



DECISION OF THE DIRECTOR

In the Matter of: *Business Practices and Consumer Protection Act, S.B.C. 2004, c.2
Cremation Interment Funeral Services Act, S.B.C. 2004, c.35 and
Cremation Interment Funeral Services Regulation*

Respondent: **Margaret Vatamaniuck**

Case Number: **31382**

Licence Number: **29793**

Adjudicator: **Tegan Scardillo, Director of Business Practices and Classification**

Date of Decision: **May 9, 2022**

A. INTRODUCTION

1. Margaret Vatamaniuck (“the respondent”) is a funeral director and embalmer, licensed to engage in the activity under Consumer Protection BC licence number 29793 (“the licence”).
2. Unless ordered otherwise by the Director, all funeral directors must complete six hours of training in a funeral services program approved by the Director during each successive two-year period (“the successive period”) from when the licence was issued. Similarly, embalmers must complete six hours of training in an approved program of embalming services. A person that is both a funeral director and embalmer must complete the required training for both designated activities.
3. On February 4, 2022, a Business Practices Officer with Consumer Protection BC delivered a Report to Director (“the Report”) to the respondent. The Report alleged the respondent failed to complete the required training as a funeral director in the past two-year successive period, as required under the Cremation Interment Funeral Services Regulation (“CIFSR”).

4. I have been delegated the authority of the Director to decide if a contravention to the legislation has taken place and what consequences, if any, should flow from a confirmed contravention.

B. OPPORTUNITY TO BE HEARD

5. Prior to an action being taken under the *Business Practices and Consumer Protection Act* (“BPCPA”) and the *Cremation Interment and Funeral Services Act* (“CIFSA”), the person subject to the action must be provided with an opportunity to be heard.
6. An opportunity to be heard notice (“the notice”) was emailed to the respondent on February 4, 2022. It provided the respondent with the opportunity to submit a written reply to the Report by February 18, 2022. The notice indicated after the opportunity to respond was completed, a decision maker for Consumer Protection BC would determine whether the alleged violation(s) occurred. Possible licensing and enforcement consequences for a confirmed contravention were described in the notice.
7. The respondent provided a written response to the notice on February 17, 2022.
8. I conclude the requirement for providing an opportunity to be heard has been completed.

C. ALLEGED CONTRAVENTION(S)

9. The Report advances the following allegation(s):
 1. The respondent contravened CIFSR section 38(1)(a) by failing to complete the minimum required six hours of training in a program of funeral services approved by the Director during the past two-year successive period commencing on the date the respondent was first issued a funeral director licence.

D. LEGISLATION

10. The legislation relevant to the alleged contravention is contained in the CIFSR:

Continuing education

38 (1)A person licensed as a funeral director, embalmer or both must complete a minimum of
(a) 6 hours of training in a program of funeral services that is approved
by the director, if licensed as a funeral director,
(b) 6 hours of training in a program of embalming that is approved by
the director, if licensed as an embalmer,

during each successive two-year period where the first two-year period commences on the date the person first received their licence to act as a funeral director or an embalmer or both in the Province.

(2) Despite subsection (1), the director may at any time require a funeral director or embalmer to take additional training in a program of funeral services education or embalming.

E. EVIDENCE

11. I have reviewed the Report and the respondent's written reply in their entirety. I limit my comments to only the parts of the evidence necessary to give context to my decision.
12. The respondent was first issued the licence on January 1, 2004, to act and hold themselves out as a funeral director and embalmer.
13. The most recent successive two-year period from when the respondent was first issued the licence commenced January 1, 2020 to January 1, 2022.
14. On July 20, 2020, Consumer Protection BC emailed all licensed funeral directors and embalmers providing information about changes being made to share the status of individual continuing education training requirements. The communication provided a reminder that it is the responsibility of the funeral director and embalmer to ensure course completion documentation is submitted to Consumer Protection to receive credit for completion. It was also noted in the communication that funeral directors and embalmers would receive a status report every six months as a reminder of credits completed and how many credits remained due.
15. On July 21, 2020, the respondent was sent an email from Consumer Protection BC that showed the respondent had not completed any credits for embalming services or funeral services in the current two-year successive period. The communication noted the required education credits were due on "1/1/2022".
16. On December 8, 2021, the respondent was sent an email from Consumer Protection BC that showed the respondent had 1 funeral director and 3 embalmer credits due by January 1, 2022. (The respondent had submitted 5 funeral director credits and 3 embalmer credits prior to December 8th)
17. On December 20, 2021, 3 embalmer credits were submitted, leaving 1 funeral director credit outstanding for the period.

18. Before the end of the two-year successive period (January 1, 2020 to January 1 2022), Consumer Protection BC did not receive any records showing the respondent had completed the required credit in funeral services.
19. The respondent submitted 1 credit in a program of funeral services on January 5, 2022 for a course taken on January 3, 2022.
20. The Report to Director was emailed to the respondent on February 4, 2022.
21. The respondent submitted a written response on February 16, 2022. In summary, the response stated:
 - *“In my goal to ensure I was in compliance with the legislation, on receiving the statement with my outstanding education credits, I took courses to satisfy the requirements. In my error that I took a Skillsoft course to fulfill my course requirements and submitted it in the week prior to Christmas. I was unaware that I had previously submitted this course for credits a few years ago. After receiving confirmation [...] this was indeed a repeat and I would not be able to receive credits, I then enrolled in a course [...] and attempted to complete the course but due to computer issues, and the need for tech help, I was unable to complete the course by Dec 31, 2021. I did finish the course and submitted it as soon as I could which was on 5th January 2022.”*
 - *“To ensure that this does not happen in the future, I have enrolled in a series of courses to ensure that my required number of courses for the 2 year period of Jan 2022 – Dec 2024 will be completed before May 20 of this year.”*

F. ANALYSIS

22. It is the responsibility of the licensee to ensure appropriate courses are taken prior to the course due date to satisfy the training requirements. The respondent had 2 years to ensure training was completed. Completing the training two days after the due date does not provide a defense as to why the training was not completed on time; however, it is an element that will be considered in the assessment of any penalty.
23. The evidence clearly establishes in the last two-year successive period of January 1, 2020 to January 1, 2022, the respondent was required to complete a minimum of six hours in an approved program of funeral services. The respondent did not complete the required training

before the end of the last two-year successive period; therefore, I find the respondent contravened CFSR section 38(1)(a).

G. DUE DILIGENCE

24. The respondent is entitled to the complete defence of due diligence against the allegation if they show that all reasonable steps were taken to *prevent* the contravention from happening. The onus is on the respondent to establish this defence. I was not presented with any evidence to show due diligence by the respondent.

H. CONCLUSION

25. I conclude the respondent contravened CFSR section 38(1)(a) by failing to complete the minimum required six hours of training in a program of funeral services approved by the Director during the past two-year successive period (January 1, 2020, to January 1, 2022) from when the licence was first issued.

I. LICENSING AND ENFORCEMENT ACTION

26. As the Director determining that a contravention has occurred, I may take one or more of the following actions:

- suspend, cancel a license and/or impose conditions on a license (BPCPA section 146 and CIFSFA section 55(3));
- accept an undertaking on terms I consider appropriate (BPCPA section 154 and CIFSFA section 56(2)(b));
- issue a compliance order to take specified further corrective action, and to repay Consumer Protection BC costs of this inspection and any associated legal costs (BPCPA section 155(4)(c)(d) and CIFSFA section 56(2)(c));
- impose an administrative penalty of up to \$5,000 on an individual (BPCPA section 164-165 BPCPA and CIFSFA section 58)

Compliance Order

27. Education requirements are in place to ensure funeral directors and embalmers stay up to date and expand in their level of skill and knowledge to perform the functions of the profession. I am not comfortable in allowing the respondent to maintain the licence without acquiring the full training that should have been obtained during the last two-year successive period. Therefore, I exercise my authority under BPCPA section 155(4)(c) and CIFSFA 56(2)(c) to order that 1 credit in a program of funeral services acquired by the respondent on January 3, 2022 be applied to the 2020 – 2022 period to satisfy the minimum training requirements for that period. For clarity, the respondent must still complete a minimum of 6 hours of approved training in a program of funeral services and a minimum of 6 hours of approved training in a program of embalming

services during the current successive period of 2022 - 2024. The precise terms are described in the Compliance Order attached to this decision.

28. I also exercise my authority under BPCPA section 155(4)(d) and CIFSA section 56(2)(c) to require the respondent reimburse Consumer Protection BC *partial* inspection costs associated with preparing the Report in the amount of \$150.00. Details of payment are described in the attached Compliance Order.

Administrative Penalty

29. I have decided not to impose an AMP for the respondent's failure to complete the minimum required six hours of training in a program of funeral services approved by the Director during the past 2-year successive period (January 1, 2020 to January 1, 2022). The respondent completed 5 of the required 6 hours prior to the due date and completed the 1 remaining credit 2 days after the due date.

J. RECONSIDERATION

30. A compliance order or administrative monetary penalty may be reconsidered in accordance with Division 1 of Part 12 of the Act, subject to the provisions outlined in sections 181 and 182 (2). A request for reconsideration must be submitted within 30 days of delivery of the order to the respondent. The request must be in writing, identify the error the person believes was made or other grounds for reconsideration, and be accompanied by a \$262 application fee. A request for reconsideration should be addressed to:

Consumer Protection BC
Attention: Tegan Scardillo, Director of Business Practices and Classification
200 – 4946 Canada Way, Burnaby, BC V5G 4H7
Tegan.scardillo@consumerprotectionbc.ca

Decided on May 9, 2022, in Burnaby, BC.



Tegan Scardillo
Director of Business Practices and Classification