

The Nova Scotia Board of Registration of Embalmers and Funeral Directors
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**IN THE MATTER OF THE EMBALMERS AND FUNERAL DIRECTORS ACT
R.S.N.S. 1989, CHAPTER 144**

and

Joseph Curry

NOTICE OF DECISION

RE: Decision Regarding Funeral Director's Licence # 200371002F1 – Joseph Curry

This Notice sets out the decision of the Nova Scotia Board of Registration of Embalmers and Funeral Directors (the "Board") regarding Funeral Director Licence #200371002F1, held by Joseph Curry, under the *Embalmers and Funeral Directors Act* (the "EFDA").

BACKGROUND:

The Board of Registration of Embalmers and Funeral Directors received a communication from Service Nova Scotia and Internal Services on December 15, 2021, alleging a wrongful cremation had occurred [REDACTED]. This communication alleged there was non-compliance with the *Embalmers and Funeral Directors Act*, Regulations, and Code of Professional Conduct. As the sole licensed funeral director at Forest Haven Memorial Gardens, where the alleged wrongdoing had occurred, Joseph Curry was responsible for performing all cremations at the facility.

A Notice of Inquiry was sent to Joseph Curry on December 20, 2021, which detailed the allegations of non-compliance and professional misconduct with respect to the Act. Joseph Curry was provided an opportunity to provide a written response to these allegations; however, Mr. Curry chose not to provide any correspondence in response to the allegations. All information that was obtained by the Board in relation to those allegations was included in the Notice of Inquiry.

The Notice of Inquiry notified Joseph Curry that because of these allegations an inquiry would be scheduled on January 7, 2022, after which the Board may decide to suspend or revoke his license as a funeral director pursuant to Section 23 of the *Embalmers and Funeral Directors Act* (EFDA), R.S.N.S. 1989, c. 144. As outlined in the Board By-laws, the licensee may have legal counsel present; Mr. Curry declined to have legal counsel present at the inquiry.

ISSUE:

The EFDA authorizes the Board to move forward with a licensing inquiry to fully investigate allegations of non-compliance and professional misconduct. The Board has a duty to investigate any allegations of wrongdoing and must consider all evidence and information prior to making any decisions related to licensing. A licensing inquiry is an informal process to investigate the role of a licensee in an alleged wrongdoing, and to provide the licensee with an opportunity to

speak to the allegations and have legal counsel present. The Board reviews all information and thoroughly considers all details to provide an unbiased decision, within the scope of the Board's authority and the applicable legislation. The purpose of this Inquiry is to ascertain whether Joseph Curry exercised due diligence in identifying a patient whose cremation was arranged with Forest Haven Memorial Gardens, as referenced in Section 32(C) of the EFDA, and if the wrong patient was cremated because of Mr. Curry's failure to confirm the identification and maintain chain of custody procedures.

Section 23(1) of the EFDA provides as follows:

- 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.

Section 20 of the EFDA Regulations provide as follows:

- 20 For the purpose of the Act and regulations "professional misconduct" means:
- a.) personal or professional conduct of a licensed embalmer, apprentice embalmer, funeral director or apprentice funeral director which does not lend dignity to the profession and inspire confidence on the part of the public in the members of the profession;
 - b.) the conduct of the business of a funeral director in such manner, economically and professionally, as not to reflect credit on the profession and to inspire confidence on the part of the funeral-purchasing public;
 - c.) the payment, award or promise of any payment or award by any funeral director or licensed embalmer or any agent or representative thereof to any person for the purpose of procuring patronage for the funeral director, licensed embalmer or funeral home;
 - d.) non-compliance with the requirements of the Health Protection Act and the Vital Statistics Act.

The Embalmers and Funeral Directors Act further states:

Duties of funeral home licence holder:

32C (1) and (2) of the EFDA states,

Every person who holds a funeral home licence shall

- a.) ensure that human remains are labelled at all times while in the custody of the funeral home and while being transported to the funeral home, regardless of whether the remains are being transported by a third-party transfer service.

- b.) ensure that every person transporting human remains is satisfied as to the identity of the remains at the time of initial transfer and at delivery to the intended destination; and
 - c.) create and follow a documented standardized process to ensure that human remains, and cremated remains are continuously identified, from when the remains are transferred by a third-party transport service or are received by the funeral home and until the remains are released to the next of kin.
- 2.) Every person who holds a funeral home licence is responsible for ensuring that every person transporting human remains to the funeral home complies with the requirements set out in the regulations. 2018, c. 30, s. 13.

EVIDENCE AND FINDINGS OF FACT:

At the inquiry, the Board called the licensee, Joseph Curry to testify to the allegations of non-compliance and professional misconduct. The Board reviewed and considered the information provided by Joseph Curry at the inquiry; based on all evidence and submissions, the Board finds the following facts:

- 1.) Joseph Curry, in his capacity as a funeral director licensed in the Province of Nova Scotia, did not maintain a standardized chain of custody as required.
- 2.) Joseph Curry failed to verify identification or review the patient for personal belongings and medical devices.
- 3.) Joseph Curry cremated the wrong patient because of his failure to maintain the chain of custody and failure to verify the patient's identity.
- 4.) Joseph Curry failed to notify Service Nova Scotia and Internal Services and the Nova Scotia Board of Registration of Embalmers and Funeral Directors, that a wrongful cremation had occurred.
- 5.) Despite the fact that a wrongful cremation occurred, Joseph Curry maintains that he is not guilty of non-compliance and professional misconduct.

ANALYSIS:

Is Joseph Curry guilty of professional misconduct?

Funeral directors and embalmers are entrusted with a special responsibility to look after families during their time of need. These families can be vulnerable while grieving, and funeral directors and embalmers are expected to act in a manner that lends dignity to the profession and ensures that families are treated in a respectful and dignified manner. Although he has no previous infractions, his actions resulted in an irreversible outcome. Funeral Homes are required to create and maintain a documented, standardized process, and licensees are expected to follow this process to ensure wrongful cremations do not occur.

Compliance with the Code of Professional Conduct requires that licensees, at all times, maintain the highest standards of the profession, demonstrate conduct that is both honest and to the benefit of public trust, and be respectful of fellow colleagues. Mr. Curry's actions do not demonstrate dignity and respect for the patient that was wrongfully cremated or their family. The act of wrongful cremation by a funeral director does not encourage public trust, maintain the highest standards, nor do these actions lend dignity to the profession. By wrongfully cremating a patient, Mr. Curry did not abide by the provincial legislation or sound business practices, and because a wrongful cremation occurred, the family's right to view their loved one was removed.

Mr. Curry's communication with the Board of Registration throughout his testimony during the inquiry demonstrated a misunderstanding of the Board's duty to investigate wrongdoing, as he was critical of the Notice of Inquiry issued, the Board's role and authority, and the term wrongdoing as it applies to these allegations.

Based on the evidence provided at the Inquiry, the Board finds that Joseph Curry has contravened the Code of Professional Conduct and was found to be non-compliant with the following sections:

- 1.) To treat deceased persons with dignity and respect.
- 2.) To only demonstrate conduct to the benefit of public trust.
- 6.) To, at all times, maintain the highest standards of the funeral profession and carry out all professional obligations to owners and employers.
- 8.) To abide by all provincial legislation respecting my profession.
- 10.) To be respectful of fellow colleagues and to adhere to sound business practices and the promotion of fair competition.
- 13.) To provide an option for the family of a deceased person in their custody to identify the human remains if requested by the family or next of kin.

CONCLUSION:

For all of the reasons set out above, all members of the Board are satisfied that:

- 1.) The actions of Joseph Curry demonstrate that he is guilty of non-compliance with the EFDA, and professional misconduct in relation to his failure to verify identify of a patient prior to cremation. Such actions, or failure to act, has led to the wrongdoing by Joseph Curry.
- 2.) It would not be in the public interest to allow Joseph Curry to continue to practice as a licensed funeral director in the Province of Nova Scotia. Personal or professional conduct of a licensee that creates mistrust within the profession and does not inspire confidence or trust in the public cannot be allowed to continue with respect to Mr. Curry and his license status.

As a result, it is the decision of the Board to immediately revoke Joseph Curry's Funeral Director Licence # 200371002F1 under the EFDA.

If Joseph Curry is dissatisfied with this decision he may, within three months from the date of this letter, appeal to a judge of the Supreme Court of Nova Scotia. Further information on appeals and reinstatement process is outlined in Section 23 of the Act.

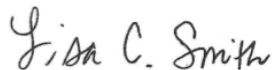
The Board reminds Joseph Curry that, as a result of the revocation of his licence, he is not permitted to conduct any business activity related to funeral directing in Nova Scotia effective February 11, 2022.

Recommendations

The Nova Scotia Board of Registration of Embalmers and Funeral Directors is committed to ensuring the families served by licensed funeral directors and embalmers in Nova Scotia is of the highest standard. Some areas for improvement have come to light because of this investigation and inquiry. To prevent future instances of wrongdoing the Board of Registration of Embalmers and Funeral Directors will collaborate with Service Nova Scotia and Internal Services to review the processes and procedures related to the following areas:

- 1.) Requirements of professional development and continuing education for licensees.
- 2.) Regulation of transfer services.
- 3.) Cremation legislation, including cremation waiting periods and visual identification processes.
- 4.) Scope of practice for funeral directors who operate crematoriums.
- 5.) Standardized chain of custody protocol for all parties involved in the transportation of a patient.

Dated this 11TH day of February, 2022.



Lisa Smith, Co-chair



Elizabeth Alguire, Co-chair

Nova Scotia Board of Registration of Embalmers and Funeral Directors