



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: **Sara Kathleen Lawson**

Case Number: **31114**

Licence Number: **16135**

Adjudicator: **Shahid Noorani, Vice President**

Date of Decision: **April 26, 2021**

A. INTRODUCTION

1. Sara Kathleen Lawson (“the respondent”) is funeral director and embalmer, licensed to engage in these activities under Consumer Protection BC licence number (“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 the 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 March 15, 2021 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 and as an embalmer in the past two-year successive period, as required under the Cremation Interment Funeral Services Regulation (“CIFSR”).

4. As the Vice President I have been delegated the authority of the Director to decide if a contravention to the legislation has taken place and what consequence, 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. A notice of hearing was sent to the respondent on March 18, 2021. It provided the respondent with the opportunity to submit a written reply to the Report by March 31, 2021. The hearing notice indicated that after the opportunity to respond was completed, a decision maker for Consumer Protection BC would determine whether the alleged violation occurred. The hearing notice also set out possible licensing and enforcement consequences should the contravention be confirmed.
7. The respondent submitted a written response to the Report on March 19, 2021.
8. I conclude the requirement for providing an opportunity to be heard has been completed.

C. ALLEGED CONTRAVENTION

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

D. LEGISLATION

10. The legislation relevant to the alleged contravention is contained within 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, and
 - (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 his or her 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 on January 19, 2001 to act and hold themselves out as funeral director and embalmer.
13. The successive two-year periods from when the respondent was first issued the licence commenced January 19, 2001 and continued to January 19, 2003. The last successive two-year period was January 19, 2019 to January 19, 2021.
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 was 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 remained due.
15. On July 21, 2021, the respondent was sent an email from Consumer Protection BC that showed the respondent had not completed any credits for funeral services or embalmer service in the current two-year successive period. The communication noted the required education credits would come due on "1/19/2021."
16. Before the end of the last two-year successive period (January 19, 2019 to January 19, 2021) Consumer Protection BC had not received a record or other form of confirmation from the respondent to confirm completion of the requiring education requirements for a funeral director or an embalmer.

17. The respondent says they mistakenly believed they submitted certificates of course completion to Consumer Protection BC in January. Once they received the Report, they sent the certificates on to the Business Practices Officer.
18. The respondent apologizes for not submitting certificates when they were due.
19. An up-to-date Consumer Protection BC continuing education status report dated April 20, 2021 that accounts for the late submitted certificates, shows the respondent completed seven hours of funeral services and 2 hours of embalming services before the end of the successive period that ended on January 19, 2021. The report shows 3 hours of embalming services completed on January 20, 2021.

F. ANALYSIS

20. The evidence establishes the respondent did complete the requisite hours of funeral services in the successive period that ended on January 19, 2021. It was the respondent's failure to submit the certificates of course completion that led to the allegation that it failed to complete the required training in funeral services. This part of the allegation is dismissed.
21. As to the part of the allegation that deals with failing to complete training in embalming services, the evidence shows the respondent did not complete six hours of training before the end of the successive period ending on January 19, 2021. At that time, only 4 hours of training had been completed. Therefore, I find the respondent contravened CFSR section 38(1)(b).

G. DUE DILIGENCE

22. 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. The defence cannot be relied upon by the respondent.

H. CONCLUSION

23. I conclude the respondent contravened CFSR section 38(1)(b) by failing to complete the minimum required six hours of training in a program of embalming services approved by the Director during the past two-year successive period (January 19, 2021 to January 19, 2021) from when the licence was first issued.

I. LICENSING AND ENFORCEMENT ACTION

24. 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 CIFSA section 55(3));
- accept an undertaking on terms I consider appropriate (BPCPA section 154 BPCA and CIFSA 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 CIFSA section 56(2)(c));
- impose an administrative penalty of up to \$5,000 on an individual (BPCPA section 164-165 BPCPA and CIFSA section 58)

Compliance Order

25. Education requirements are in place to ensure funeral director 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 CIFSA section 56(2)(c) to order the three hours of training in embalming services completed by the respondent on January 20, 2021 be applied to the previous successive period of January 19, 2019 to January 19, 2021 to satisfy training requirements for the period. In applying the hours of approved training completed on January 20, 2021 to the previous successive period, the respondent's continuing education report will now show zero hours of approved training completed for embalming services in the current successive period of January 19, 2021 to January 19, 2023. The respondent should take note of this to ensure they meet education requirements that will come due on January 19, 2023. The precise terms are described in the Compliance Order attached to this decision.
26. 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

27. Recognizing the respondent was only one day late in completing the required training for embalming services, I have decided not to impose an administrative monetary penalty.

J. RECONSIDERATION

30. A compliance order 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 \$252 application fee. A request for reconsideration should be addressed to:

Consumer Protection BC
Attention: Shahid Noorani, Vice President
200 – 4946 Canada Way, Burnaby, BC V5G 4H7
shahid.noorani@consumerprotectionbc.ca

Decided on April 26, 2021 in Burnaby, BC.



Shahid Noorani, Vice President