c) one person who is either
 - (i) an individual who has never provided funeral services, performed embalming or operated a funeral home, embalming facility or a transfer service, or
 - (ii) a representative of the Department nominated by the Minister.

Chair

- (2) The Board shall appoint a member of the investigation committee as the chair of the investigation committee.

Quorum

- (3) Two members of the investigation committee constitute a quorum.

Conflict of interest of member of investigation committee

- (4) A member of the investigation committee who has a conflict of interest in respect of a matter that is before the investigation committee shall
- (a) disclose the nature of the conflict of interest to the investigation committee; and
 - (b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.

Investigators

- (5) The Board may appoint one or more persons as investigators. *2012(2nd),c.10,s.37.*

Complaint**38. Complaint of professional misconduct or incompetence**

- (1) Any person, other than the Registrar, may make a complaint to the Registrar alleging that
- (a) the conduct of a Funeral Director, Embalmer or apprentice; or
 - (b) the conduct of a former Funeral Director, Embalmer or apprentice that occurred while the person was a licensee,
- constitutes professional misconduct or incompetence.

Form of complaint

- (2) A person who wishes to make a complaint under subsection (1) shall
- (a) state the complaint and the grounds for the complaint in writing; and
 - (b) sign the complaint.

Registrar may initiate complaint

- (3) In the absence of a complaint made to the Registrar under subsection (1), the Registrar may initiate a complaint, in writing, if he or she has reasonable grounds to believe that
- (a) the conduct of a Funeral Director, Embalmer or apprentice; or
 - (b) the conduct of a former Funeral Director, Embalmer or apprentice that occurred while the person was a licensee,
- constitutes professional misconduct or incompetence.

Continuing jurisdiction

- (4) A former Funeral Director, Embalmer or apprentice continues to be subject to the jurisdiction of the Board, the investigation committee, an investigator and the hearing committee with respect to any conduct that occurred while he or she was a licensee that may constitute professional misconduct or incompetence. *2012(2nd),c.10,s.38.*

39. Service of copy of complaint

- (1) Within 15 days after the receipt of a complaint under subsection 38(1) or the initiation of a complaint under subsection 38(3), the Registrar shall
- (a) serve on the respondent,
 - (i) a copy of the complaint, and
 - (ii) written notice of the respondent's right to submit a response to the complaint under subsection (2); and
 - (b) notify the Board of the complaint.

Written response to complaint

- (2) A respondent may submit a written response to a complaint to the Registrar within 15 days after being served with a copy of the complaint under clause (1)(a).

Service of response

- (3) The Registrar shall, immediately after the expiry of the period referred to in subsection (2), serve a copy of any response submitted under subsection (2) on the complainant.
2012(2nd),c.10,s.39.

40. Alternate person

- (1) Where the Registrar
- (a) has a conflict of interest regarding a complaint made under subsection 38(1); or
 - (b) initiates a complaint under subsection 38(3),
- the Registrar shall, without delay after complying with section 39, refer the complaint to another member of the Board and
- (c) serve written notice of the referral on the complainant and the respondent; and
 - (d) provide the other member with a copy of the complaint and any response to the complaint submitted under subsection 39(2).

Registrar shall refrain from participating

- (2) Where the Registrar refers a complaint to another member of the Board under subsection (1),
- (a) the Registrar shall refrain from participating in any investigation, proceeding or decision in respect of the complaint;
 - (b) the other member may exercise the powers and shall perform the duties of the Registrar under this Act and the regulations in respect of the complaint; and
 - (c) a reference in this Act or the regulations to the Registrar in respect of the complaint shall be read as a reference to the other member. *2012(2nd),c.10,s.40.*

41. Registrar to inquire

- (1) Where a complaint is made or initiated under section 38, the Registrar
- (a) shall inquire into the complaint to the extent that the Registrar determines is warranted; and
 - (b) may attempt to resolve the complaint informally if the Registrar considers informal resolution to be appropriate and not contrary to the public interest.

Dismissal of complaint

- (2) The Registrar shall dismiss a complaint made or initiated under section 38 if the Registrar finds
- (a) that the complaint is frivolous, vexatious or without foundation; or
 - (b) that
 - (i) the complaint has been resolved or the complainant wishes no further action to be taken, and
 - (ii) dismissal is not contrary to the public interest.

Notice of dismissal

- (3) On dismissing a complaint, the Registrar shall serve on the complainant and the respondent,
- (a) written notice of and reasons for the dismissal; and
 - (b) written notice of the complainant's right to request a review of the dismissal under subsection 42(1).

Referral of complaint

- (4) Where the Registrar does not dismiss a complaint under subsection (2), the Registrar shall refer the complaint to the investigation committee and
- (a) serve written notice of the referral on the complainant and the respondent; and
 - (b) provide the investigation committee with a copy of the complaint and any response to the complaint submitted under subsection 39(2). *2012(2nd),c.10,s.41.*

42. Request for review of dismissal

- (1) The complainant may, within 30 days after being served with the notice of the dismissal of a complaint by the Registrar under subsection 41(3), submit a request for a review of the dismissal to the Board.

Referral of request

- (2) The Board shall refer a request for a review of the dismissal of a complaint made under subsection (1) to the investigation committee.

Review based on record

- (3) Unless the investigation committee otherwise determines, a review of the dismissal of a complaint shall be based on the record prepared by the Registrar and the Registrar's reasons for dismissal.

Decision

- (4) Within 60 days after receipt of a request for review under subsection (2), the investigation committee shall review the dismissal and
- (a) confirm the dismissal; or
 - (b) where the investigation committee finds that the dismissal of the complaint was in error, overturn the dismissal.

Written notice and reasons for decision

- (5) On confirming or overturning a dismissal under subsection (4), the investigation committee shall serve, on the complainant and the respondent, written notice of and reasons for its decision.

Investigation

- (6) Where the investigation committee overturns the dismissal of a complaint, the investigation committee shall
- (a) investigate the complaint; or
 - (b) refer the complaint to an investigator for an investigation. *2012(2nd),c.10,s.42.*

Consideration of Complaint

43. Powers of investigation committee

Within 30 days after the referral of a complaint to the investigation committee under subsection 41(4) or clause 50(2)(c), the investigation committee shall consider the complaint and any response to the complaint that was submitted by the respondent under subsection 39(2), and

- (a) dismiss the complaint, if in the opinion of the investigation committee, the complaint is frivolous and vexatious or without merit;
- (b) refer the complaint to a mediator for mediation, if
 - (i) the investigation committee is satisfied that the referral is appropriate in the circumstances and not contrary to the public interest, and
 - (ii) the complainant and the respondent agree to participate in mediation;
- (c) make any order that the hearing committee is authorized to make under subsection 54(2), if the respondent consents to the order; or
- (d) investigate the complaint or refer the complaint to an investigator for investigation.
2012(2nd),c.10,s.43.

Mediation

44. Procedures for mediation

- (1) The investigation committee may establish procedures to be followed with respect to mediation, including procedures pertaining to the selection of a mediator.

Agreement

- (2) Where the investigation committee refers a complaint to a mediator for mediation under clause 43(b) and the complainant and the respondent agree to a proposed resolution of the complaint, the mediator shall
 - (a) ensure that the proposed resolution is recorded in a written agreement that
 - (i) includes all of the terms and conditions agreed to by the complainant and the respondent, and
 - (ii) is signed by the complainant, the respondent and the mediator; and
 - (b) submit the agreement referred to in clause (a) to the investigation committee.

Approval or rejection

- (3) On receipt of an agreement submitted to the investigation committee under clause (2)(b), the investigation committee shall
 - (a) approve or reject the proposed resolution; and
 - (b) serve on the complainant and the respondent,
 - (i) written notice of the approval, or
 - (ii) written notice of the rejection and reasons for the rejection.

Implementation of resolution

- (4) Where the investigation committee approves the proposed resolution of a complaint under clause (3)(a), the investigation committee shall

- (a) make any order or take any action required for the implementation of the resolution; and
- (b) notify the Board of the resolution of the complaint and the terms of the resolution.

Investigation

- (5) Where the investigation committee refers a complaint to mediation under clause 43(b) and
 - (a) the investigation committee concludes that mediation is not likely to be successful;
 - (b) the complaint is not resolved within 60 days of the referral; or
 - (c) the investigation committee rejects the proposed resolution of the complaint under clause (3)(a),

the investigation committee shall investigate the complaint or refer the complaint to an investigator for investigation. *2012(2nd),c.10,s.44.*

45. “legal proceeding”, defined

- (1) In this section, “**legal proceeding**” means
 - (a) a proceeding in any court, including a civil proceeding or a proceeding for the imposition of punishment by fine, penalty or imprisonment to enforce an Act or a regulation made under an Act; and
 - (b) an investigation or a hearing under this Act.

Inadmissibility of evidence

- (2) No evidence of or relating to a statement made by a mediator or a participant to mediation in the course of and for the purposes of the mediation is admissible in a legal proceeding without the consent of the mediator and the participant.

Idem

- (3) A mediator of a complaint is not a competent or compellable witness in a legal proceeding in respect of information obtained by the mediator in the course of or in relation to the mediation. *2012(2nd),c.10,s.45.*

Referral to Investigator

46. Notice and copy of complaint

Where the investigation committee refers a complaint to an investigator under clause 42(6)(b) or 43(d) or subsection 44(5), the investigation committee shall

- (a) serve written notice of the referral on the complainant and the respondent; and
- (b) provide the investigator with a copy of the complaint and any response to the complaint submitted under subsection 39(2). *2012(2nd),c.10,s.46.*

Investigation

47. Powers of investigation committee or investigator

- (1) The investigation committee or an investigator
 - (a) may do all things necessary to provide a full and proper investigation of a complaint;

- (b) may deal with multiple complaints concerning a respondent severally or in combination;
- (c) shall consider the allegations and the evidence and ascertain the facts of each complaint in the manner that the investigation committee or investigator considers fit;
- (d) may make oral or written inquiries of any person who may have information relevant to the investigation;
- (e) may order the respondent or another licensee to participate in an interview for the purpose of the investigation;
- (f) may order the respondent to produce for examination any documents, records and other materials that are in his or her possession or under his or her control that may be relevant to the investigation;
- (g) may copy and keep copies of any documents, records and other materials produced under clause (f); and
- (h) may investigate any matter in addition to the complaint that arises in the course of the investigation and that may constitute professional misconduct or incompetence.

Requirement for examinations

- (2) Where the investigation committee or an investigator investigates a complaint that the conduct of the respondent constitutes incompetence, the investigation committee or the investigator may,
 - (a) where the respondent is a Funeral Director, order the respondent to undertake such examination of the respondent's professional knowledge and skills related to the provision of funeral services that the investigator directs to determine whether or not the respondent is competent to provide funeral services;
 - (b) where the respondent is an Embalmer, order the respondent to undertake such examination of the respondent's professional knowledge and skills related to embalming that the investigator directs to determine whether or not the respondent is competent to perform embalming; and
 - (c) where the investigation committee or the investigator has reasonable grounds to believe that the respondent's capacity to provide funeral services or perform embalming, as the case may be, in accordance with accepted professional standards, is impaired by a disability or a condition, including an addiction or an illness, order the respondent to submit to such physical or psychological examinations by the qualified persons as the investigation committee or the investigator may direct.

Failure or refusal to respond or comply

- (3) Where an investigator investigates a complaint and a licensee fails or refuses, without reasonable cause, to comply with an order under subsection (1) or (2), the investigator shall report the failure or refusal to the investigation committee in writing.

Suspension or imposition of terms and conditions on license

- (4) Where a licensee fails or refuses, without reasonable cause, to comply with an order under subsection (1) or (2), the investigation committee may suspend or impose terms and conditions on his or her license until he or she complies. *2012(2nd),c.10,s.47.*

48. Investigation report

- (1) After completing an investigation, the investigation committee or the investigator shall, within a reasonable time, prepare a written investigation report of the findings of the investigation committee or the investigator.

Report to investigation committee

- (2) An investigator shall provide his or her investigation report to the investigation committee.

Service of investigation report

- (3) The investigation committee shall serve a copy of the investigation report prepared under subsection (1) on the complainant and the respondent. *2012(2nd),c.10,s.48.*

49. Powers of investigation committee

- (1) The investigation committee shall, after consideration of the investigation report prepared under subsection 48(1),
- (a) dismiss the complaint, if in the opinion of the investigation committee,
 - (i) the allegations are frivolous or vexatious or without merit, or
 - (ii) there is insufficient evidence to support the allegations;
 - (b) make any order that the hearing committee is authorized to make under subsection 54(2), if the respondent consents to the order; or
 - (c) refer the complaint to the hearing committee for a hearing.

Dismissal of complaint

- (2) Where the investigation committee dismisses a complaint under clause 43(a) or 49(1)(a), the investigation committee shall serve on
- (a) the complainant and the respondent,
 - (i) written notice of and reasons for the dismissal,
 - (ii) written notice of the complainant's right to appeal the dismissal under subsection 55(1); and
 - (b) the Board, written notice of and reasons for the dismissal.

Service of copy of order

- (3) Where the investigation committee makes an order under clause 43(c) or 49(1)(b), the investigation committee shall serve a copy of the order on the complainant, the respondent and the Board.

Referral to hearing committee

- (4) Where the investigation committee refers a complaint to the hearing committee under clause (1)(c), the investigation committee shall
- (a) serve written notice of the referral on the complainant, the respondent and the Board;
 - (b) provide the hearing committee with a copy of the complaint and any response to the complaint submitted under subsection 39(2); and
 - (c) appoint legal counsel to adduce evidence at the hearing. *2012(2nd),c.10,s.49.*

Interim Order**50. Interim order**

- (1) Notwithstanding any other provision of this Act, where the Board has reasonable grounds to believe that the conduct of a Funeral Director, Embalmer or apprentice poses a demonstrable risk of harm to the person's clients or to the general public, the Board may make an order

- (a) imposing terms and conditions on the license of the Funeral Director, Embalmer or apprentice; or
- (b) suspending the license of the Funeral Director, Embalmer or apprentice.

Service of order and referral

- (2) Where the Board makes an order under subsection (1), the Board shall
 - (a) serve on the Funeral Director, Embalmer or apprentice who is the subject of the order
 - (i) a copy of the order,
 - (ii) written reasons for the order, and
 - (iii) written notice of the right to appeal under subsection 55(2);
 - (b) serve a copy of the order on the Registrar; and
 - (c) refer the matter as a complaint to the investigation committee, if a complaint has not been made or initiated in respect of the matter.

Order in effect when served

- (3) An order of the Board made under subsection (1)
 - (a) is in effect when it is served on the Funeral Director, Embalmer or apprentice who is the subject of the order; and
 - (b) is valid for the period, not exceeding 90 days, that is specified in the order.
2012(2nd),c.10,s.50.

Hearing Committee

51. Hearing committee

- (1) The Board shall appoint a hearing committee, composed of the following persons who are not members of investigation committee or investigators:
 - (a) one individual who is a member of the Association;
 - (b) one individual who is a member of the Co-operative;
 - (c) one individual who is either
 - (i) an individual who has never provided funeral services, performed embalming or operated a funeral home, an embalming facility or a transfer service, or
 - (ii) a representative of the Department nominated by the Minister.

Chair

- (2) The Board shall appoint a member of the hearing committee as the chair of the hearing committee.

Quorum

- (3) Two members of the hearing committee constitute a quorum.

Conflict of interest of member of hearing committee

- (4) A member of the hearing committee who has a conflict of interest in respect of a matter that is before the hearing committee shall
 - (a) disclose the nature of the conflict of interest to the hearing committee; and
 - (b) refrain from attempting to influence the disposition of the matter or participating in consideration of the matter.

Powers, privileges and immunities

- (5) In the discharge of the functions of the hearing committee, the hearing committee and each member of the hearing committee have all of the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. 2012(2nd),c.10,s.51.

Hearing**52. Hearing**

- (1) The hearing committee shall,
- (a) unless otherwise directed by the Board, hold a hearing into a complaint referred to it within 45 days of the referral; and
 - (b) conduct its proceedings in accordance with the rules of natural justice.

Notice of hearing

- (2) The hearing committee shall, not less than 30 days before the date set for the hearing, serve written notice of the date, time, place and subject matter of the hearing on
- (a) the complainant;
 - (b) the respondent; and
 - (c) the legal counsel appointed under clause 49(4)(c).

Retaining assistance

- (3) The hearing committee may retain any legal or other assistance that it considers necessary for the purposes of conducting a hearing.

Right to appear

- (4) The respondent has the right to appear, to be represented by legal counsel, and to examine, cross-examine and *re-examine* witnesses at a hearing.

Hearing in absence of respondent

- (5) Where the respondent fails to appear at a hearing after being served with notice in accordance with subsection (2), the hearing committee may proceed with the hearing in the absence of the respondent and make any decision, determination or order as if the respondent were in attendance. 2012(2nd),c.10,s.52.

53. Powers of hearing committee

- (1) The hearing committee
- (a) may do all things necessary to provide a full and proper hearing in respect of a complaint;
 - (b) may deal with multiple complaints concerning a respondent severally or in combination; and
 - (c) may hear any matter in addition to the complaint before the hearing committee that arises in the course of its proceedings and that may demonstrate, in respect of the respondent, professional misconduct or incompetence.

Opportunity to respond

- (2) Where the hearing committee hears an additional matter referred to in clause (1)(c), the hearing committee shall give the respondent a reasonable opportunity to respond to the matter.

Hearing open to public

- (3) A hearing shall be open to the public unless the hearing committee is of the opinion that
- (a) the interests of a person other than the respondent may be detrimentally affected if the hearing, or part of the hearing, is not held in private; and
 - (b) the desirability of avoiding public disclosure of financial, personal or other matters in the interest of a person affected or in the public interest outweighs the desirability of adhering to the principle that inquiries be open to the public.

Protection of witness identity

- (4) The hearing committee may, on the request of a witness whose testimony is of a confidential or personal and sensitive nature, order that no person publish the identity of the witness or any information that could disclose the identity of the witness.

Failure of licensee to comply

- (5) Where a Funeral Director, Embalmer or apprentice fails to comply with a subpoena issued by the hearing committee or a member of the hearing committee, or refuses to answer any question under oath directed to be answered by the hearing committee or a member of the hearing committee, the failure or refusal may be held by the hearing committee to be professional misconduct.

Rules of evidence

- (6) The hearing committee is not bound by strict rules of evidence or the provisions of the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11. *2012(2nd),c.10,s.53.*

Determination and Order

54. Determination of hearing committee

- (1) On concluding a hearing, the hearing committee shall determine whether conduct of the respondent constitutes professional misconduct or constitutes incompetence.

Order

- (2) Where the hearing committee determines that conduct of the respondent constitutes professional misconduct or constitutes incompetence, the hearing committee may make one or more of the following orders:
- (a) an order directing the respondent to undergo additional education or training;
 - (b) an order directing the respondent to participate in counselling or a rehabilitative treatment program;
 - (c) an order reprimanding the respondent;
 - (d) an order imposing terms and conditions on the license of the respondent;
 - (e) an order suspending the license of the respondent for a specified period of time or until the occurrence of a specified future event;
 - (f) an order revoking the respondent's license;

- (g) an order requiring the respondent to pay all or part of the costs incurred by the hearing committee to conduct the hearing;
- (h) an order imposing a fine on the respondent in the amount permitted by the regulations;
- (i) an order imposing any other sanction that the hearing committee considers to be appropriate.

Service of notice of determination and order

- (3) Within 30 days after the completion of a hearing, the hearing committee shall serve
 - (a) written notice of and reasons for the determination made under subsection (1), and a copy of any order made under subsection (2), on
 - (i) the respondent,
 - (ii) the complainant,
 - (iii) the Registrar, and
 - (iv) the Board; and
 - (b) written notice of the right to appeal the determination made under subsection (1), and any order made under subsection (2), on the respondent.

Order in effect when served

- (4) An order of the hearing committee is in effect when it is served on the respondent and remains in effect pending an appeal unless the Court of Appeal, on application, stays the order pending the appeal.

Publication of determination or order

- (5) The Board may advise the public of an order of the investigation committee, or a determination or order of the hearing committee, upon the terms that the Board considers to be necessary in the public interest.

Failure to comply with order

- (6) Where the Board is satisfied that a respondent has failed to comply with an order of the Board, the investigation committee or the hearing committee, the Board may, without further hearing, make an order suspending the respondent's license subject to any terms and conditions that the Board considers appropriate. *2012(2nd),c.10,s.54.*

Appeal**55. Appeal**

- (1) A complainant may appeal the dismissal of a complaint by the investigation committee under clause 43(a) or 49(1)(a) to the Supreme Court within 30 days after being served with notice of the dismissal.

Idem

- (2) A respondent may appeal
 - (a) an order of the Board made under subsection 50(1);
 - (b) a determination of the hearing committee made under subsection 54(1); or
 - (c) an order of the hearing committee made under subsection 54(2),to the Supreme Court within 30 days after being served with notice of the determination or a copy of the order.

Notice of appeal

- (3) Notice of an appeal under subsection (1) or (2) must be served on the Registrar.

Powers of court

- (4) On hearing an appeal, the court may
- (a) confirm, revoke or vary the dismissal, determination or order appealed from;
 - (b) refer the matter, or any issue, back to the investigation committee or the hearing committee for further consideration; or
 - (c) provide any direction that it considers appropriate.

Costs of appeal

- (5) The court may make any order as to the costs of an appeal that it considers appropriate.
2012(2nd),c.10,s.55.

PART VI — GENERAL

Publication

56. Publication of decision or summary

- (1) Subject to any publication ban ordered by the hearing committee under subsection 53(4), the Board may publish the hearing committee's decision or a summary of the decision by any means.

Publication of notice

- (2) Where a licensee's license is suspended or revoked, or terms and conditions are imposed on a licensee's license by the Board, the investigation committee or the hearing committee, the Board may publish a notice of the suspension, revocation or terms and conditions in the manner that it considers appropriate to inform the public. *2012(2nd),c.10,s.56.*

Evidence

57. Certificate admissible in evidence

- (1) A certificate respecting a matter dealt with by this Act that purports to be issued by the Registrar is admissible in evidence as proof of its contents without proof of the office or signature of the Registrar.

Certified copies

- (2) A copy of a certificate respecting a matter dealt with by this Act that purports to be certified by the Registrar is admissible in evidence as proof of the original document without proof of the office or signature of the Registrar. *2012(2nd),c.10,s.57.*

Limitation of Liability

58. Limitation of liability

No action or proceeding lies or shall be instituted for anything done or omitted to be done in good faith in the performance or intended performance of any duty or in the exercise or

intended exercise of any power under this Act, the regulations or the bylaws against the following:

- (a) the Minister;
- (b) the Association;
- (c) the Co-operative;
- (d) the Board;
- (e) the Registrar;
- (f) an inspector;
- (g) an investigator;
- (h) the investigation committee;
- (i) the hearing committee;
- (j) a member of the investigation committee or the hearing committee;
- (k) a member, officer or employee of the Association, the Co-operative or the Board;
- (l) others acting on behalf of the Association, the Co-operative or the Board under the authority of this Act. *2012(2nd),c.10,s.58.*

Notices

59. Manner of service

- (1) Any notice, order or other document required to be served on a person under this Act, the regulations or the bylaws is deemed to be sufficiently served
 - (a) upon a copy being personally served on the person to whom it is directed;
 - (b) upon a copy being sent by facsimile or other electronic means to the person to whom it is directed and an acknowledgement of receipt being received;
 - (c) five days after a copy is sent by registered mail addressed to the person to whom it is directed at the last known address for that person; or
 - (d) in the case of a licensee, five days after a copy is sent by registered mail addressed to the licensee at the business address shown in the records of the Registrar.

Service on corporation

- (2) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (1) is deemed to be service on the corporation for the purposes of this Act.

Service on Board

- (3) Service of any document on the Board may be made by service on the Registrar.

Substituted service

- (4) Where it is impractical for any reason to serve an order in a manner referred to in subsection (2), an ex parte application may be made to a judge of the Supreme Court who may make an order for substituted service providing for the steps to be taken to bring the matter to the attention of the person to be served. *2012(2nd),c.10,s.59.*

Offences

60. Provision of funeral services

- (1) No person, other than a Funeral Director, shall
- (a) provide or offer to provide funeral services;
 - (b) direct the provision of funeral services;
 - (c) supervise apprenticeship training in the provision of funeral services; or
 - (d) hold himself or herself out as a Funeral Director or use any similar designation that implies that the person is entitled to perform the functions described in clauses (a) to (c).

Exception

- (2) Clause (1)(a) does not apply to
- (a) an Apprentice Funeral Director who provides funeral services under the supervision of a Funeral Director;
 - (b) a Funeral Home Operator who offers to provide funeral services at, or in connection with the operation of, the funeral home named in the operator's license; or
 - (c) an employee or agent of a Funeral Home Operator performing duties under the direction of a Funeral Director.

Prohibition on Funeral Director

- (3) No Funeral Director shall do any thing described in clauses (1)(a) to (d)
- (a) when the Funeral Director's license is suspended; or
 - (b) except at, or in connection with the operation of, a funeral home operated under the authority of a Funeral Home Operator's License. *2012(2nd),c.10,s.60.*

61. Performance of embalming

- (1) No person, other than an Embalmer, shall
- (a) embalm or attempt to embalm human remains; or
 - (b) hold himself or herself out as an Embalmer or use any similar designation that implies that the person is entitled to perform embalming.

Exception

- (2) Clause (1)(a) does not apply to an Apprentice Embalmer who performs embalming under the supervision of an Embalmer.

Prohibition on Embalmer

- (3) No Embalmer shall do any thing described in clause (1)(a) or (b)
- (a) when the Embalmer's license is suspended; or
 - (b) at a place other than
 - (i) a funeral home operated under the authority of a Funeral Home Operator's License that does not have a condition imposed on it prohibiting the performance of embalming at the funeral home, or
 - (ii) an embalming facility operated under the authority of an Embalming Facility Operator's License. *2012(2nd),c.10,s.61.*

62. Transportation of human remains

- (1) No person shall transport or offer to transport human remains except
 - (a) a Transfer Service Operator;
 - (b) a Funeral Home Operator who holds a license that does not have a condition imposed on it prohibiting the transportation of human remains in the operation of the funeral home; or
 - (c) an employee or agent of an operator described in clause (a) or (b).

Operation of funeral home, embalming facility or transfer service

- (2) No person shall operate or hold himself or herself out as the operator of a funeral home, an embalming facility or a transfer service except an operator who holds a license to operate that funeral home, embalming facility or transfer service, as the case may be.

License suspended

- (3) No operator shall operate a funeral home, an embalming facility or a transfer service when the operator's license to operate that funeral home, embalming facility or transfer service, as the case may be, is suspended.

Idem

- (4) No apprentice shall engage in apprenticeship training when his or her license is suspended.

Contravention of term or condition on license

- (5) No licensee shall contravene a term or condition imposed on his or her license.
2012(2nd),c.10,s.62.

63. False representation

No person shall knowingly furnish false information in any application under this Act, or in any statement or return required to be furnished under this Act or the regulations.
2012(2nd),c.10,s.63

64. Offences and penalties

Every person who contravenes

- (a) this Act or the regulations; or
- (b) an order made by the investigation committee, the hearing committee or the Board under this Act or the regulations,

is guilty of an offence and is liable, on summary conviction,

- (c) in the case of an individual, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding six months, or both; or
- (d) in the case of a corporation, to a fine not exceeding \$10,000. *2012(2nd),c.10,s.64.*

65. Officers and directors of corporation

- (1) Every officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in, or participates in, the commission of an offence by that corporation is also guilty of the offence and is liable, on summary conviction, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding six months, or both.

Idem

- (2) Subsection (1) applies whether or not the corporation has been prosecuted or convicted of the offence. *2012(2nd),c.10,s.65.*

Injunction

66. Injunction

The Supreme Court may, on the application of the Board and on being satisfied that there is reason to believe that there is or will be a contravention of this Act or the regulations, grant an injunction restraining a person from committing or continuing the contravention. *2012(2nd),c.10,s.66.*

Regulations

67. Regulations

- (1) The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations
- (a) prescribing services that are funeral services for the purpose of subclause 1(1)(u)(iii);
 - (b) respecting the information required to be entered in the Register;
 - (c) respecting access to the Register by the public;
 - (d) respecting the application process for the issuance, renewal or reinstatement of a license, and the information, evidence and supporting material that must be included with each type of application;
 - (e) respecting the examinations required for the issuance of a Funeral Director's License or an Embalmer's License;
 - (f) respecting the requirements for the issuance, renewal or reinstatement of each type of license that must be met by an applicant in addition to those specified in this Act;
 - (g) respecting the determination as to when a person has been engaged in providing funeral services, engaged in embalming or engaged in apprenticeship training, immediately before section 12, 13, 14 or 15, as the case may be, comes into force;
 - (h) respecting, for the purposes of clauses 16(3)(d) and 16.1(3)(d), the minimum standards required of the premises from which a funeral home or embalming facility is to be operated, including standards respecting the construction, area, capacity, condition, design, maintenance, facilities and use of the premises, or any room, area or other part thereof;
 - (i) respecting, for the purposes of clauses 16(3)(e) and (f) and 16.1(3)(e), the type or class of equipment required for the provision of funeral services or the performance of embalming, and the minimum standards such equipment is required to meet;
 - (j) respecting, for the purposes of clauses 16(3)(h) and 17(3)(e), the type or class of vehicles and equipment required for the transportation of human remains, and the minimum standards such vehicles and equipment are required to meet;
 - (k) prescribing the types and policy values of liability insurance applicants for licenses and licensees are required to carry;
 - (l) respecting the active practise requirements concerning the maintenance of professional competence that must be met by applicants for a Funeral Director's License or an Embalmer's License;

- (m) respecting the terms and conditions that apply to each type of license;
- (n) respecting the terms and conditions that may be imposed by the Board on a license or a type of license;
- (o) respecting
 - (i) the currency of the professional knowledge and skills of an applicant, and
 - (ii) the types and amount of continuing education taken by an applicant, that are required for the renewal of the applicant's Funeral Director's License or Embalmer's License;
- (p) respecting the types of conduct that constitute professional misconduct for the purposes of clause 36(1)(e) or that demonstrate incompetence for the purposes of subclause 36(2)(a)(iii);
- (q) respecting the premises, facilities and equipment required for embalming human remains and the methods and materials that may be used;
- (r) respecting the methods, practices and materials that may be used in transporting human remains;
- (s) respecting standards, codes or guidelines of practice, professional conduct and ethics for Funeral Directors, Embalmers, apprentices and operators;
- (t) respecting the administration and operation of a funeral home, an embalming facility or a transfer service;
- (u) respecting the records that must be kept by licensees;
- (v) respecting the circumstances in which a license may be suspended or revoked;
- (w) respecting the procedure to be followed at a hearing by a hearing committee;
- (x) respecting the amount of the fine that may be imposed under an order made by the Board under clause 32(3)(b) or by the hearing committee under clause 54(2)(h), or the criteria to guide the determination of the amount of the fine;
- (y) providing that the contravention of certain provisions of the regulations constitutes an offence;
- (z) providing for any transitional matters the Board considers necessary or advisable to facilitate the implementation of this Act;
- (aa) defining any word or expression used but not defined in this Act;
- (bb) further defining any word or expression defined in this Act;
- (cc) deemed necessary or advisable by the Board to carry out effectively the objects of the Board and the intent and purpose of this Act.

Adoption by reference

- (2) A regulation made by the Board under clause (1)(s) may adopt by reference, in whole or in part and with such changes as are considered necessary by the Board, any written standard, code or guideline relating to standards of practice, professional conduct or ethics, and require compliance with the standard, code or guideline as adopted.

Standard, code or guideline as amended

- (3) A regulation made by the Board under clause (1)(s) may adopt a standard, code or guideline referred to in subsection (2) as amended from time to time.

Copies available for inspection

- (4) A copy of every standard, code or guideline adopted by reference under clause (1)(s) shall be made available for public inspection during regular business hours in the office of the Registrar and shall be posted on the Board's website. *2012(2nd),c.10,s.67.*

PART VII — TRANSITIONAL AND CONSEQUENTIAL AMENDMENTS, REPEAL AND COMMENCEMENT

Transitional

68. Continuation of members of Council

- (1) A person who, immediately before the day this section comes into force, is a member under section 7 of the former Act of the Council of the Association, is deemed, on and after the day this section comes into force, to have been elected under subsection 4(1) of this Act as a member of the Council of the Association until such time as his or her term under the former Act would otherwise have expired if that Act had not been repealed, unless he or she sooner ceases to hold office under this Act.

Continuation of President of Council

- (2) The person who was elected under clause 7(b) of the former Act as the President of the Council of the Association and who holds office immediately before the day this section comes into force is deemed, on and after the day this section comes into force, to have been elected under subsection 4(1) of this Act as the President of the Council of the Association until such time as his or her term under the former Act would otherwise have expired if that Act had not been repealed, unless he or she sooner ceases to hold office under this Act.

Continuation of Vice President of Council

- (3) The person who was elected under clause 7(b) of the former Act as the Vice-President of the Council of the Association and who holds office immediately before the day this section comes into force is deemed, on and after the day this section comes into force, to have been elected under subsection 4(1) as the Vice-President of the Council of the Association until such time as his or her term under the former Act would otherwise have expired if that Act had not been repealed, unless he or she sooner ceases to hold office under this Act.

Bylaws of Association continued in force under this Act

- (4) The bylaws made by the Association under section 9 of the former Act that are in effect immediately before the day this section comes into force continue in force under this Act to the extent that they are not inconsistent with this Act, until they are repealed or amended or cease to have effect under this Act. *2012(2nd),c.10,s.68.*

Consequential Amendments

69. & 70. [These sections make consequential amendments to other Acts. The amendments have been incorporated in to those Acts.]

Repeal

71. Repeal

The *Prince Edward Island Funeral Directors And Embalmers Association Act S.P.E.I. 1958, c.39* is repealed.