

**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**

**James Nelson Delaney**

**NOTICE OF DECISION**

**RE: Decision Regarding Funeral Director's Licence # 199471003F1 and Embalmer  
Licence # 199871005E1 – James Nelson Delaney**

This Notice sets out the decision of the Nova Scotia Board of Registration of Embalmers and Funeral Directors (the "Board") regarding Funeral Director Licence #199471003F1 and Embalmer License #199871005E1, held by James Nelson Delaney under the *Embalmers and Funeral Directors Act* (the "EFDA").

**BACKGROUND:**

The Board received a formal complaint against licensee, James Delaney on July 13, 2021, alleging non-compliance with the Embalmers and Funeral Directors Act and Regulations and professional misconduct. A letter detailing the allegations against James Delaney was issued on July 29, 2021, and James Delaney submitted a written response to these allegations; however, the response received from James Delaney did not sufficiently address the allegations. As such, a Notice of Inquiry was sent to James Delaney on September 24, 2021, which outlined allegations of misconduct and non-compliance with respect to the Act. All of the information and documents that had been obtained by the Board in relation to those allegations was attached to the Notice of Inquiry. An amendment to the Notice of Inquiry was sent to Mr. Delaney on October 6, 2021, to amend the date for the Inquiry, a change requested by James Delaney.

The Notice of Inquiry notified James Delaney that because of these allegations an inquiry would be scheduled, 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.

The Board offered James Delaney the opportunity to be represented at the inquiry by legal counsel, and be present; however, Mr. Delaney notified the Board on October 17, 2021, that he would surrender his licences, which he did not. On October 19, 2021, James Delaney communicated to the Board that he would not be participating in the Inquiry and would no longer be responding to communication from the Board. James Delaney was notified in communication from the Board, that the By-laws, specifically section 11, states, "where the person affected does not attend the Inquiry or any continuation thereof, the Board, upon proof of service of the notice by statutory declaration or otherwise, may proceed with the Inquiry in his or her absence."

Although James Delaney was invited to attend to speak to the allegations and question the witness, James Delaney did not attend accept the invitation to participate in the proceedings.

**ISSUE:**

James Delaney's response to the letter detailing the allegations did not fully address the allegations and the evidence of non-compliance; the EFDA authorizes the Board to move forward with a licensing inquiry to fully investigate the allegations.

**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.

**EVIDENCE AND FINDINGS OF FACT:**

At the inquiry, the Board called the complainant to testify, and reviewed correspondence from James Delaney, former employers, [REDACTED] and the Nova Scotia Health Authority.

The Board has reviewed and considered the written information provided by James Delaney at the inquiry, the testimony of the witness present at the inquiry, and the information and documents that were included with the Notice of Inquiry. Based on all evidence and submissions, the Board finds the following facts:



- 1.) That James Delaney misrepresented himself as conducting business on behalf of [REDACTED] in his capacity as a funeral director licensed in the Province of Nova Scotia, while [REDACTED] was unaware and did not direct James Delaney to proceed with his actions and misrepresentations.
- 2.) That James Delaney made unfounded statements regarding [REDACTED] and their licensing and business operations. These statements were unfounded and/or based on assumptions made by James Delaney, which were false in nature.
- 3.) That James Delaney contacted a Nova Scotia Health Authority [REDACTED] requesting clients be directed to James Delaney, instead of [REDACTED] stating [REDACTED] were no longer in operation. This misrepresentation was made to the Department of Health and their representatives and negatively impacted families at a vulnerable and difficult time. This also negatively impacted a business and the professional reputation of the funeral professionals involved.

#### **ANALYSIS:**

##### **Is James Delaney guilty of misrepresentation and 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 ensure that families are treated in a respectful and dignified manner.

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 is respectful of fellow colleagues. Mr. Delaney's written communication with the Board of Registration throughout this process was further demonstration of professional misconduct.

Based on the evidence provided at the Inquiry, the Board finds that James Delaney engaged in misrepresentation and professional misconduct and was found to be non-compliant with the following:

##### **Section 17 (1) of the Embalmers and Funeral Director Regulations under the EFDA:**

no person shall operate an establishment or a branch of an establishment as a funeral home unless that establishment or branch is licensed as a funeral home.

##### **Section 20 of the Embalmers and Funeral Director Regulations under the EFDA:**

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.

**Section 21 of the Embalmers and Funeral Director Regulations under the EFDA:**

no funeral home, funeral director, apprentice funeral director, embalmer or apprentice embalmer shall

- a) include inaccurate or deceptive claims or statements, either direct or implied with respect to price or availability of funeral merchandise or service in any advertisement;
- d) discredit or attack unfairly other funeral merchandise, services or exaggerate the importance of competitive services in any advertisement;
- e) advertise in such a manner as to exploit human misery or to play upon fears which would encourage the consumer to purchase funeral merchandise or services;
- f) advertise in a tasteless manner or in a manner which does not reflect credit, or lend dignity to the funeral profession;

The Board also finds that the conduct of James Delaney demonstrates that he was guilty of professional misconduct as defined in Section 20 (A) of the EFDA Regulations, which defines 'professional misconduct' as conduct which does not lend dignity to the profession and inspire confidence on the part of the public in the members of the profession. The Board further finds that James Delaney acted unethically and violated Section 11A (2) of the EFDA, by not complying with the following sections of the Code of Professional Conduct:

- 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.



9.) Clearly and honestly present available options and recognize the right of those they serve to select goods and services without undue pressure or coercion.

10.) To be respectful of fellow colleagues and to adhere to sound business practices and the promotion of fair competition.

**CONCLUSION:**

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

- The actions of James Delaney demonstrate that he is guilty of non-compliance with the EFDA, misrepresentation and professional misconduct in relation to his actions with the Nova Scotia Health Authority, the purchasing public, and grieving families; and
- That as result, it would not be in the public interest to allow James Delaney to continue to practice as a licensed funeral director and a licensed embalmer.

As a result, it is the decision of the Board to immediately revoke James Delaney's Funeral Director Licence # 199471003F1 and Embalmer Licence # 199871005E1 under the EFDA.

If James Delaney 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 James Delaney that, as a result of the revocation of his licences, he is not permitted to conduct any business activity related to funeral directing or embalming in Nova Scotia.

**Dated this 20<sup>TH</sup> day of December, 2021.**

  
Lisa Smith, Co-chair

  
Elizabeth Alguire, Co-chair

**Nova Scotia Board of Registration of Embalmers and Funeral Directors**