

Embalmers and Funeral Directors Act

CHAPTER 144 OF THE REVISED STATUTES, 1989

as amended by

2003, c. 19, s. 7; 2014, c. 10, ss. 18-26; 2014, c. 39, s. 8;
2014, c. 47; 2017, c. 9, s. 34



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**An Act Respecting
Embalmers and Funeral Directors**

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Short title

1 This Act may be cited as the *Embalmers and Funeral Directors Act*.
R.S., c. 144, s. 1.

Interpretation

2 In this Act,

- (a) “Board” means the Board appointed pursuant to this Act;
- (b) “embalmer” means any person who preserves a dead human body, entire or in part;
- (c) “embalming” means the preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, either by outward application of such chemical substances, fluids or gases on the body or by the introduction of the same into the body by vascular or hypodermic injection, or by direct application into the organs and cavities;
- (d) “funeral director” means any person who for gain takes charge of a dead human body for the purpose of burial, cremation, removal or other disposition;
- (e) “funeral home” means an establishment or facility, by whatever name called, offering or providing funeral merchandise or services to the public;
- (f) “licence” means a licence issued pursuant to this Act and includes a renewal thereof;
- (g) “licensed embalmer” means a person holding an embalmer’s licence pursuant to this Act;
- (h) “Minister” means the Minister of Consumer Affairs;
- (i) “Registrar” means the Registrar of Embalmers and Funeral Directors;
- (j) “regulations” means the regulations made by the Governor in Council pursuant to this Act. R.S., c. 144, s. 2.

Supervision of Act

3 The Minister has the general supervision and management of this Act. R.S., c. 144, s. 3.

Registrar

4 (1) The Minister shall appoint a Registrar of Embalmers and Funeral Directors who has the functions and duties set out in this Act and the regulations and such other functions and duties pursuant to this Act and the regulations as the Minister may determine.

(2) The Minister may, in the absence or incapacity of the Registrar or when the office of the Registrar is vacant, authorize another person to act in the Registrar’s stead.

(3) The Minister may appoint one or more deputy registrars as required to assist the Registrar in the performance of the Registrar's duties.

(4) A deputy registrar may perform any of the duties and exercise any of the powers of the Registrar as directed by the Registrar.

(5) The *Civil Service Act* applies to a person appointed or authorized to act pursuant to this Section. 2014, c. 39, s. 8.

Further information and material

4A The Registrar may require at any time any further information or material to be submitted by any applicant for or person issued a licence within a specified time and may require, where the Registrar considers advisable, verification by affidavit or otherwise of any information or material then or previously submitted. 2017, c. 9, s. 34.

Appointment of personnel

5 Persons required by the Minister for the administration of this Act shall be appointed in accordance with the *Civil Service Act*. R.S., c. 144, s. 5.

Board

6 (1) There shall be a Board of Registration of Embalmers and Funeral Directors consisting of the Registrar and five other persons, three of whom are licensed embalmers who are appointed by the Governor in Council, and two of whom are elected by the Funeral Service Association of Nova Scotia.

(2) Four members of the Board shall constitute a quorum. R.S., c. 144, s. 6; 2003, c. 19, s. 7.

Re-appointment or re-election, vacancies and required publication

7 (1) Each member of the Board is eligible for re-appointment or re-election upon expiry of the term of the member as a member.

(2) Where a vacancy occurs in the Board, the Secretary-treasurer shall notify the authority that appointed or elected the person who has ceased to be a member.

(3) If the Funeral Service Association of Nova Scotia is dissolved or fails to fill the vacancy within one year after it occurs, the remaining members of the Board may fill the vacancy.

(4) The Secretary-treasurer shall publish annually the names of the members of the Board and its officers.

(5) The Secretary-treasurer shall provide to the Minister before the first of April in each and every year a statement of assets and liabilities and

expenditures and receipts for the preceding calendar year. R.S., c. 144, s. 7; 2003, c. 19, s. 7; 2014, c. 10, s. 18.

Officers, committees and presiding officer at meetings

8 (1) The Board shall elect from among its members a Chairman and such other officers and committees as it deems advisable.

(2) The Chairman presides at all meetings of the Board and in the absence of the Chairman from a meeting another member of the Board chosen from among the other members present shall preside at the meeting.

(3) The Chairman or the person presiding in the Chairman's absence has a casting vote only. R.S., c. 144, s. 8.

Secretary-treasurer

9 (1) The Board shall appoint a Secretary-treasurer of the Board.

(2) The Secretary-treasurer shall keep proper books of accounts showing all fees collected and disbursements made on behalf of the Board, and shall file with the Minister a statement showing all moneys collected and disbursements made for the preceding year not later than the first day of April in each year.

(3) The Secretary-treasurer shall mail notice of all meetings of the Board to all members at least seven days before the date of such meeting, by registered mail, except in cases of emergency. R.S., c. 144, s. 9.

Inspector and deputies

10 The Board shall appoint an inspector and may appoint one or more deputies who shall carry out such duties as the Board may from time to time prescribe, such inspector and deputies to hold office during the pleasure of the Board. R.S., c. 144, s. 10.

Powers

11 The Board is a corporation, and in addition to the powers vested in it as a corporation, it may

(a) for its purposes hold, enjoy, sell, mortgage, lease or otherwise dispose of real and personal property;

(b) engage and pay for such technical, clerical and other assistance as the Board considers necessary or advisable;

(c) fix the fees to be paid to members of the Board for their services in carrying on the work of the Board;

(d) reimburse members, officers and employees of the Board for expenses necessarily incurred in performing their duties;

(e) disburse the funds of the Board as the Board may deem proper for the education of apprentices, embalmers and funeral directors within the Province;

(f) do such other acts as are necessary or incidental to the carrying out of the purposes of this Act. R.S., c. 144, s. 11.

Code of ethics

11A (1) The Board shall prepare and publish a code of ethics for funeral directors and embalmers that includes standards of conduct pertaining to the business of being a funeral director and the practice of embalming.

(2) Every person who holds a funeral director's licence, an embalmer's licence or a licence issued to an apprentice embalmer or an apprentice funeral director shall comply with the code of ethics. 2014, c. 10, s. 19; 2014, c. 47, s. 1.

Licence as prima facie evidence

12 The Board shall have a common seal, and any licences or certificates issued by the Board and bearing the seal of the Board shall be accepted in any court as *prima facie* evidence of the matters therein stated. R.S., c. 144, s. 12.

Payment and use of fee

13 All fees paid pursuant to the provisions of this Act shall be paid to the Board to be used for carrying out the purposes of this Act. R.S., c. 144, s. 13.

By-laws

14 The Board may make by-laws

(a) respecting the procedure of the Board at meetings and upon the hearing of complaints that any person holding a certificate pursuant to this Act has been guilty of any violation of the law, or incompetence or misconduct;

(b) respecting the duties of and the remuneration payable to the Secretary-treasurer and staff of the Board;

(c) regulating the practice and procedure upon hearings of the Board;

(d) generally for the better carrying out of the functions of the Board. R.S., c. 144, s. 14.

Filing of by-laws

15 By-laws made by the Board pursuant to Section 14 shall be filed with the Registrar. R.S., c. 144, s. 15.

Funeral director's licence

16 The Board shall issue a funeral director's licence to a person who

(a) is not less than nineteen years of age, and has complied with the requirements of the regulations, and has paid the annual fee; or

(b) on the first day of January, 1955, was carrying on business as a funeral director in the Province, and pays the annual fee. R.S., c. 144, s. 16.

Licence as apprentice funeral director

16A The Board shall license as an apprentice funeral director a person who has complied with the requirements of the regulations and has paid the annual fee. 2014, c. 47, s. 2.

Embalmer's licence

17 The Board shall issue an embalmer's licence to a person who

(a) is not less than nineteen years of age, and has complied with the requirements of the regulations, and has paid the annual fee;

(b) on the first day of January, 1955, was carrying on business as an embalmer in the Province, and pays the annual fee; or

(c) on the twenty-eighth day of March, 1983, was carrying on business as an embalmer in the Province, and pays the annual fee. R.S., c. 144, s. 17.

Licence as apprentice embalmer

18 The Board shall license as an apprentice embalmer a person who

(a) has complied with the requirements of the regulations and has paid the annual fee; or

(b) on the first day of September, 1983, was working as an apprentice under the direct supervision of a licensed embalmer and pays the annual fee. R.S., c. 144, s. 18.

Register

19 (1) The Board shall keep a register in which shall be entered the names and residences of all persons to whom licences have been issued, with the number, date of issuance and date of expiry thereof.

(2) The Registrar or the Board may publish any of the following information with respect to licences issued by the Board in whatever form and manner the Registrar or the Board considers appropriate:

(a) a list of persons who hold licences issued by the Board, including their names and the communities where they reside;

(b) the type of licence issued to a licensee;

(c) information relating to the status of a particular licence, including whether a licence has been cancelled or suspended;

(d) where a licensee works at a funeral home, the name and address of the funeral home. R.S., c. 144, s. 19; 2014, c. 10, s. 20; 2014, c. 47, s. 3.

Examination

20 (1) The Board shall hold at least one examination in each year for the purpose of examining applicants for licences as embalmers, such examination or examinations to be held in the communities determined by the Board.

(2) Notice of the time and place of such examinations shall be given to all applicants by registered mail at least ten days before the examination date. R.S., c. 144, s. 20.

Licence of embalmer required

21 (1) No person shall engage in the profession of embalming or preserving in any manner dead human bodies unless that person holds a licence as an embalmer from the Board.

(2) Subsection (1) shall not apply

(a) to a licensed apprentice working under the direct supervision of an embalmer;

(b) to a student or person employed in a recognized school of medicine. R.S., c. 144, s. 21.

Licence of funeral director required

22 (1) No person shall act as a funeral director or carry on the business of a funeral director unless that person is a licensed funeral director.

(2) Subsection (1) does not apply to a licensed apprentice funeral director working under the direct supervision of a licensed funeral director. R.S., c. 144, s. 22; 2014, c. 47, s. 4.

Suspension or revocation of licence of embalmer, apprentice or director

23 (1) Subject to the regulations, the Board may, after due inquiry, suspend or revoke the licence of an embalmer, an apprentice embalmer, a funeral director or an apprentice funeral director where at least four members of the Board find that the embalmer, apprentice embalmer, funeral director or apprentice funeral director has been guilty of non-compliance with this Act, the regulations or the by-laws or any misrepresentation, negligence, professional misconduct or fraud.

(2) Any person whose licence is suspended or revoked may appeal to a judge of the Supreme Court within three months from the date of the suspension or revocation, or such extended time as a judge of the Supreme Court thinks reasonable and the judge, upon hearing the appeal, may make such order either confirming, amending or setting aside the suspension or revocation or for fur-

ther inquiries by the Board into the facts of the case and as to costs, as to the judge seems right.

(3) The appeal shall be by motion, notice of which shall be served upon the secretary of the Board at least fourteen days before the time fixed for hearing the appeal, and shall be founded upon a copy of the proceedings before the Board, or any committee, the evidence taken and the decision or report of the Board or any committee in the matter, certified by the secretary and the secretary shall, upon the request of any person desiring to appeal, at the expense of that person furnish that person with a certified copy of all evidence, proceedings, reports, orders, and papers, upon which the Board or any committee has acted in connection with the suspension or revocation.

(4) Where a licence of any person has been revoked, the Board may issue a licence to that person where that person

(a) satisfies the Board that that person is of good moral character and is a fit and proper person to be the holder of a licence; and

(b) pays the prescribed fee. R.S., c. 144, s. 23; 2014, c. 47, s. 5.

Complaints

24 (1) Notwithstanding anything contained in this Act, the Minister may direct the Registrar to investigate a complaint of non-compliance with this Act, the regulations or the by-laws or any misrepresentation, negligence, professional misconduct or fraud by an embalmer, apprentice embalmer, funeral director, apprentice funeral director or funeral home.

(2) For the purpose of an investigation pursuant to this Act, the Registrar shall have the same power and authority in respect of embalmers, apprentice embalmers, funeral directors, apprentice funeral directors and funeral homes as the Registrar of Credit has in respect of lenders under the *Consumer Protection Act*.

(3) Upon completing the investigation, the Registrar shall report the findings to the Minister.

(4) Upon receiving the report of the Registrar, the Minister shall inform the Board of the substance of the report and may refer the matter to the Board and, where the matter is so referred, the Board shall take the appropriate action. R.S., c. 144, s. 24; 2014, c. 47, s. 6.

Branch manager required

25 Whenever any person, firm, partnership, association or corporation carrying on business in the Province as a funeral director operates a number of separate establishments or branches in different cities or towns, that person shall employ for each establishment or branch a separate manager who is a licensed funeral director and all funeral services carried out by that establishment or branch shall be conducted by a licensed funeral director. R.S., c. 144, s. 25.

Licence to operate funeral home required

26 No person shall conduct, maintain, operate or manage a funeral home, or hold himself or herself out as operating a funeral home, unless that person is issued a licence to do so pursuant to this Act and that licence has not expired, been cancelled or suspended. R.S., c. 144, s. 26; 2014, c. 47, s. 7.

Issue of licence to operate funeral home

27 (1) Subject to the regulations, the Registrar may issue a licence to operate a funeral home.

(2) The Registrar may, for any reasonable cause, refuse to issue or re-issue a licence in respect of a funeral home.

(3) A licence shall be subject to such terms, conditions and restrictions as are provided by the regulations.

(4) For greater certainty, the Registrar may issue a licence to operate a funeral home to an association incorporated pursuant to the *Co-operative Associations Act*. R.S., c. 144, s. 27; 2014, c. 10, s. 21.

Form of application for and form and expiry of funeral home licence

28 (1) An application for a funeral home licence shall be in the form prescribed by the regulations.

(2) The licence shall be in the form prescribed by the regulations and shall expire one year from the date on which it was issued or on such other date as prescribed by the regulations. R.S., c. 144, s. 28.

Prohibition - insurance sales

28A No person shall, at a funeral home, sell insurance other than insurance to fund pre-arranged funeral plans as defined in the *Cemetery and Funeral Services Act*, as permitted by that Act. 2014, c. 10, s. 22.

Undertakings

28B Where the Registrar has reason to believe that a person who holds a funeral home licence has contravened this Act or the regulations, the Registrar may accept from the person a written undertaking in the form and containing the terms or conditions that the Registrar considers appropriate in the circumstances, including, without limiting the generality of the foregoing, one or both of the following:

- (a) an undertaking to comply with this Act and the regulations;
 - (b) an undertaking to refrain from engaging in an act or practice.
- 2014, c. 10, s. 22.

Publication of information

28C (1) The Registrar may publish any of the following information with respect to funeral home licences:

- (a) a list of persons who hold funeral home licences, including their names and business addresses;
- (b) any terms, conditions or restrictions to which a particular funeral home licence is subject;
- (c) information relating to the status of a particular funeral home licence, including whether a licence has been cancelled or suspended;
- (d) any other information prescribed by the regulations.

(2) The Registrar may publish the information referred to in subsection (1) in whatever form and manner the Registrar considers appropriate. 2014, c. 10, s. 22.

Cancellation or suspension of funeral home licence

29 The Registrar may cancel or suspend a funeral home licence where

- (a) the licensee is not capable of providing the service required by the licence;
- (b) the funeral home described in the licence has become unsuitable for the purpose authorized by the licence;
- (c) the funeral home does not comply with the terms, conditions or restrictions of the licence;
- (ca) the licensee has failed to comply with an undertaking provided by the licensee pursuant to Section 28B;
- (d) the licensee has contravened this Act or the regulations; or
- (e) the funeral home does not comply with enactments applying to it. R.S., c. 144, s. 29; 2014, c. 10, s. 23.

Deemed cancellation of funeral home licence

30 A funeral home licence shall be deemed to be cancelled when the person to whom it was issued ceases to operate or own the funeral home for which the licence was issued. R.S., c. 144, s. 30.

Notice before sale, change in location or cessation of operations

30A Every person who holds a funeral home licence shall give written notice to the Registrar at least thirty days before an intended sale, change in location or cessation of operations of the funeral home. 2014, c. 10, s. 24.

Licensing of existing funeral home

31 Every funeral home that, on the first day of September, 1983, was in operation under the management of a funeral director or licensed embalmer licensed by this Act shall be licensed upon the payment of the fees prescribed by the regulations and thereafter be subject to this Act and the regulations. R.S., c. 144, s. 31.

Display of licence under Act

32 Any person holding a licence pursuant to this Act shall at all times have such license exposed to public view in the place where such person carries on business or at the place in which such person is employed. R.S., c. 144, s. 32.

Display and catalogue

32A (1) Every person who holds a funeral home licence shall maintain at the funeral home

(a) a display of full or partial replicas of caskets and urns on offer, including full or partial replicas of the least expensive options on offer; or

(b) an up-to-date catalogue with pictures and descriptions of the caskets and urns on offer, including pictures and descriptions of the least expensive options on offer.

(2) Descriptions referred to in clause (1)(b) must meet the requirements, if any, prescribed by the regulations. 2014, c. 10, s. 25.

Prohibition - special handling fees

32B No person who holds a licence shall charge a handling fee for the use of a casket, urn or other container that is provided by the customer unless the person who holds the licence charges the same handling fee for the caskets, urns or other containers, as the case may be, that are sold by the person. 2014, c. 10, s. 25.

Regulations

33 (1) The Governor in Council may make regulations

(a) prescribing the functions and duties of the Registrar;

(b) prescribing the course of training and education for persons engaged in the business of embalming or funeral directing, and the qualifications of persons to be licensed and admitted to registration as embalmers, apprentice embalmers, funeral directors or apprentice funeral directors and the examination or examinations, written, oral or clinical, of persons to be licensed and admitted to registration as embalmers, apprentice embalmers, funeral directors or apprentice funeral directors;

(ba) authorizing the Board to provide, prescribe, establish or approve education programs or courses of instruction for embalm-

ers, apprentice embalmers, funeral directors or apprentice funeral directors;

(bb) prescribing the form and content of applications for funeral home licences, or requiring the form and content of applications for funeral home licences to be as required by the Registrar;

(bc) requiring applicants for funeral home licences to provide such information as the Registrar may require;

(c) prescribing the form and content of applications for licences other than funeral home licences, or requiring the form and content of applications for licences issued by the Board to be as required by the Board;

(ca) requiring applicants for licences issued by the Board to provide such information as the Board may require;

(d) prescribing the form of licences and the fees for licences;

(e) respecting the terms, conditions and restrictions upon which a funeral home licence may be issued;

(f) respecting the fees payable upon registration and by candidates for examination or registration;

(g) respecting the annual renewal of licences issued pursuant to this Act and prescribing the fees to be payable upon such renewals and providing for revoking any licences for the non-payment of annual fees, and for the reinstating of such revoked licences;

(h) respecting the regulation and licensing of apprentices and fees payable thereon for apprenticeship in embalming and in funeral directing;

(ha) respecting the form and content of apprenticeship reports to be submitted to the Board;

(i) prescribing minimum standards for the premises, accommodation and equipment of a funeral director;

(j) prescribing minimum standards for the premises, accommodation and equipment of an embalmer;

(ja) respecting standards for the premises, facilities and equipment of a funeral home;

(k) providing for the inspection of funeral homes;

(l) respecting the embalming materials which may be used in embalming a dead human body;

(m) prescribing a code of professional conduct;

(n) defining “professional misconduct”;

(o) respecting advertising by embalmers, apprentice embalmers, funeral directors, apprentice funeral directors and funeral homes;

(oa) establishing the minimum standards for the advertisement or otherwise offering for sale of items related to funeral or embalming services including caskets, urns and other containers;

(p) respecting the suspension or cancellation of licences of embalmers, apprentice embalmers, funeral directors, apprentice funeral directors or funeral homes;

(pa) prescribing information that may be published by the Registrar for the purpose of subsection 28C(1);

(pb) respecting the requirements for the catalogue descriptions of caskets and urns for the purpose of Section 32A;

(q) defining any word or expression used in this Act and not expressly defined herein;

(r) generally, for the better carrying out of the provisions of this Act.

(2) The exercise of the authority contained in this Section shall be regulations within the meaning of the *Regulations Act*. R.S., c. 144, s. 33; 2014, c. 10, s. 26; 2014, c. 47, s. 8.

Offence and penalty

34 (1) Every person who

(a) violates the provisions of Section 21, 22, 23, 25, 26, 32, 32A or 32B;

(b) not being a holder of a licence as an embalmer, holds himself or herself out as an embalmer or uses any sign, letters, words or abbreviation implying that that person is a licensed embalmer;

(c) not being the holder of a licence as an apprentice embalmer, holds himself or herself out as an apprentice embalmer or uses any sign, letters, words or abbreviation implying that that person is a licensed apprentice embalmer;

(d) not being the holder of a funeral director's licence, holds himself or herself out to be a funeral director or uses any sign, letters, words or abbreviations implying that that person is a funeral director;

(da) not being a holder of a licence as an apprentice funeral director, holds himself or herself out as an apprentice funeral director or uses any sign, letters, words or abbreviation implying that that person is a licensed apprentice funeral director;

(e) violates any of the other provisions of this Act, the regulations or the by-laws,

shall be guilty of an offence and, subject to subsection (2), liable to a penalty not exceeding five hundred dollars.

(2) Where an offence described in subsection (1) continues beyond one day, each day during which the offence continues is a separate offence. R.S., c. 144, s. 34; 2014, c. 47, s. 9.

Onus of proof

35 (1) In a prosecution pursuant to the provisions of this Act for any of the offences set out in Section 34, the onus of proof that the person against whom the charge is laid is entitled to practise as an embalmer, apprentice embalmer, funeral director or apprentice funeral director and is licensed under the provisions of this Act, shall be upon the person against whom the charge is made.

(2) The production of a licence for the then current year purporting to be signed by the Secretary-treasurer and under the seal of the Board shall be *prima facie* evidence that the person named therein is entitled to practise as an embalmer, apprentice embalmer, funeral director or apprentice funeral director. R.S., c. 144, s. 35; 2014, c. 47, s. 10.

Record of former board

36 The funds, records, files and seal of The Board of Registration of Embalmers and Funeral Directors as constituted by *The Embalmers' and Funeral Directors' Act*, being Chapter 11 of the Acts of 1938, shall be the funds, records, files and seal of the Board as constituted pursuant to this Act. R.S., c. 144, s. 36.
