



## DECISION OF THE DIRECTOR

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**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:** **Steve Nelson**

**Case Number:** **31326**

**Licence Number:** **16106**

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

**Date of Decision:** **January 14, 2022**

### A. INTRODUCTION

1. Steve Nelson (“the respondent”) is a funeral director and embalmer, licensed to engage in the activity under Consumer Protection BC licence number 16106 (“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 November 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 an embalmer 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 November 15, 2021. It provided the respondent with the opportunity to submit a written reply to the Report by November 29, 2021. 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 November 22, 2021.
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):
  - The respondent contravened CIFSR 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 commencing on the date the respondent was first issued an embalmer 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 September 15, 1999, 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 September 15, 2019 to September 15, 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 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 "9/15/2021".
16. Before the end of the two-year successive period (September 15, 2019 to September 15, 2021), Consumer Protection BC received records showing the respondent had completed 6 credits in a program of funeral services and 3 credits in a program of embalming services.
17. The remaining 3 overdue credits in a program of embalming services were completed and submitted to Consumer Protection BC on September 27, 2021.

18. The Report to Director was emailed to the respondent on November 15, 2021.
19. The respondent provided a written response to the report on November 22, 2021. The response stated:
- *“I have been working as a part time Funeral Director/Embalmer for more than 15 years and have tried to maintain the required credits, but due to also holding a full time job it was difficult to fit into the appropriate schedules.”*
  - *“There were a few courses that I attended that I tried to get straightened out and never got credit for.”*
  - *“With new ways of getting the opportunity to complete courses online that are acceptable for BC credits I have recently submitted 17 Embalmers Credits and 8 Funeral Director Credits...Please know that I have been doing everything I can to get caught up to date.”*
20. The respondent submitted proof of completion of 6 credits in programs of embalming services and 19 credits in programs of funeral services (not 17 embalmer credits and 8 funeral director credits as noted in the respondent’s email) completed between the dates of September 27<sup>th</sup> and November 20<sup>th</sup>, 2021. These courses will be applied to the 2021 – 2023 period to satisfy the training requirements for the period.

#### **F. ANALYSIS**

21. Funeral directors and embalmers are required to complete the minimum hours of educational credits whether they are employed full time or part time.
22. The evidence clearly establishes in the last two-year successive period of September 15, 2019 to September 15, 2021, the respondent was required to complete a minimum of six hours in an approved program of embalming 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)(b).

#### **G. DUE DILIGENCE**

23. 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

24. 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 (September 15, 2019, to September 15, 2021) from when the licence was first issued.

## I. LICENSING AND ENFORCEMENT ACTION

25. 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 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

26. 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 exercise my authority under BPCPA section 155(4)(c) and CIFSA 56(2)(c) to order that the 3 overdue credits in embalming services completed by the respondent on September 27, 2021, be applied to the 2019 – 2021 period to satisfy the requirements for that period. The remaining credits completed will be applied to the 2021 – 2023 period. The precise terms are described in the Compliance Order attached to this decision.

27. 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**

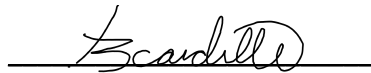
28. I have decided not to impose an AMP for the respondent's failure to complete the minimum required six hours of training in a program of embalming services approved by the Director during the past 2-year successive period (September 15 2019, to September 15 2021).

### **J. RECONSIDERATION**

29. 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 \$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](mailto:Tegan.scardillo@consumerprotectionbc.ca)

Decided on January 14, 2022, in Burnaby, BC.



Tegan Scardillo  
Director of Business Practices and Classification