

Professional Misconduct – Operating without professional liability insurance (2 counts) – Providing an altered document to Council – Making false or misleading statements (2 counts)

Relevant legislation: Bylaw 3040, Sections 102(3) and 43 of *The Funeral and Cremation Services Act*

Council files: 2010-14 and 2011-11

An owner of a transfer service failed to provide proof of insurance renewal for professional liability and after numerous reminders Council administration called the owner's insurance broker of record to determine if coverage was in place. The broker advised that the owner's insurance had expired the previous year and had not been renewed. A document the owner had submitted for that year was examined and it was determined the dates of issue and expiration had been altered to show coverage existed, when in fact it did not.

It was determined the owner had made false or misleading statements about the existence of insurance coverage to Council administration staff and subsequently, to an Investigation Committee.

The owner subsequently obtained insurance which also expired. The owner's transfer license ultimately expired however it was subsequently learned that he had performed another transfer after the insurance had expired. The owner also made false or misleading statements to the Investigation Committee about the transfer.

A Discipline Committee was convened, however as the owner refused to attend the hearing the Committee proceeded *ex parte* and found the owner guilty of the following:

- Two counts of operating without professional liability insurance contrary to Bylaw 3040;
- Providing an altered document to the Funeral and Cremation Services Council on in an attempt to show he did have the required professional liability insurance, when he did not, in violation of section 43 of *The Funeral and Cremation Services Act*;
- One count of making false or misleading statements the Registrar, Council staff, and the Investigation Committee with respect to the owner's professional liability insurance coverage, in violation of section 102(3) of *The Funeral and Cremation Services Act*;
- One count of making false and misleading statements to the Investigation Committee with respect to a transfer of human remains.

A subsequent Penalty Hearing was held by the Discipline Committee and again the owner did not appear. The Committee ordered the following penalty be imposed, effective immediately:

- The immediate cancellation of the owner's funeral director and salesperson;
- A fine in the amount of \$15,000;
- Payment of the costs incurred for the prosecution of the charges;
- That the owner not be eligible to apply for any license under *The Funeral and Cremation Services Act* until both of the following conditions are met:
 - (a) a minimum of three years has elapsed from the effective date of cancellation of his license (November 21, 2012); and
 - (b) all fines and costs ordered against him have been paid in full.