1950

c 113 Embalmers and Funeral Directors Act

Ontario
CHAPTER 113

The Embalmers and Funeral Directors Act

1. In this Act,

(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 Board of Examiners appointed under this Act;

(d) "certificate of qualification" means a certificate of qualification issued under this Act;

(e) "embalming" means 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 incorporated company, a business for the purpose of furnishing funeral supplies and services to the public;

(g) "licence" means 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 Minister of Health;

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

(l) "regulations" means regulations made under this Act. 1947, c. 33, s. 1.

2. —(1) The Board of Examiners shall consist of five persons of whom not less than three shall be licensed funeral directors and such persons shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

(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.

(3) Three members of the Board shall constitute a quorum. 1947, c. 33, s. 2.

3. The Board may appoint an assistant secretary who shall be paid such remuneration out of the funds of the Board as the Board may determine. 1947, c. 33, s. 3.

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

(2) Notice of every meeting, whether general or special, shall be sent by the secretary-treasurer by prepaid registered post to every member of the Board at his address as last entered upon the register, not less than seven days before the day of the holding of the meeting.

(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. 1947, c. 33, 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.
(2) The decision of the chairman in such circumstances shall, subject to subsection 3 of section 15, be final and binding unless and until reversed or altered by the Board. 1947, c. 33, s. 5.

6.—(1) The receipts and expenditures of the Board shall be audited by a chartered accountant who is not a member of the Board.

(2) All moneys and securities received or held by the Board shall be held in the name of “Board of Examiners 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 shall be withdrawn by the secretary-treasurer on the order of the Board, and securities may be purchased and sold by the secretary-treasurer on the order of the Board. 1947, c. 33, s. 6.

7. The Board shall make a report to the Minister, on or before the 31st day of January in every year, showing,

(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 number of new certificates of qualification granted during the preceding year and the persons to whom granted;

(c) the number of applications for certificates of qualification refused during the preceding year, and the reason for refusal;

(d) the number of certificates of qualification revoked during the preceding year, and the reason for revocation;

(e) the amount of fees received during the preceding year;

(f) the revenue and expenditure of the Board during the year in detail, and the assets and liabilities at the end of the year; and

(g) such other matters as may be directed by the Minister. 1947, c. 33, s. 7.

8. The Public Authorities Protection Act shall apply to the members and officials of the Board. 1947, c. 33, s. 8.
9.—(1) No person shall act as a funeral director unless he is a licensed funeral director or is the holder of a permit.

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

(3) Subsection 2 shall not apply,

(a) to an articled 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. 1947, c. 33, s. 9.

10. No person shall ship a dead human body out of Ontario unless it has been embalmed and prepared for shipment by a licensed embalmer. 1947, c. 33, s. 10.

11.—(1) The Board may issue a funeral director’s licence or an embalmer’s licence to a person who,

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

(b) is not less than 21 years of age; and

(c) has complied with the requirements of the regulations, and may issue renewals thereof.

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

(3) Every licence and every renewal thereof shall expire on the 31st day of December next following the date of such licence or renewal. 1947, c. 33, s. 11.

12.—(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.

(2) A permit may be issued upon such terms and subject to such conditions as the Board may prescribe, and every permit shall expire on the 31st day of December next following the date thereof or upon such earlier date as the Board may determine. 1947, c. 33, s. 12.
13. Every person who holds a licence or permit shall cause it to be displayed at all times at his place of business or the place of business where he is employed, and failure to comply with this section shall be prima facie evidence that such person is not the holder of a licence or permit. 1947, c. 33, s. 13.

14.—(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 by the board of examiners under any 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 examinations prescribed by the Board; and

(d) who pays the prescribed fee.

(2) A certificate of qualification issued by the board of examiners 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 shall have the same force and effect as a certificate of qualification issued under this Act.

(3) Where the holder of a certificate of qualification is not the holder of a licence for a period of five consecutive years, the certificate of qualification shall ipso facto be deemed to be revoked. 1947, c. 33, s. 14.

15.—(1) The Board may suspend the licence or permit of any person for such period and upon such conditions as it deems proper.
(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 all of the 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.

(3) Any person in respect of whom action is taken by the Board under this section may, within seven days of receiving notice in writing of the Board’s action, appeal in writing to the Minister who may give such direction to the Board as he deems proper and there shall be no appeal therefrom. 1947, c. 33, s. 15.

16. Where the certificate of qualification of any person has been revoked, the Board may issue a certificate of qualification to him where he,

(a) 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) pays the prescribed fees. 1947, c. 33, s. 16.

17. 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; 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. 1947, c. 33, s. 17.

18. A licensed embalmer or licensed funeral director shall not be 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. 1947, c. 33, s. 18.
19. The Board may,

(a) approve any school or college which 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 may deem proper to assist in the establishment or maintenance of any such school. 1947, c. 33, s. 19.

20. Subject to the approval of the Lieutenant-Governor in 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 articled students;

(e) providing for the registration of articled 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 14 and the regulations in the case of an applicant for a certificate of qualification who has had special experience or training either within or outside of Ontario;

(h) prescribing jurisdictions for the purpose of subclause iii of clause a of subsection 1 of section 14;

(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 fees payable to the Board by articled 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 embalming materials which may be used in embalming a dead human body;

(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 the payment 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 other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 33, s. 20.

21.—(1) Every person who,

(a) violates any of the provisions of section 9; 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) violates any of the other provisions of this Act or the regulations,

shall be guilty of an offence and, subject to subsection 2, on summary conviction shall be liable to a penalty of not more than $25.

(2) Where an offence prescribed in clause a, b or c of subsection 1 continues beyond one day, the penalty shall be not more than $25 for each day during which the offence continues. 1947, c. 33, s. 21.