

1960

c 120 Embalmers and Funeral Directors Act

Ontario

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CHAPTER 120

The Embalmers and Funeral Directors Act**1. In this Act,**Interpre-
tation

- (a) "approved school" means a school or college approved by the Board;
- (b) "articled student" means a student who is articled to a licensed funeral director or a licensed embalmer in accordance with the regulations;
- (c) "Board" means the Board of Administration appointed under this Act;
- (d) "certificate of qualification" means a certificate of qualification issued under this Act;
- (e) "embalming" means the preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for such purpose, either by the outward application of such chemical substances, fluids or gases on the body, or by the introduction thereof into the body by vascular or hypodermic injection or by direct application into the organs or cavities, and "embalm" has a corresponding meaning;
- (f) "funeral director" means a person who operates for himself, or under his own or any other name for another person, partnership, firm or corporation, a business for the purpose of furnishing funeral supplies and services to the public;
- (g) "licence" means a licence issued under this Act, and includes a renewal thereof;
- (h) "licensed embalmer" means a person holding an embalmer's licence under this Act;
- (i) "licensed funeral director" means a person holding a funeral director's licence under this Act;
- (j) "Minister" means the Minister of Health;

(k) "permit" means a permit issued under this Act;

(l) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 113, s. 1; 1953, c. 34, s. 1.

Board of
Examiners

2.—(1) The Board of Administration shall consist of five persons of whom not fewer than three shall be licensed funeral directors, and such persons shall be appointed by the Lieutenant Governor in Council and hold office during pleasure. R.S.O. 1950, c. 113, s. 2 (1); 1953, c. 34, s. 2.

Officers

(2) The Lieutenant Governor in Council may appoint a member of the Board to act as chairman and another member to act as vice-chairman, and the members of the Board shall elect one of the members to be the secretary-treasurer.

Quorum

(3) Three members of the Board constitute a quorum. R.S.O. 1950, c. 113, s. 2 (2, 3).

Seat in
Assembly
not vacated
R.S.O. 1960,
c. 208

(4) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of a member of the Board, if he is a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any *per diem*, travelling or living allowance under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. 1951, c. 83, s. 4.

Staff

3. The Board may employ such officers, clerks and other persons as it requires, who shall be paid such amounts as are determined by the Board. 1953, c. 34, s. 3.

Meetings

4.—(1) The Board shall hold meetings at least three times in every year at such time and place as is deemed advisable by the majority of the members, and the Board may hold additional meetings at the call of the chairman or of any two members.

Notice of
meetings

(2) Notice of every meeting, whether general or special, shall be sent by the secretary-treasurer by registered mail to every member of the Board at his address as last entered upon the register, not fewer than seven days before the day on which the meeting is to be held.

Waiver of
notice

(3) Notwithstanding any of the provisions of this section, where all the members of the Board are present and waive notice and consent to the holding of a meeting, a meeting of the Board may be held at any time and place. R.S.O. 1950, c. 113, s. 4.

5.—(1) Where owing to the urgent nature of any situation requiring the consideration of the Board it is impossible to convene a meeting, the chairman shall act as and for the Board and shall report the circumstances of the case and the action taken thereon at the next meeting.

Powers of
chairman
acting for
Board

(2) The decision of the chairman in such circumstances is, subject to subsection 5 of section 16, final and binding unless and until reversed or altered by the Board. R.S.O. 1950, c. 113, s. 5.

Effect of
decision of
chairman

6. In the absence of the chairman, the vice-chairman may act in his place and stead in respect of any of the matters mentioned in sections 4 and 5. 1953, c. 34, s. 4.

Powers of
vice-
chairman
acting for
Board

7.—(1) The receipts and expenditures of the Board shall be audited annually by an accountant licensed to practise in Ontario by The Public Accountants Council for the Province of Ontario and who is not a member of the Board. 1953, c. 34, s. 5 (1).

Audit

(2) All moneys and securities received or held by the Board shall be held in the name of "Board of Administration under *The Embalmers and Funeral Directors Act*" and the moneys may be deposited in a branch of a chartered bank or a Province of Ontario Savings Office and may be withdrawn upon the signatures of any two of the chairman, vice-chairman and secretary-treasurer. R.S.O. 1950, c. 113, s. 6 (2); 1953, c. 34, s. 5 (2).

Moneys and
securities

(3) The Board has power to establish an operating account in any bank described in subsection 2 and the amount in the account at any time shall not exceed \$3,000 and cheques shall be drawn upon the signature of the secretary-treasurer or such officer employed by the Board as it designates.

Operating
accounts

(4) Securities may be purchased and sold on the order of the Board by any two of the chairman, vice-chairman and secretary-treasurer. 1953, c. 34, s. 5 (3).

Purchase of
securities

8.—(1) The Board shall make a report to the Minister, on or before the 31st day of January in every year, showing,

Annual
report

(a) the names of all licensed embalmers and funeral directors in Ontario, specifying whether "embalmer" or "funeral director", and, in the case of a funeral director, the name under which his business is carried on;

- (b) the names of all permit holders, the period of time each permit has been in force and the reason for each renewal of permit;
- (c) the number of new certificates of qualification granted during the preceding year and the persons to whom granted;
- (d) the number of applications for certificates of qualification refused during the preceding year, and the reason for refusal;
- (e) the number of certificates of qualification revoked during the preceding year, and the reason for revocation;
- (f) the amount of fees received during the preceding year;
- (g) the revenue and expenditure of the Board during the year in detail, and the assets and liabilities at the end of the year; and
- (h) such matters as are directed by the Minister. R.S.O. 1950, c. 113, s. 7; 1958, c. 26, s. 1.

Idem

(2) The annual report shall be upon the basis of record as of the 31st day of October in the previous year.

Published report

(3) The Board shall publish a report showing,

- (a) the number of new certificates of qualification granted;
- (b) the number of applicants for certificates of qualification refused;
- (c) the number of certificates of qualification revoked;
- (d) the financial statement; and
- (e) the list of members for the current year who are paid as of the 15th day of December in the previous year. 1953, c. 34, s. 6.

Application
of R.S.O.
1960, c. 318

9. *The Public Authorities Protection Act* applies to the members and officials of the Board. R.S.O. 1950, c. 113, s. 8.

10.—(1) No person shall act as a funeral director unless he is a licensed funeral director or is the holder of a permit. Funeral director's licence required

(2) No person shall embalm a dead human body unless he is a licensed embalmer or is the holder of a permit. Embalmer's licence or permit required

(3) Subsection 2 does not apply, Exceptions

(a) to an articulated student working under the direct supervision of an embalmer;

(b) to a student of, or a person employed in, a recognized school of medicine; or

(c) in a sparsely settled area where an embalmer is not available. R.S.O. 1950, c. 113, s. 9.

(4) Where a licensed funeral director operates a business for another person, the name of the licensed funeral director shall appear on all stationery and advertisements of the business. 1958, c. 26, s. 2. Publication of name of director

11. No person shall ship a dead human body out of Ontario unless it has been embalmed and prepared for shipment by a licensed embalmer. R.S.O. 1950, c. 113, s. 10. Shipment of body out of Ontario

12.—(1) The Board may issue a funeral director's licence or an embalmer's licence to a person who, Licence renewals

(a) is the holder of a certificate of qualification;

(b) is not less than twenty years of age; and

(c) has complied with the requirements of the regulations,

and may issue renewals thereof. R.S.O. 1950, c. 113, s. 11 (1); 1953, c. 34, s. 7.

(2) For the purposes of this Act and the regulations, every licensed funeral director shall be deemed to be a licensed embalmer. Funeral director's licence

(3) Every licence and every renewal thereof expires on the 31st day of December next following the date of the licence or renewal. R.S.O. 1950, c. 113, s. 11 (2, 3). Expiration

13.—(1) For the purpose of serving the public in sparsely settled areas of Ontario, the Board may issue a permit to a person who is not the holder of a certificate of qualification. Permits

Conditions;
expiration

(2) A permit may be issued upon such terms and subject to such conditions as the Board prescribes, and every permit expires on the 31st day of December next following the date thereof or upon such earlier date as the Board determines. R.S.O. 1950, c. 113, s. 12.

Display of
licence or
permit

14. Every person who holds a funeral director's licence or permit shall cause it to be displayed to the public at all times at his place of business or the place of business where he is employed, and failure to comply with this section is *prima facie* evidence that such person is not the holder of a licence or permit. 1958, c. 26, s. 3.

Certificate of
qualification

15.—(1) The Board may issue a certificate of qualification to any person,

(a) who,

(i) has served the period of apprenticeship required by the regulations and completed a course at an approved school, or

(ii) is the holder of a certificate of qualification issued under this or any former public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors, or

(iii) satisfies the Board that for a period of not less than five years he held a licence and was engaged as an embalmer in a jurisdiction designated by the regulations;

(b) who satisfies the Board that he is of good moral character;

(c) who passes the examinations prescribed by the Board; and

(d) who pays the prescribed fee. R.S.O. 1950, c. 113, s. 14 (1); 1958, c. 26, s. 4 (1), *amended*.

Effect of
certain cer-
tificates

(2) A certificate of qualification issued under any public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors to a person who on the 30th day of June, 1947, was licensed as an embalmer or funeral director has the same force and effect as a certificate of qualification issued under this Act. R.S.O. 1950, c. 113, s. 14 (2); 1958, c. 26, s. 4 (2), *amended*.

(3) Where the holder of a certificate of qualification is not the holder of a licence for a period of three consecutive years, the certificate of qualification shall *ipso facto* be deemed to be revoked. R.S.O. 1950, c. 113, s. 14 (3); 1958, c. 26, s. 4 (3). Cancellation by failure to use

16.—(1) The Board may suspend the licence or permit of any person for such period and upon such conditions as it deems proper. R.S.O. 1950, c. 113, s. 15 (1). Suspension of licence or permit

(2) The Board may revoke the certificate of qualification and cancel the licence of any person, or may cancel the permit of any person where at least four members of the Board find that such person has been guilty of infamous or disgraceful conduct in a professional respect, as defined by the regulations. R.S.O. 1950, c. 113, s. 15 (2); 1953, c. 34, s. 8 (1). Cancellation of licence or permit

(3) Before a certificate of qualification is revoked or a permit or licence is suspended or cancelled, the Board shall, by notice in writing, advise the holder of such certificate, permit or licence of the complaint or charge made against him and shall afford him an opportunity of appearing before the Board and of presenting such evidence and making such representations as he desires. Hearing

(4) The Board has the same powers as may be conferred upon a commissioner under *The Public Inquiries Act* in respect of a hearing under this section. Power of Board at hearing R.S.O. 1960, c. 323

(5) Any person whose certificate of qualification has been revoked or whose permit or licence has been suspended or cancelled under this section may, within thirty days after receipt of notice in writing of the decision of the Board, apply to a judge of the Supreme Court and the judge may review the decision of the Board and may make such order and give such directions as he deems proper, and his decision is final. 1953, c. 34, s. 8 (2). Appeal

17. Where the certificate of qualification of a person has been revoked, the Board may issue a certificate of qualification to him, Re-issue of certificate of qualification

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

(b) if he pays the prescribed fees. R.S.O. 1950, c. 113, s. 16.

Power of Board to enter place of business

18. The Board or any member thereof may enter and inspect at all reasonable times any place in which the business of a funeral director or an embalmer is carried on under this Act. 1953, c. 34, s. 9, *part*.

More than one place of business

19.—(1) Where a funeral director carries on business with the public at more than one place of business,

- (a) he may act as manager of only one of such places of business and each of the other places of business shall be deemed to be a branch;
- (b) he shall employ a different licensed funeral director as manager of each branch who shall have no other occupation; and
- (c) the manager of each branch shall have his ordinary residence,

(i) in the same municipality as the branch, or

(ii) within five miles of the branch. R.S.O. 1950, c. 113, s. 17; 1958, c. 26, s. 5 (1).

Corporate business

(2) No corporation shall operate a funeral business unless at least one of the directors of the corporation is the holder of a certificate of qualification under this Act. 1953, c. 26, s. 5 (2).

Responsibility for carrying on business of funeral director

20.—(1) Where a funeral director carries on business with the public for a person, partnership, firm or corporation, he is responsible for the supervision and management of the business and in respect of such business he and the person, partnership, firm or corporation for whom he carries on business are responsible for due compliance with this Act and the regulations.

Idem

(2) Where two or more funeral directors carry on business with the public, each of the funeral directors is responsible for the supervision and management of the business and for due compliance with this Act and the regulations. 1953, c. 34, s. 9, *part*.

Limitation of actions for negligence

21. A licensed embalmer or licensed funeral director is not liable to any action for negligence or malpractice in respect of professional services requested or rendered, unless the action is commenced within three months from the date when, in the matter complained of, such professional services terminated. R.S.O. 1950, c. 113, s. 18.

22. The Board may,

Schools

- (a) approve, establish or maintain any school or college that has for its purpose instruction in embalming and general preparation for and burial of the dead human body; and
- (b) pay out of the funds held by the Board such sums as it deems proper to assist in the establishment or maintenance of any such school. R.S.O. 1950, c. 113, s. 19; 1953, c. 34, s. 10.

23. Subject to the approval of the Lieutenant Governor in Regulations Council, the Board may make regulations,

- (a) prescribing the equipment, facilities and other requirements for approved schools;
- (b) prescribing the requirements for admission to approved schools;
- (c) prescribing the courses of training and instruction for approved schools;
- (d) providing for a system of apprenticeship under articles of apprenticeship for students of approved schools and prescribing a limitation upon or otherwise regulating the number of articulated students;
- (e) providing for the registration of articulated students with the Board;
- (f) providing for the examination of candidates for certificates of qualification;
- (g) authorizing the Board to alter the requirements of section 15 and the regulations in the case of an applicant for a certificate of qualification who has had special experience or training either in or outside Ontario;
- (h) prescribing jurisdictions for the purpose of subclause iii of clause *a* of subsection 1 of section 15;
- (i) providing for special courses of training and instruction for holders of certificates of qualification and requiring holders of certificates of qualification to take all or any of such courses;

- (j) providing for the issue of certificates of qualification and the issue and renewal of licences and permits;
- (k) prescribing the fees payable to the Board by articulated students, applicants for certificates of qualification and upon the issue and renewal of licences and permits, including special fees payable in special circumstances;
- (l) prescribing minimum standards for the premises, accommodation and equipment of funeral directors and providing for the inspection and approval thereof;
- (m) governing the premises where dead human bodies may be embalmed and the methods and materials that may be used;
- (n) regulating the practice and procedure upon hearings of the Board;
- (o) defining "infamous or disgraceful conduct in a professional respect";
- (p) prescribing the books and records to be kept by the Board;
- (q) prescribing the duties of the secretary-treasurer and the assistant secretary of the Board;
- (r) providing for the employment by the Board of such persons or services as may be required and for the payment of expenses;
- (s) providing for and fixing the amount of a *per diem* allowance and an allowance for travelling and living expenses to members of the Board while engaged upon the business of the Board;
- (t) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 113, s. 20; 1953, c. 34, s. 11.

Offences

24.—(1) Every person who,

- (a) contravenes any of the provisions of section 10; or
- (b) not being the holder of a licence, holds himself out as an embalmer or uses any sign, letters, words or abbreviation implying that he is an embalmer; or

- (c) not being the holder of a funeral director's licence, holds himself out as a funeral director or uses any sign, letters, words or abbreviation implying that he is a funeral director; or
- (d) contravenes any of the provisions of this Act or the regulations,

is guilty of an offence and, subject to subsection 2, on summary conviction is liable to a fine of not more than \$25.

(2) Where an offence under clause *a*, *b* or *c* of subsection 1 continues beyond one day, the fine shall be not more than \$25 ^{Continuing offences} for each day during which the offence continues. R.S.O. 1950, c. 113, s. 21.

