



Office of the Auditor General of Ontario

Value-for-Money Audit  
Bereavement  
Authority of Ontario



*December 2020*



# Bereavement Authority of Ontario

## 1.0 Summary

People in the position of having to purchase funeral and burial or cremation services for loved ones who have died are likely to be in an emotional and vulnerable state. The more informed they are, and the more open and transparent their purchase experience is, the better they are served. However, even those who have planned ahead and pre-arranged and pre-paid for funeral products and services may be uncertain about their options and the laws that pertain to the bereavement industry. For example, embalming is not required by law in Ontario.

The Bereavement Authority of Ontario (Bereavement Authority) was established in 2016 to promote the rights and safety of consumers purchasing funeral and burial or cremation services. Prior to 2016, the bereavement industry in Ontario was regulated by two separate entities—the Board of Funeral Services, also an administrative authority, which regulated funeral and transfer services, and the Ministry of Government and Consumer Services’ (Ministry) Cemeteries Regulation Unit, which regulated cemeteries and crematoriums. Besides consumer protection and education, the Bereavement Authority’s key operations include licensing and inspections of funeral homes, transfer services (transferring the deceased as needed—for example, to the place of interment), cemeteries and crematoriums.

It is one of 11 administrative authorities under the oversight of the Ministry.

The Bereavement Authority administers most provisions of the *Funeral, Burial and Cremation Services Act, 2002*, (Act) on behalf of the Ministry. The Ministry is responsible for overseeing the Bereavement Authority to ensure it is carrying out its delegated duties. The Ministry is also responsible under the Act for administering its provisions dealing with burial sites, war graves, cemetery closures and abandoned cemeteries.

Our audit found that the Bereavement Authority has spent its early years establishing itself as a new regulator by building and maintaining good working relationships with the operators of funeral homes, transfer services, cemeteries and crematoriums with an aim to promote greater compliance. Its enforcement approach is to educate licensees and other operators by issuing letters requesting compliance, issuing guidelines and providing long periods of time to address licensing issues.

However, we found that a stronger regulatory approach is needed to protect and educate consumers who purchase bereavement services and products. For example, we found many instances where pricing information from funeral homes and other operators was not available to consumers to help them make informed purchase decisions at an emotional time. The Act does not require operators to post their price lists online. Consumer access to complete price lists for bereavement services



and products is important, particularly in this time of COVID-19 that requires minimal physical contact. These services being provided should be considered essential, so providing comprehensive information about them online would help consumers make more informed decisions. Further, we found that there are still some operators that use pressure tactics to upsell and/or provide misleading information.

We also found that the Bereavement Authority had taken limited action to follow up on 277 cemetery operators that were operating without a renewed licence at the time of our audit, and it was not monitoring the \$2.1 million held in the care and maintenance funds (which generate investment income for cemetery care and maintenance in perpetuity) of 166 cemeteries that did not file an annual care and maintenance report in 2019. Without timely follow-ups, it becomes much harder to locate people or records and verify if the funds exist and are properly accounted for.

Our review of air emission requirements for crematoriums found that the Ministry of Environment, Conservation and Parks (Environment Ministry) does not appropriately oversee this area to minimize negative impacts, such as emissions of harmful air pollutants, on public health and the environment.

Some of our significant findings are as follows:

### Weak Consumer Protection Measures in the Bereavement Sector

- **Most funeral homes and other operators do not readily disclose prices to consumers.** We found that prices for essential bereavement-related products and services were not transparent and often difficult to obtain. We found that only 26 out of a sample of 100 licensed operators of funeral homes, transfer services, cemeteries and crematoriums posted their price list on their websites. When we sent emails to request price information for the remaining 74 oper-

ators, only 22, or 30%, replied to our request with a price list attached. The other 52, or 70%, did not provide a price list. Unlike California, Ontario and other Canadian provinces do not require funeral homes and other operators to disclose their prices online.

- **Prices for the same or similar services varied significantly across the province and within regions.** We further obtained and analyzed a total of 125 price lists and found that the highest price for similar services or products ranged between 51% and 662% higher than the lowest price. For example, from \$65 to \$495 was priced for completing death-related documentation and from \$475 to \$1,180 was priced for the least expensive casket made of similar wood materials. We divided the province into five regions for comparison purposes and found a wide range of pricing even within the same regions. For example, the price for direct cremation (without a funeral service) ranged between \$997 and \$3,920 within the same region. We found that there are no industry standards on packages, fees, deposits and cancellation policies because regulations in Ontario do not require them. The differences in what was included in funeral service packages, for example, makes it confusing and difficult for consumers to compare prices and make informed decisions quickly when a loved one has passed.
- **Funeral-selling practices can still include pressure tactics and the provision of misleading information.** During our audit, we engaged a firm to conduct mystery shopping at a total of 100 licensed operators of funeral homes, transfer services, cemeteries and crematoriums of various sizes across Ontario. The mystery shoppers acted as consumers shopping for funeral services and products at each of these licensed operators via telephone calls and/or in-person visits. For half of the sampled operators, the mystery shoppers

experienced sales pressure and/or were given misleading information. Also, when the mystery shoppers inquired about the cost of a basic cremation at the 70 operators sampled where direct cremation service was offered, the quotes varied significantly, from a low of \$512 in Windsor to a high of \$8,000 in Toronto.

### Lack of Oversight of Cemetery Operators

- **All cemeteries are required by regulation to renew their licences annually with the Bereavement Authority, but not all do.** Specifically, we found that, as of August 2020, out of a total of 2,368 cemetery operators in Ontario, 277, or 12%, were operating without their licences renewed, and 207 of these operators had not renewed their licences nor filed any other reports with the Bereavement Authority since its inception in 2016. Fifty-one of these 207 cemetery operators had not renewed their licences nor filed the required reports with a regulator since 1992, almost 30 years ago. The Bereavement Authority told us the reasons it had taken limited action to follow up with these operators were mainly because it did not have updated information for those that are located in rural areas and/or managed by volunteer boards. All that it had done was send reminders to about 30 of the cemetery operators that the Bereavement Authority has their email addresses on record.
- **The Bereavement Authority's oversight of care and maintenance funds for 166 cemetery operators needs to be actioned.** The Act requires that all cemetery operators that hold a care and maintenance fund—which generates investment income for cemetery care and maintenance in perpetuity—must submit a care and maintenance report to the Bereavement Authority on an annual basis to confirm that the funds exist. However, our audit found that, of the 1,984 cemetery operators that reported having a care and

maintenance fund, 166 of them had not filed the required care and maintenance report as of June 2020. The last time they did file a report ranged from over one year to 25 years. Based on the most recent information available, the 166 cemetery operators collectively hold a total of \$2.1 million in their care and maintenance funds. Of the 166 cemetery operators, 119 were part of the 277 unlicensed cemeteries mentioned above.

### Inadequate Oversight of Prepaid Trust Funds

- **Funeral homes that are late filing reports on their prepaid funds face no penalties or consequences from the Bereavement Authority.** People who want to plan ahead for their funeral arrangements may pay the money to, for example, a funeral home, which in turn is required to set aside the money “in trust” with a bank or trust company. The Bereavement Authority requires funeral homes to file an annual report on prepaid funds within 90 days after their fiscal year end. These reports are used to monitor that consumers' funds are properly accounted for. We found that in 2019 (the latest information available), 347, or 59%, of the 591 funeral homes in Ontario filed their reports within 90 days. However, the other 244, or 41%, filed their reports late, and 23, or 9% of 244, filed more than 90 days and up to one year after the due date. These 23 funeral homes held a total of \$38.5 million of consumers' monies in their prepaid trust accounts.
- **Funeral homes did not correct issues such as missing information on reports of trust funds on a timely basis.** Once the report on prepaid funds has been filed, the Bereavement Authority reviews the report and sends letters to follow up on any issues such as missing or inconsistent information. We found that the Bereavement Authority did not follow up in a timely manner on funeral homes that did not

respond to the letters it sent between May and December 2019. As of early June 2020, eight out of 75 funeral homes had yet to correct noted issues, including five that had failed to submit trust statements that had been outstanding from six months to over one year. The prepaid trust funds held by these eight funeral homes totalled \$12.4 million.

## Deficient Inspection and Enforcement Activities

- **Publicly reported inspection numbers were significantly overstated.** The Bereavement Authority publicly reported a total of 411 inspections conducted from 2016/17 to 2019/20. However, we found evidence to indicate only 267 inspections were performed. The difference of 144 reported inspections was mainly due to counting errors or including site visits that were conducted for education and awareness as opposed to inspection purposes.
- **Between 2016/17 and 2019/20, the Bereavement Authority inspected only 3.4% of all licensed funeral homes, cemeteries, crematoriums and other operators.** Inspections are not conducted on a proactive and/or cyclical basis but instead are generally reactive in nature. As well, the Bereavement Authority had yet to develop a risk-based framework to identify which licensed and unlicensed operators should be inspected or investigated based on their history of complaints, inspection results and other risk factors. Without such a framework, high-risk operators may not yet have been inspected.
- **The Bereavement Authority does not have an effective quality assurance process over its inspection function.** We found that the Bereavement Authority did not conduct proper oversight of inspectors' work. For example, we found that inspectors' work files were incomplete. Our audit reviewed

a random sample of 150 inspection files prepared from 2017 to 2019 and found that 20% of them were either incomplete or missing the required documentation to support the issues identified. We also found that the time spent on inspections was not tracked. Without inspectors' time being tracked and analyzed on a regular basis, it is difficult to assess whether inspector resources were used efficiently and effectively. We also noted that performance appraisals were not conducted for any of the Authority's five inspectors because a formal policy was not in place.

- **The Bereavement Authority does not co-ordinate inspection efforts with public health units and the Ministry of Labour.** Aside from the inspections conducted by the Bereavement Authority at licensed funeral homes and other operators, public health units and the Ministry of Labour also carry out their inspections at the operators. We noted that the Bereavement Authority has never examined the necessity of the various types of inspections nor collaborated with any public health units or the Ministry of Labour to determine whether a more co-ordinated or comprehensive province-wide inspection approach is needed. There is also no memorandum of understanding between each party to specify the role and responsibility over inspection and what information should be shared on a regular basis.

## Review of the Provincial Mass Fatality Plan

- **The Bereavement Authority was not asked to review the province's plan for large-scale death events until September 2020, after our audit field work was completed.** The Office of the Chief Coroner is designated by the province to manage large-scale death events such as a natural disaster (for example, tornado) or a non-natural event (for example, a plane crash). It was leading

the establishment of a provincial plan to identify emergency strategies for such events. The latest plan was dated March 2020; it had yet to be finalized at the time of our audit. However, the Office of the Chief Coroner had not shared the plan with the Bereavement Authority until we brought this to the Chief Coroner's attention. The Bereavement Authority could have contributed to the plan by sharing information, such as the existing storage capacity for dead bodies across the province, or providing lessons learned from its COVID-19 response.

### Insufficient Environmental Oversight of Crematorium Air Emission Approvals

- **The Ministry of Environment, Conservation and Parks's monitoring of air emissions from crematoriums is insufficient and inconsistent.** Crematorium operators in Ontario are required to obtain Environmental Compliance Approvals from the Environment Ministry. These Approvals are meant to confirm that cremation equipment meets the air emission standards in the *Environmental Protection Act* (Act) and its regulations. However, we noted that Approvals do not expire, and 25 out of 70 crematoriums subject to the Act have only Approvals from more than two decades ago. These Approvals either included no terms and conditions, or less stringent ones than more recent Approvals. We also found that conditions in crematorium Approvals, such as requiring emission source tests within a specified time period, varied significantly without explanation.

This report contains 20 recommendations, with 56 action items, to address our audit findings.

### Overall Conclusion

Overall, we concluded that the Bereavement Authority of Ontario, established in 2016, does not

yet have effective processes and systems in place to fulfill its mandate to protect consumers arranging and purchasing essential services during emotional times. We found that key purchasing information, such as price lists of funeral services and products, are not transparent or easily accessible to the public. There is a need to raise consumer understanding, provide greater transparency and improve protection for consumers who, unless changes are made, will continue to incur unreasonable costs and pressures when making arrangements after the passing of a loved one.

The Bereavement Authority's inspection coverage of funeral homes, cemeteries and other operators had been minimal and mainly reactive. It has not yet developed a framework to identify which licensed or unlicensed operators are the highest risks, based on a history of complaints, inspection results and other factors, and use the information to conduct proactive inspections. As well, it needs to establish an effective quality assurance process to oversee the inspections it conducts.

Also, the Bereavement Authority needs to follow up in a timely way about licensing issues with many cemetery operators, and non-compliance issues related to their care and maintenance funds set aside to help maintain the cemeteries in perpetuity.

Further, it has not taken sufficient enforcement measures, such as placing conditions or stopping the renewal of licences, when funeral homes do not file reports on time to account for trust funds that hold money paid in advance by consumers for their pre-arranged funeral services.

The Ministry of Government and Consumer Services did not sufficiently follow-up to help confirm that the Bereavement Authority had established meaningful performance measures to demonstrate that it is fulfilling its mandate.

Our audit of the processes in place to monitor air emissions from crematoriums found that the Ministry of Environment, Conservation and Parks has not sufficiently monitored air emissions from crematoriums to confirm that these operations are not negatively impacting public health and the environment.

## OVERALL RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) welcomes and accepts the insights and recommendations provided by the Auditor General.

The Bereavement Authority exists to protect the public interest by increasing consumer protection, enhancing professionalism, and providing an effective regulatory framework. We take our role very seriously.

The Bereavement Authority was pleased to host the Auditor General's staff. We viewed this value-for-money audit as an opportunity to have all our processes put under a microscope, with improvement being the goal. We were fully aware that shortcomings existed and were a source of frustration, caused by our inability to extract data from our inherited information systems. Many of the areas identified as requiring improvement can be traced back to the lack of IT functionality, which will be resolved as improvements in our system are built-out over time.

We are a very young administrative authority growing into its mandate. The Bereavement Authority was tasked to use a "one window" approach to combine and regulate all death care services in the province—almost 10,000 establishments and individuals—formerly regulated by different organizations and different legislation with a history of over 200 years.

The Bereavement Authority faced a number of early challenges after its creation, such as combining incompatible computer systems and databases, locating and contacting cemeteries that are managed by part-time volunteers, researching various forms of new alternative disposition technologies to ensure they were safe for the public, and, finally, taking a leadership role during the pandemic.

Notwithstanding the challenges, the Bereavement Authority is committed to deliv-

ering high quality services to the public and the bereavement sector, and to that end, we will be undertaking all of the recommendations of the Auditor General's report.

## MINISTRY OVERALL RESPONSE

The Ministry of Government and Consumer Services (Ministry) would like to thank the Auditor General and her staff for their work on the audit and recommendations. The Ministry welcomes the feedback on how the Bereavement Authority of Ontario (Bereavement Authority) is performing and recommendations to strengthen the Bereavement Authority's operations and the Ministry's oversight of them.

The Ministry recognizes the importance of the Bereavement Authority fulfilling its responsibilities under the *Funeral, Burial and Cremation Services Act, 2002* (Act) in a manner that protects consumers.

The Bereavement Authority is a relatively new administrative authority. The Ministry takes its oversight of the Bereavement Authority's responsibilities under the Act seriously and is committed to examining areas where the Ministry can enhance its oversight processes to provide greater assurances for the people of Ontario that the Bereavement Authority is meeting its consumer protection mandate.

The Ministry will work with the Bereavement Authority, and engage the Ministry of the Solicitor General (the Office of the Chief Coroner of Ontario), the Ministry of the Environment, Conservation and Parks, and the Ministry of Labour, as well as Public Health Units, in its consideration of each of the recommendations where the Auditor General has recommended that the Bereavement Authority work with these other areas of government.

For those recommendations directed at the Bereavement Authority, the Ministry will request that the Bereavement Authority provide an implementation plan that outlines the



specific steps the Bereavement Authority plans to take to implement each recommendation. The Ministry will closely monitor and track the Bereavement Authority's progress in addressing the recommendations.

## 2.0 Background

### 2.1 Bereavement Authority of Ontario

#### 2.1.1 Overview

The Bereavement Authority of Ontario (Bereavement Authority) was incorporated in 2014 and began operations in 2016 under the *Safety and Consumer Statutes Administration Act, 1996*. It is non-profit and self-funded mainly through licensing fees (see **Appendix 1** for the fee amounts) from the sector's service providers, such as funeral homes and cemeteries.

Prior to 2016, the bereavement industry in Ontario was regulated by two separate entities—the Board of Funeral Services, also an administrative authority, which regulated funeral and transfer services, and the Ministry's Cemeteries Regulation Unit, which regulated cemeteries and crematoriums. The two entities were combined based on the advice of a November 2001 Bereavement Sector Advisory Committee Report to the then Minister of Consumer and Business Services, as well as a recommendation in the 2012 Drummond Report. The latter report recommended that creating one regulator would reduce administrative costs and improve delivery of services to consumers. **Appendix 2** lists the key dates and events affecting the bereavement sector from 1996 to December 2019.

The then Minister of Government and Consumer Services and the Chair of the Bereavement Authority Board signed an Administrative Agreement, effective March 2016, that specifies the roles and responsibilities of both parties. **Figure 1** shows the trend of revenue and expenses, and staff since 2016/17.

Similar to Ontario, the provinces of British Columbia, Alberta, Saskatchewan and Manitoba also have an authority regulating the bereavement sector. The regulators in Alberta and Saskatchewan do not have oversight of cemeteries, which is part of the ministries' responsibilities in those provinces. **Appendix 3** provides a comparison of the regulations in these provinces.

According to Statistics Canada, the number of deaths in Ontario increased by almost 12%, from about 95,940 in 2014 to about 106,990 in 2018 (the most recent data available). The Bereavement Authority estimated that, in Ontario, the percentage of deceased who were cremated has increased from 60% in 2011 to between 65% and 70% in 2019. Similarly, the Cremation Association of North America reported that the cremation rate in Canada has risen from 48% in 2000 to 73% in 2019.

#### 2.1.2 Roles and Responsibilities

The Bereavement Authority's mandate is to serve and protect the public interest and govern the bereavement sector in Ontario by administering the *Funeral, Burial and Cremation Services Act, 2002*, (Act) and its regulations. Its main responsibilities are as follows:

- license establishments—funeral homes, transfer services, cemeteries and crematoriums;
- license individuals—funeral directors; funeral pre-planners; and transfer services, cemetery and crematorium sales representatives;
- monitor prepaid trust funds held by funeral homes, transfer services, cemeteries and crematoriums;
- monitor cemetery care and maintenance funds;
- promote confidence and awareness in Ontario's bereavement sector through licensing, inspections, investigations, complaint response and public education activities; and
- provide information and education to the public.

**Figure 1: Revenue, Expenses and Number of Staff at Bereavement Authority of Ontario since Inception, 2016/17–2019/20 (\$ 000)**

Source of data: Bereavement Authority of Ontario

	2016/17	2017/18	2018/19	2019/20	4-Year Change (%)
<b>Revenue</b>					
Licence fees <sup>1</sup>	3,603	4,101	4,394	3,852	7
Other <sup>2</sup>	510	161	186	232	(55)
<b>Total revenue</b>	<b>4,113</b>	<b>4,262</b>	<b>4,581</b>	<b>4,084</b>	<b>(1)</b>
<b>Expenses</b>					
Salaries and wages	1,673	1,855	2,207	2,437	46
Other operating expenses	1,080	1,174	1,534	1,535	42
<b>Total expenses<sup>3</sup></b>	<b>2,753</b>	<b>3,029</b>	<b>3,741</b>	<b>3,972</b>	<b>44</b>
<b>Excess of revenue over expenses</b>	<b>1,360</b>	<b>1,233</b>	<b>840</b>	<b>112</b>	<b>(92)</b>
# of staff (full-time equivalent) <sup>4</sup>	19	21	24	24	26

1. The decrease of licence fees from 2018/19 to 2019/20 was primarily due to the Bereavement Authority extending the time period for cemeteries to submit their licence fees. Therefore, the licence fees that would have been due in March 2020 will be collected and recorded in the following fiscal year.
2. Other revenue includes interest income and entry-to-practice exam fees. The Bereavement Authority also received a government grant in 2016/17.
3. Total expenses increased by 44% from 2016/17 to 2019/20 mainly because of the increased number of staff, occupancy costs, information systems and other services.
4. Represent the average # of staff during each fiscal year. Between 2016/17 and 2019/20, the increase in salaries and wages was 46%, which is higher than the 26% increase in the number of staff. The difference was mainly because the Bereavement Authority hired a legal counsel and additional Inspectors whose salaries are higher than those of the administrative staff hired in 2016/17 when the Bereavement Authority was established. In addition, the Bereavement Authority conducted a wage study in 2019 that resulted in increase of salary ranges.

### 2.1.3 Board Governance and Organization Structure

The Bereavement Authority is overseen by a 10-member Board of directors, with representation as listed in **Appendix 4**. At the time of our audit, two positions were vacant and in the process of being filled by the Ministry.

The Board has five committees: Audit and Risk; CEO/Registrar Performance Evaluation; Compensation Fund; Finance; and Governance and Nominations. It also has three committees composed of volunteer members to advise the Board and the Registrar: Cemetery, Crematorium & Municipal Advisory; Faith-based Advisory; and Funeral & Transfer Services Advisory. The Discipline and Appeal committees, expected to be set up in 2021, will comprise panel members hired from the bereavement sector.

As of March 31, 2020, the Bereavement Authority employed 25 staff, including the Chief Executive

Officer/Registrar. The same person holds both positions of CEO and Registrar. The responsibilities of the Registrar are set out in the Act. **Appendix 5** shows the organization chart.

### 2.1.4 Licensing

There are two major types of licences: establishment licences (**Figure 2**) and personal licences (**Figure 3**). **Section 2.3** describes the types of licence holders.

The ownership of an establishment can range from a small, family-owned business to a large, publicly traded company that owns multiple facilities. Between November 2018 and October 2019 (latest data available), the following four companies performed about one-quarter of the business in the bereavement sector: Arbor Memorial Inc. (private company), Service Corporation International (public company), Park Lawn Corporation (public company) and Mount Pleasant Group (not-for-profit

**Figure 2: Number of Licence Holders for Bereavement Services, 2016/17–2019/20**

Source of data: Bereavement Authority of Ontario

	2016/17	2017/18	2018/19	2019/20	4-Year Change (%)
<b>Funeral Home</b>					
Class 1 – Can provide embalming services	574	579	580	576	<1
Class 2 – Cannot provide embalming services	9	10	10	11	22
<b>Subtotal</b>	<b>583</b>	<b>589</b>	<b>590</b>	<b>591</b>	<b>1</b>
<b>Transfer Service Operator</b>					
Class 1 – Can wash and set features of dead bodies	41	48	47	50	22
Class 2 – Cannot wash or set features of dead bodies	21	24	26	31	48
<b>Subtotal</b>	<b>62</b>	<b>72</b>	<b>73</b>	<b>81</b>	<b>31</b>
Cemetery Operator <sup>1</sup>	2,370	2,359	5,215	5,217	–
Crematorium Operator <sup>2</sup>	53	53	77	76	–
<b>Total</b>	<b>3,068</b>	<b>3,073</b>	<b>5,955</b>	<b>5,961</b>	<b>–</b>

1. Starting in 2018/19, the Bereavement Authority began issuing licences to cemeteries by site, instead of by operator, as it had done prior to 2018/19. The 5,217 licences issued to cemetery sites in 2019/20 were operated by 2,368 cemetery organizations. Our audit found that 277 of the cemetery operators have not renewed their licence. See [Section 4.2.1](#) for further details.
2. Starting in 2018/19, the Bereavement Authority began issuing licences to crematoriums by site, instead of by operator, as it had done prior to 2018/19. The 76 licences issued to crematorium sites in 2019/20 were owned by 55 organizations, including the four operators that provide alkaline hydrolysis as an alternative to standard cremation. Refer to [Section 4.10](#) for more details about alkaline hydrolysis.

**Figure 3: Number of Personal Licences for Bereavement Services, 2016/17–2019/20**

Source of data: Bereavement Authority of Ontario

	2016/17	2017/18	2018/19	2019/20	4-Year Change (%)
<b>Funeral Director</b>					
Class 1 – Can provide embalming services	2,752	2,582	2,554	2,582	(6)
Class 2 – Cannot provide embalming services	24	25	29	29	21
<b>Subtotal</b>	<b>2,776</b>	<b>2,607</b>	<b>2,583</b>	<b>2,611</b>	<b>(6)</b>
Funeral Pre-planner	368	286	296	369*	<1
Transfer Services Sales Representative	19	23	23	32	68
Cemetery and Crematorium Sales Representatives	689	530	570	591	(14)
<b>Total</b>	<b>3,852</b>	<b>3,446</b>	<b>3,472</b>	<b>3,603</b>	<b>(6)</b>

\* The number increased in 2019/20 from 2018/19 mainly as a result of the Bereavement Authority of Ontario increasing the availability of exams from three times a year to eight times.

organization). **Appendix 6** summarizes the key bereavement activities by types of organization.

Under the Act, in Ontario:

- No one can sell or offer to sell funeral services, graves and supplies, or charge fees for these products and services, unless they are licensed by the Bereavement Authority, or work for a funeral home or business that is licensed by the Bereavement Authority.

- The body of a deceased person can only be transferred from one place to another by a licensed funeral business, a licensed transfer service or an immediate family member.

*The Vital Statistics Act* permits only a licensed funeral service provider, transfer service operator or immediate family to register a death with the Registrar General of Ontario. The death must be

registered with the Registrar General, through local municipalities, to obtain the required burial permit before the deceased is buried or cremated.

### 2.1.5 Consumer Complaints and Inquiries

Consumers who are aware of the existence of the Bereavement Authority, and who have questions about the bereavement sector or have issues that could not be resolved with service providers such as a funeral home or a cemetery, can contact the Bereavement Authority through its website, phone or email. **Figure 4** shows the number of complaints and inquiries received by the Bereavement Authority in 2018/19 and 2019/20. Similar data prior to 2018/19 was not readily available mainly due to a lack of capability in its IT system and inconsistencies in how staff were logging inquiries.

### 2.1.6 Inspections and Enforcement Actions

The Bereavement Authority's Compliance Unit is responsible for conducting inspections of licensees and non-licensed operators. Since 2018/19, the Compliance Unit has consisted of only one manager

and five inspectors. The number of inspectors increased from three in 2017/18.

**Figure 5** summarizes the types of inspection and their estimated length of time.

According to the Act, the Bereavement Authority's Registrar has the following legislated enforcement powers in response to non-compliance deemed serious by the Registrar:

- revoking or suspending a licence, restricting or limiting the scope of practice of a licensee, or adding conditions to a licence;
- bringing a licensee before the Bereavement Authority's Discipline Committee, which is expected to be created in 2021; and
- issuing stop orders to unlicensed individuals and operators who engage in selling bereavement-related services to the public, and considering prosecution before the provincial offences courts.

**Figures 6a** and **6b** show the number of enforcement actions taken by the Registrar in 2018/19 and 2019/20. Comparable data prior to 2018/19 was not generated by or readily available at the Bereavement Authority.

**Figure 4: Consumer Complaints and Inquiries, 2018/19 and 2019/20**

Source of data: Bereavement Authority of Ontario

	2018/19	2019/20	% Change
# of Inquiries <sup>1</sup>	442	1,253	183
# of Complaints <sup>2</sup>	80	173	116
<b>Total</b>	<b>522</b>	<b>1,426</b>	<b>173</b>
# of Complaints by Licence Class			
Funeral Homes	39	94	141
Cemeteries	29	72	148
Crematoriums	4	3	(25)
Transfer Services	6	3	(50)
Other (Unlicensed)	2	1	(50)
<b>Total</b>	<b>80</b>	<b>173</b>	<b>116</b>

1. Similar data prior to 2018/19 was not readily available mainly due to a lack of capability in the Bereavement Authority's IT system and inconsistencies in how staff were logging inquiries. The increase from 2018/19 to 2019/20 was mainly due to 1) better tracking of inquiries by staff in 2019/20; 2) increased public awareness of the Bereavement Authority; and 3) an estimated 200 inquiries related to COVID-19 in March 2020.

2. The Bereavement Authority reported that it received 98 complaints in 2016/17 and 96 complaints in 2017/18. However, it did not prepare any detailed information or breakdown of the complaints.



**Figure 5: Types of Inspections by Bereavement Authority of Ontario's Compliance Unit**

Prepared by the Office of the Auditor General of Ontario

Type	Work Involved	Estimated Time per Inspection
Business closure	<ul style="list-style-type: none"> <li>Inspect the closing entity to ensure that arrangements are done properly for the transfer of all remaining trust account contracts, the archiving of all records and the handling of any cremated remains and the removal of business signage</li> <li>All licensed entities are required to have an inspection by the Bereavement Authority prior to closing</li> </ul>	About half a day
Follow-up	<ul style="list-style-type: none"> <li>Follow-up with an entity within a year of a previously completed full inspection to determine whether the deficiencies identified from the previous inspection were rectified</li> </ul>	One day
Licensing	<ul style="list-style-type: none"> <li>Inspect premises of a new business, such as a funeral home, to ensure it complies with required legislative requirements including physical condition of the embalming room</li> <li>Bereavement Authority of Ontario (Bereavement Authority) requires all entities applying for a licence to be inspected prior to its approval</li> </ul>	About half a day
Premises or site	<ul style="list-style-type: none"> <li>Inspect specific areas such as embalming room of a funeral home or the grounds of a cemetery to ensure the physical conditions meet all legislative requirements</li> <li>Usually conducted if a previous inspection identified serious concerns regarding the physical condition of specific site or premise</li> </ul>	About half a day
Full	<ul style="list-style-type: none"> <li>Inspect premises; review selected consumer funeral contracts; examine financial records such as trust fund statements, bank accounts and disbursements; and interview licensees' staff.</li> <li>Assess whether licensees are complying with all key legislative requirements such as premises' physical condition; and review of trust fund statements, completed consumer contracts and storage of cremated remains.</li> </ul>	One to two days Upon completion, inspector has 14 business days to issue inspection letter
Special	<ul style="list-style-type: none"> <li>Investigate unlicensed operators such as organizations transferring dead bodies or interring cremated remains</li> </ul>	One week to several months

Note: The Bereavement Authority does not report the number of inspections by type or whether inspections were announced or not. Section 4.4.1 further discusses the number of inspections the Bereavement Authority performs and publicly reports.

### 2.1.7 Cemetery Care and Maintenance Funds

The Act requires that all cemetery operators who sell, assign or transfer interment rights or scattering rights, or who permit the interment of human remains or the scattering of cremated human remains in a cemetery, shall have a care and maintenance fund or, if the regulations so permit, a care and maintenance account to generate investment income for cemetery care and maintenance in perpetuity. The fund must be held by a trustee or Credit Union, and the account may be held in

a bank. There are close to 60 religious communities, such as the Amish and Mennonites, who are exempted from this requirement by a regulation. As of April 1, 2020, 1,984 cemetery operators were responsible for care and maintenance funds totaling approximately \$1.5 billion.

Cemetery operators are required by the regulation to contribute to the fund when in-ground graves, crypts, tombs, niches and scattering rights are sold, based on either a percentage (ranging from 15% to 40% depending on the type of interment or scattering right) of an item's price or a set amount

**Figure 6a: Licensing Actions<sup>1</sup> by Registrar of Bereavement Authority of Ontario**

Source of data: Bereavement Authority of Ontario

	2018/19	2019/20
Refused to issue/renew a licence <sup>2</sup>	5	3
Revoked licence <sup>3</sup>	4	1
Issued suspension order	3	0
Imposed conditions	22	29
Issued immediate suspension	4	4
<b>Total</b>	<b>38</b>	<b>37</b>

1. Comparable data prior to 2018/19 was not generated by or readily available at the Bereavement Authority.
2. All of the licensing/renewal applications in both years were eventually refused.
3. The Registrar proposed to revoke 13 licences in 2018/19; four of them were revoked and the remaining nine licensees were imposed with conditions. During 2019/20, the Registrar proposed to revoke five licences; one of them was revoked; another three were immediately suspended and the result for the remaining one licensee was pending as of March 31, 2020.

**Figure 6b: Breakdown by Licensee of Registrar's Licensing Actions, 2019/20**

Source of data: Bereavement Authority of Ontario

Registrar's Actions by Licensees	2019/20*
<b>Operator</b>	
Funeral home	12
Transfer service	6
Cemetery operator	0
Crematorium operator	0
Alkaline hydrolysis operator	7
<b>Subtotal</b>	<b>25</b>
<b>Personal</b>	
Funeral director	7
Cemetery and Crematorium Sales representative	1
Funeral pre-planner	4
<b>Subtotal</b>	<b>12</b>
<b>Total</b>	<b>37</b>

\* A similar breakdown is not available for years prior to 2019/20.

ranging from \$50 to \$250, whichever is greater. The withdrawal and spending of the capital or capital gains from these care and maintenance funds is prohibited under the Act, except if authorized by the Registrar. Since the inception of the Bereavement Authority, the Registrar has authorized one instance where a municipality was permitted to use part of the care and maintenance fund to purchase adjacent land to expand an existing cemetery, as permitted under the Act. The municipality was required to pay back the borrowed money to the care and maintenance fund over a period of time.

The regulation sets reporting requirements for cemetery operators to follow based on the size of the fund. **Figure 7** lists the four categories of funds along with the reporting requirements.

### 2.1.8 Prepaid Contracts and Trust Funds

People who want to plan ahead for their funeral and related arrangements may enter into pre-arranged contracts with their service providers. The partial or full amount can be paid when the

**Figure 7: Licensed Cemetery Care and Maintenance Funds and Reporting Requirements, as of April 1, 2020**

Source of data: Bereavement Authority of Ontario

Size of Trust Account	# of Licensed Cemeteries	Care and Maintenance Funds Held (\$ 000)	Reporting Required (Annual)		
			Due 90 Days After the Operator's Fiscal Year-End		Due 180 Days After the Operator's Fiscal Year-End
			Licence Renewal	Care and Maintenance Report	Audit on Care and Maintenance Fund
Very large (>\$500,000)	135	1,390,605	Yes	Yes	Yes
Large (\$100,000–\$499,000)	307	65,823	Yes	Yes	No
Small (<\$100,000)	1,542	40,805	Yes	Yes	No
Nil	384	47	Yes	No	No
<b>Total</b>	<b>2,368*</b>	<b>1,497,280</b>			

\* The 2,368 licensed cemeteries covering 5,217 cemetery sites, of which 57% are “active,” meaning that there have been activities such as burials of bodies or scatterings of ashes or sale activities since 1995. The remaining 43% are “inactive,” with no activities since 1995.

contract is signed, and the funeral home, transfer service, cemetery or crematorium will set aside the money in trust with a bank, trust company or with an independent trustee. It will earn income over the years until it is needed to pay for the supplies or services requested. Alternatively, a person may purchase an insurance policy through a contract with an insurance company to cover the costs required for the arrangements.

As of March 31, 2019 (most recent data available), of the total of \$2.96 billion pre-arranged purchases, about \$2.3 billion was sold by funeral homes and transfer service operators. Of the \$2.3 billion, about \$1.7 billion was purchased through insurance policies administered by insurance companies, and the balance of about \$600 million was held in trust. The other \$667.8 million was held by cemeteries and crematoriums in trust. **Figure 8** shows the trend and amount of funeral-related pre-arranged purchases.

In Ontario, the vast majority, or about 70%, of funeral services are purchased when someone passes. The remaining 30% are pre-arranged; the average price for each of these pre-arranged contracts ranged between \$6,500 and \$7,000.

## 2.2 Key Stakeholders

The following key stakeholders are also involved in the bereavement sector:

- Office of the Chief Coroner for Ontario—Ontario requires a coroner to issue a certificate authorizing cremation or the use of alkaline hydrolysis to dispose of a deceased person (this report refers to the certificates issued by coroners as a “coroner certificate for cremation” or “coroner cremation certificate”). A fee of \$75 has to be paid by consumers, usually through the funeral homes and other operators, to the coroner for issuing a coroner cremation certificate.
- Office of the Registrar General—every death in Ontario must be registered with this Office, most often by a funeral home or other operator, through the municipality where the death occurred.
- Ministry of the Environment, Conservation and Parks—the ministry monitors operators in the bereavement sector for *Environmental Protection Act* and *Ontario Water Resources Act* requirements for waste management and environmental discharges including air, noise and water pollution.

**Figure 8: Funeral-Related Prepaid Purchases Held in Trusts and by Insurance Companies, as of March 31, 2016–2019<sup>1</sup> (\$ million)**

Source of data: Bereavement Authority of Ontario

	2016	2017	2018	2019	4-Year Change (%)
<b>Funeral Homes and Transfer Services<sup>2</sup></b>					
Held in Trust Funds	703.7	617.7	602.2	599.5	(15)
Held by Insurance Companies	1,294.5	1,355.4	1,378.5	1,693.3	31
<b>Subtotal</b>	<b>1,998.2</b>	<b>1,973.1</b>	<b>1,980.7</b>	<b>2,292.8</b>	<b>15</b>
<b>Cemetery and Crematorium<sup>3</sup></b>					
Held in Trust Funds	n/a <sup>4</sup>	n/a <sup>4</sup>	648.6	667.8	n/a
<b>Total</b>	<b>1,998.2</b>	<b>1,973.1</b>	<b>2,629.3</b>	<b>2,960.6</b>	<b>n/a</b>

1. 2019 is the latest year available at the time of our audit because the next report cycle will be in November/December 2020.

2. The majority, or 99%, of the prepaid contracts were sold by funeral homes; only 1% was sold by transfer service operators.

3. The majority, or 99%, of the prepaid contracts were sold by cemeteries; only 1% was sold by crematorium operators. As the amounts for prepaid purchases tend to be lower, cemetery and crematorium operators only accept payment to be held in trust.

4. The Bereavement Authority did not collect similar information prior to March 31, 2018.

- **Public Health Units**—34 public health units in Ontario provide, among other things, inspections of funeral homes that hold and embalm dead bodies. The Bereavement Authority requested that public health inspections be part of its initial licence approval and the annual licence renewal process.
- **Ministry of Labour**—the ministry performs proactive and reactive inspections to funeral homes and other bereavement operators to review their compliance with the *Occupational Health and Safety Act*.
- **Various Associations**—the Ontario Association of Cemetery and Funeral Professionals represents the large commercial operators of funeral homes, cemeteries and crematoriums in Ontario; the Ontario Funeral Service Association advocates for the independent and family-owned funeral homes in Ontario; the Ontario Alkaline Hydrolysis Coalition represents operators who use alkaline hydrolysis as an alternative to flame-based cremation and burial; and the Funeral Advisory and Memorial Society provides information to assist the public on how to plan their funeral and advocates for low-cost funerals.

## 2.3 Bereavement Sector Licence Holders

The following are personal licence holders in the sector:

- **Funeral Director:** Class 1—Can embalm and provide all related professional services and memorial services on behalf of a licensed operator. Class 2—Can arrange and direct customized funeral rites and ceremonies on behalf of a licensed operator. Cannot provide embalming services.
- **Funeral Pre-planner:** Can enter into pre-arranged contracts for funeral products and services on behalf of a licensed funeral home.
- **Transfer Service Sales Representative:** Can sell transfer services on behalf of a licensed transfer service operator.
- **Cemetery and Crematorium Sales Representative:** Can sell or offer to sell cemetery and crematorium supplies and services on behalf of a licensed cemetery or crematorium operator.

The following are the operators that hold licences in the sector:

- **Funeral Homes:** Class 1—Can offer embalming services, full funeral services,



removal of pacemakers or implants. Class 2—Can temporarily place human remains so persons may attend and pay their respects, such as for a visitation or funeral. Cannot offer embalming services, or removal of pacemakers or implants.

- **Transfer Service Operators:** Class 1—Can sell and provide the service of placing a deceased human body in a casket, washing and setting the features and transporting the body from one location to another. Class 2—Can sell and provide the service of placing a deceased human body in a casket, removing personal effects and transporting the body from one location to another.
- **Cemetery Operators:** Entity (corporation, partnership, sole proprietor and trustee/volunteer board – religious or other) licensed to offer or sell interment rights such as burial plots in cemetery. Starting in 2018/19, the Bereavement Authority began issuing licences to cemeteries by site, instead of by operator.
- **Crematorium Operators:** Entity (corporation, partnership, sole proprietor and trustee/volunteer board – religious or other) licensed to offer or sell crematorium supplies and services. Starting in 2018/19, the Bereavement Authority began issuing licences to crematoriums by site, instead of by operator.

### 3.0 Audit Objective and Scope

In late 2019, we approached the Minister of Government and Consumer Services to request that the Minister provide us with a letter asking us to perform a value-for-money audit of the Bereavement Authority of Ontario (Bereavement Authority). We approached the Minister because we were not able to audit this Authority unless requested. We received the letter from the Minister and conducted the audit under Section 17 of the *Auditor General Act*.

The objective of our audit was to assess whether the Bereavement Authority had effective processes and systems in place to:

- educate consumers and make key information transparent and easily accessible for Ontarians making bereavement-related purchases;
- carry out its mandated activities—including licensing, handling complaints and conducting inspections and investigations—in accordance with the *Funeral, Burial and Cremation Services Act, 2002*, its regulations and other applicable requirements established to protect consumers and the environment; and
- measure and publicly report on the effectiveness of the consumer protection services it provides to Ontarians.

In addition, our audit assessed whether the Ministry of Government and Consumer Services (Ministry) had effective processes in place to oversee the Bereavement Authority and its effectiveness in fulfilling its mandated responsibilities to protect consumers of Ontario.

In planning for our work, we identified the audit criteria (**Appendix 7**) we would use to address our audit objectives. These criteria were established based on a review of applicable legislation, policies and procedures, internal and external studies and best practices. Senior management reviewed and agreed with the suitability of our objectives and associated criteria. We focused our audit on the sections of the *Funeral, Burial and Cremation Services Act, 2002*, that pertain to the Bereavement Authority and not the four areas administrated by the Ministry: burial sites, war graves, cemetery closures and abandoned cemeteries.

We conducted our audit between December 2019 and August 2020. We obtained written representation from the Bereavement Authority's and the Ministry's management that, effective October 30, 2020, they had provided us with all the information they were aware of that could significantly affect the findings or the conclusion of this report. Our audit work was conducted primarily at

the Bereavement Authority's office in Toronto. The majority of our document reviews went back three to six years. We reviewed relevant research and best practices from Ontario and other Canadian provinces (British Columbia, Alberta, Manitoba and Saskatchewan), as well as foreign jurisdictions (the United States, Australia and England).

We conducted the following additional work:

- interviewed senior management and appropriate staff, and examined related data, inspection files and other documentation from the Bereavement Authority since its inception;
- had discussions with senior management and appropriate staff, and examined related information from the Ministry;
- met with the Board of directors of the Bereavement Authority and conducted more in-depth interviews with the current and former Chairs and three members of the Board;
- interviewed senior management and analyzed information and data relevant to our audit from the Office of the Chief Coroner for Ontario, the Office of the Registrar General, and the Ministry of Environment, Conservation and Parks;
- communicated with representatives from four public health units (Middlesex-London, Waterloo, Eastern Ontario and Toronto) and the Ministry of Labour to obtain their perspectives about their inspections of funeral homes and other operators;
- spoke with representatives from stakeholder groups including the Ontario Association of Cemetery and Funeral Professionals; the Ontario Funeral Service Association; and the Ontario Alkaline Hydrolysis Coalition;
- visited a modern crematorium in Richmond Hill, Ontario; and
- engaged an expert advisor with expertise in funeral services to advise us.

We hired a professional firm to carry out mystery shopping at a total of 100 licensed operators covering funeral homes, transfer services, crematoriums and cemeteries.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standard on Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

## 4.0 Detailed Audit Observations

### 4.1 Aggressive Pricing and Selling Practices in the Bereavement Sector

Because families often make bereavement-related purchases during vulnerable and emotional times, people may not be in the best state of mind to educate themselves on the full details of certain products or services offered by funeral homes, transfer services, cemeteries and crematoriums, or which products and services are optional or required by law. Therefore, it is important to protect and inform consumers by making price lists and related consumer guide information transparent and easily accessible for them to make informed decisions. Our audit found that pricing information for essential bereavement-related products and services was

not always transparent and available, but, rather, could be confusing and often difficult to obtain.

#### 4.1.1 Most Funeral Homes and Other Operators Do Not Readily Disclose Prices to Consumers

We randomly selected 100 licensed funeral homes, transfer services, cemeteries and crematoriums of various sizes and locations across the province. In April 2020, we reviewed their websites and found that only 26 disclosed a price list on their websites. Of the remaining 74 operators:

- the majority of 52, or 70% that we emailed did not respond to our request for a price list;
- only 22, or 30% replied to our email inquiries for price information with a price list attached; and
- of the 22, only 9 or 41%, also provided the Bereavement Authority's free consumer information guide, *A Guide to Death Care in Ontario* (Guide), which they sent as a PDF file.

A regulation under the *Funeral, Burial and Cremation Services Act, 2002*, (Act) requires that all licensed operators provide the Guide to potential consumers before they enter into a contract. The Bereavement Authority makes the Guide available on its public website, which further states that all of its licensees are required to provide a copy of the Guide when consumers are “making arrangements.”

However, they are not required to provide a copy or make consumers aware of the Guide while researching and making inquiries prior to making a purchase or entering into a contract for products or services. We view the requirement to provide the Guide only once arrangements are being made to be late in the process; potential consumers would benefit more from having the Guide as early as possible to make informed choices.

Another regulation also requires licensed funeral home, transfer service, cemetery and crematorium operators to provide a copy of their price list to every person who requests it. However, a consumer might not know that they are entitled to it. As

well, the Act's regulation states that “information respecting prices for licensed supplies and services is provided to persons making inquiries of the operator whether in person, by telephone or in writing.” However, the Act's regulation does not require licensed operators to post their price lists online. Full disclosure of price lists and other information on the Internet is important, especially now since the COVID-19 pandemic necessitates, and consumers want the safest arrangement options possible.

Since 2013, California has had a law requiring that funeral homes disclose all prices online. No Canadian provinces have legislated/regulatory requirements for licensees to disclose prices online.

#### 4.1.2 Prices Vary Significantly within Regions in Ontario

Based on the responses from funeral homes, transfer services, cemeteries and crematoriums to our initial email inquiries for price lists as indicated in **Section 4.1.1**, and our further research and correspondence with additional operators, we analyzed 125 price lists, and found significant price differences in the province for similar services or products. These price differences ranged from 51% to 662% between the lowest and highest prices of the selected services and products (see **Figure 9**), such as completing documentation, the least expensive urn, and the least expensive casket made of similar wood materials.

We grouped the 125 sampled price lists into five regions for comparison purposes (**Figure 10**). We found that, for example, the highest price of \$3,920 for direct cremation (which means there is no funeral service) in the South region was 293% higher than the lowest price of \$997 in the same region. The prices for full and least expensive funeral services also varied: 48% in the Central region from a low of \$3,900 to a high of \$5,785, and 117% in the North region from a low of \$2,155 to a high of \$4,675.

Variation in operating costs and mark-ups, geographic locations and the quality of the services and

**Figure 9: Price Differences in Ontario for Selected Bereavement Services and Products**

Prepared by the Office of the Auditor General of Ontario

Types of Service or Product	Low (\$)	High (\$)	Difference (%)
Completing documentation <sup>1</sup>	65	495	662
Least expensive urn	75	495	560
Preparing the body without embalming <sup>2</sup>	100	595	495
Least expensive burial vault	425	1,975	365
Use of a lead vehicle in a funeral procession	95	395	316
Transferring the deceased from the place of death to the funeral home (typically within 30 or 40 kilometres)	125	510	308
Use of facilities to store and prepare the body of the deceased	150	490	227
Use of a funeral coach/hearse in a funeral procession	200	575	188
Embalming	335	895	167
Least expensive casket made of similar wood materials	475	1,180	148
Cremation cost <sup>3</sup>	475	715	51

Note: See Figure 10 for a price comparison within regions of the province.

1. Completing documents such as, but not limited to, preparing statement of death and filing applications for death certificates, burial permits, coroner cremation certificates and interment permits.
2. Embalming is a service to remove the blood and fluid from the deceased and replace it with a chemical preservative.
3. Cremation cost represents only the fee to cremate the deceased body; it does not include other fees such as body transfer, cremation container, services for preparing documentation, planning services or other costs for ceremony.

products offered could partly explain why prices varied significantly among funeral homes, transfer services, cemeteries and crematoriums. However, the public should know what they are paying for and why there are significant price variations among similar services and products. Therefore, it is important that all bereavement-sector operators make pricing information transparent.

#### 4.1.3 Funeral Selling Practices Found to Include Pressure Tactics and Misleading Information

During our audit, we engaged a firm to conduct mystery shopping during June and July in 2020 at a total of 100 licensed funeral homes, transfer services, cemeteries and crematoriums of various sizes across Ontario. The mystery shoppers acted as consumers shopping for funeral services and products using telephone calls and/or in-person visits. Of the 100 licensed operators approached, 53 of them did not provide key documents to the mystery shoppers such as a price list and/or the

Bereavement Authority's consumer guide. Some of the mystery shoppers said they felt pressured, were given misleading information and experienced upselling and aggressive sales practices. They also found a lack of industry standards on packages, fees, deposits and cancellation policies. Salespeople employed by most of the funeral homes approached and other operators are paid based on a mix of base salary, performance and commission; therefore, they have an incentive to maximize their sale prices and volumes.

Some of the significant findings are highlighted as follows.

##### Mystery Shoppers Felt Pressured, Given Misleading Information

In half of the 100 shopping encounters, the mystery shoppers did not feel pressured or that they were being misled by salespeople.

The other 50 mystery shoppers experienced one or both of the following:

- the information given was misleading; and/or



**Figure 10: Price Differences for Selected Services by Region<sup>1</sup>**

Prepared by the Office of the Auditor General of Ontario

	North	West	Central	South	East
<b>Direct Cremation<sup>2</sup></b>					
High (\$)	3,550	4,170	3,377	3,920	3,900
Low (\$)	1,545	1,300	1,896	997	1,360
Difference (%)	130	221	78	293	187
<b>Funeral Services<sup>3</sup></b>					
High (\$)	4,675	5,490	5,785	5,510	5,590
Low (\$)	2,155	2,674	3,900	3,420	3,020
Difference (%)	117	105	48	61	85
<b>Interment Right – Indoor niche wall<sup>4</sup></b>					
High (\$)	2,560	4,116	3,165	8,030	4,375
Low (\$)	746	1,187	1,498	1,995	1,675
Difference (%)	243	247	111	303	161
<b>Interment Right – In-ground burial<sup>5</sup></b>					
High (\$)	3,582	3,744	2,970	23,426	6,575
Low (\$)	1,268	2,381	1,115	1,855	1,815
Difference (%)	182	57	166	1,163	262

1. These geographical regions are defined by the Office of the Auditor General of Ontario for price comparison purposes. The Bereavement Authority of Ontario does not categorize the bereavement sector by region.

- North: areas such as Parry Sound, Sault Ste. Marie, Sudbury, Thunder Bay and North Bay.
- West: areas such as Kitchener, Sarnia, Windsor, London and Niagara.
- Central: areas such as Peterborough, Northumberland, City of Kawartha Lakes, Huntsville, Muskoka and Simcoe County.
- South: areas such as Toronto, Peel, Durham, York, Halton, Ajax and Hamilton.
- East: areas such as Ottawa, Brockville, Belleville and Kingston.

2. Direct cremation means that there is no funeral service; the body is transferred directly to a crematorium. The cost includes the fees for body transfer, cremation process of the body, a cremation container, documentation, planning services, facility to shelter the deceased body but excludes HST, \$75 coroner cremation certification, \$45–\$48 for death registration and price of an urn.

3. Funeral services include costs for providing funeral co-ordination services, preparing documentation, transporting a body from place of death to the funeral home, providing facilities to store, prepare body or other general purposes, basic preparation of the body, providing a funeral hearse, providing the facility for a ceremony, providing staff during the ceremony and a casket.

4. Interment right – niche wall. The cost includes interment fees and interment rights to a space in the niche wall.

5. Interment right – in-ground burial. The cost includes interment fees (burial) and interment rights to a plot of land.

- they were pressured by an employee to sign a contract or consider a specific product or service.

For example, washing and/or disinfecting a body is not mandatory; it is simply an option. However, the mystery shoppers found that while 71% of 70 operators questioned about this confirmed that this process was not mandatory, 19% said it was mandatory and the remaining 10% strongly recommended it.

The cost for washing and disinfecting a body quoted by the 29% of operators that said this was mandatory or strongly recommended it

ranged between \$150 and \$600; of these, 20% (or over two-thirds of the 29%) were the very large operators (Arbor, Park Lawn and Service Corporation International).

### Upselling and Aggressive Sales Practices

The tactic to sell packages can result in consumers paying for products or services that may not be necessary for their needs or required by law. For example, one of our mystery shoppers asked how much embalming was and whether the cost could be reduced if not choosing it. The mystery shopper noted from one location of a very large operator

(Arbor) that: “[it cost] \$595.00 and it is included in all of the packages they offer. Even if I chose not to have it done, the price doesn’t change.” However, embalming is not required by law in Ontario.

At all the 100 licensed funeral homes, transfer services, cemeteries and crematoriums, mystery shoppers asked whether they had to buy a package or if they could buy individual services or products. A majority or 77 told the mystery shoppers that they could buy individual items on their price lists; the other 23 said it was company policy that they buy a package. Nine or 39% of the 23 operators were the very large operators including Arbor, Park Lawn and Service Corporation International.

In addition, during the sales interactions, salespeople offered recommendations on specific caskets and their prices to the mystery shoppers. When mystery shoppers asked whether there were cheaper options available, 71% (35 out of 49 locations where this question was asked) said that the recommended casket was the cheapest option, 22% or 11 offered cheaper options when prompted, and 6% or three locations offered cheaper options when prompted but strongly urged mystery shoppers to go with the more expensive option.

The mystery shoppers performed on-site visits to 20 (15 funeral homes and five cemeteries) of the 100 selected licensed operators to observe their physical locations and interact with the salespeople in person. According to a regulation of the Act, where caskets are sold, three lowest-priced caskets are required to be displayed with the same prominence as other caskets. Of the 20 on-site visits, 16 operators had a showroom to display caskets. The mystery shoppers found that of the 16, nine (56%) did not display the three lowest-priced caskets at all. Another three operators (19%) displayed the three lowest-priced caskets less prominently than higher-priced caskets. Only four (25%) complied with the regulation.

Furthermore, mystery shoppers made notes about their shopping experiences when certain sales behaviours were aggressive, as shown in **Figure 11**.

### Figure 11: Examples of Mystery Shoppers’ Experience when Shopping In-person at Funeral Homes

Source: Mystery shoppers hired by the Office of the Auditor General of Ontario

#### Example 1

Shopping in-person at a location of a very large operator (Service Corporation International):

The salesperson was very pushy, and threw a lot of information at me very quickly each time I asked a simple question. Any average consumer would have found the interaction very disorienting and not able to get some basic information for their funeral planning. For example, he gave me three quotes on cremation within 10 minutes, the first was around \$500, then it suddenly jumped to \$4,000, then jumped again to \$10,000. For a casket, after I asked for the cheapest option, he told me about a simple container for \$650, but then he spent a lot of time convincing me to get the rental for \$1,499, or the \$2,299 option. He also only ever referenced packages they have during the interaction, making no mention about buying individual services/products, and made it seem like buying a package was the only option. He also attempted to make many items mandatory when they are not, for example embalming, washing/disinfecting of the body, and told me that I must buy a burial vault from them.

#### Example 2

Another in-person shopper at a location of another very large operator (Arbor) noted:

I gave him a lot of information in regards to the deceased and it seemed that he only selected two of the more expensive options and discussed only those with me. I noticed there were other options on the TV screen that he didn’t elaborate or discuss why they were not appropriate.

### Lack of Industry Standards on Packages, Fees, Deposits and Cancellation Policies

We found that one of the reasons consumer purchases of funeral services or products is difficult is because there is a lack of industry standards on minimum requirements, and unclear comparisons of similar products or services. Existing regulations in Ontario do not require such industry standards

or minimum requirements. Such a wide range of packages and pricing structures can be disorienting to a consumer who likely does not have a lot of knowledge or experience about industry practices. It can also make it very difficult for a consumer to compare between two companies to see which has better options that suit their needs in terms of price, types and quality of products, and services.

When the mystery shoppers asked how much a direct/basic cremation cost at the 70 licensed operators where direct cremation service was offered, the quotes received varied from a low of \$512 (a crematorium in Windsor) to a high of \$8,000 (a funeral home in Toronto). When asked further what these costs included, the range of services and products covered, again, varied widely. As well as overhead costs in different geographical regions, various items included in the direct/basic cremation costs could partly explain the price difference quoted by these operators.

The mystery shoppers also found a wide variety of responses by salespeople when asked about deposits and cancellation policies. In terms of deposits, the shoppers asked 40 of the 100 operators whether they take a deposit: 22 said they did not take deposits; 10 said a fixed percentage of the overall package was required as a deposit; three companies gave a specific dollar amount; four said “it’s whatever amount you are comfortable with;” and the remaining one company offered a payment plan.

Among the 40 companies that offered a cancellation policy verbally, 29, or 73%, did not provide the mystery shoppers with any written documents.

#### 4.1.4 No Proactive Inspections for Upselling Practices

We found that the Bereavement Authority had no plan to proactively inspect funeral homes or other operators exclusively to identify upselling and unethical practices in the industry as identified in **Section 4.1.3**. The Bereavement Authority indicated that it wants to build and maintain a good

working relationship with the operators of funeral homes, transfer services, cemeteries and crematoriums with an aim to promote greater compliance.

For funeral homes, the existing inspection process focuses mainly on their contract compliance and handling of pre-payments held in trusts rather than detecting upselling and unethical practices. The inspections focused on, for example, funeral home recordkeeping practices to ensure all collected trust funds were properly accounted for, and an assessment was completed of the overall financial stability of the funeral homes. As a result, consumers are not well protected from upselling practices and the onus is left mostly on consumers to educate and protect themselves.

In March 2017, the Bereavement Authority introduced new policies to deal with two unethical practices: (1) a prohibition against charging a handling fee when customers choose to purchase a casket from another provider; and (2) requiring that all caskets, including inexpensive cremation containers offered for sale must be available for purchase and use for funeral services. The same month, the Registrar also met with the senior management of a chain featured that month on a CBC *Marketplace* investigation into unethical practices in the bereavement industry. The Registrar received an action plan from the chain committing to the implementation of new internal policies prohibiting certain acts and providing further training for their staff.

Since March 2017, the Bereavement Authority had inspected only three of 50 funeral homes across the province in the same chain with concerns. However, upon our review of all three inspection files, the documentation indicated that the purpose of the inspections was not to identify upselling practices or to determine whether the two new policies issued by the Bereavement Authority were followed.

Rather than investigate the extent of upselling practices in the industry, the inspections focused on selected signed contracts that included pre-arranged contracts. Prices charged were compared to the funeral home’s price list and contracts were

reviewed to confirm that all contract terms complied with the legislative requirements related to areas such as refund policy and price guarantees.

In order to assess the extent of continued aggressive sales tactics and upselling of services within the industry, the Bereavement Authority, could have, for example, hired a mystery shopping company to investigate the existence and extent of aggressive sales tactics, by selected funeral homes and other operators. We noted that prior to 2016, the Board of Funeral Services employed an outside mystery shopping firm to investigate funeral homes to determine if pre-arranged sales were being offered by unlicensed individuals. The Board of Funeral Services investigation confirmed that unlicensed sales staff were selling pre-arranged funeral services at six funeral homes, which resulted in enforcement actions at the time.

However, at the time of our audit, the Bereavement Authority had not performed any such investigation since it was established in 2016.

## RECOMMENDATION 1

To protect consumers when making bereavement-related purchases, we recommend that the Ministry of Government and Consumer Services work with the Bereavement Authority of Ontario to develop effective strategies to increase the transparency of price information to consumers (such as requiring all licensed operators to provide their price lists online as well as an electronic copy or a link to the Bereavement Authority's consumer information guide), and determine where it will be necessary as a result to amend legislation and/or regulations.

## RECOMMENDATION 2

To protect consumers when making bereavement-related purchases, we recommend that the Bereavement Authority of Ontario:

- standardize the presentation of price lists among all licensed operators, such as for a

basic cremation service, other services and products and clearly identify whether each of them is required by law and in what circumstances, or if they are optional; and

- conduct proactive and unannounced inspections of a sample of licensed operators to identify and deter upselling and/or other unethical practices or actions of non-compliance with legislation and regulations.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with both **Recommendations 1 and 2**. The Bereavement Authority is dedicated to consumer protection and transparency of price information.

Prior to July 1, 2012, the *Cemeteries Act* (revised) required that licensees submit their price list to the Ministry of Government and Consumer Services (Ministry). The government removed this requirement following consultation with the sector. *The Funeral, Burial and Cremation Services Act, 2002* (Act) does not currently require licensed operators to post their price lists online. To give effect to this recommendation, the Bereavement Authority would ask the Ministry to create a regulation to require it.

In the meantime, in 2021, we will seek voluntary compliance from the sector licensees to post their price lists for all products and services on their websites. As well, we will consult with the Bereavement Authority advisory committees to create a standardized price list, which will contain elements such as for a basic cremation service and other services and products, and clearly identify whether each of them is required by law and in what circumstances, or whether they are optional. In addition, we will encourage licensed establishments to add a link to the Bereavement Authority Consumer Information Guide on their websites.



In 2022 or sooner, we will conduct proactive and unannounced inspections, within our available resources, of a sample of licensed operators to identify and deter non-compliance with legislation and regulations. We will employ “secret shoppers” to approach a sample of licensed establishments to identify and deter upselling and/or other unethical practices. As our compliance team is known to the licensees, we will have to outsource the secret shoppers.

### MINISTRY RESPONSE

The Ministry of Government and Consumer Services will collaborate with the Bereavement Authority of Ontario to develop options to increase the transparency of price information to consumers, such as by requiring all licensed operators to provide their price lists online as well as an electronic copy or a link to the Bereavement Authority of Ontario’s consumer information guide. Should the government choose to move forward with this recommendation, development of options would be informed by the audit.

## 4.2 Weak Oversight of Cemetery Operators

Cemetery operators in Ontario are required to be licensed by the Bereavement Authority. This applies whether the operator is a for-profit company, not-for-profit religious organization, volunteer board or municipality. Cemetery operators can hold two types of funds: a care and maintenance fund for the care of the cemetery in perpetuity, and trust funds from the sale of prepayments by consumers for such products as openings, closings, receptions and flowers. We found that the Bereavement Authority has taken little action to effectively oversee the licensing and funds of cemetery operators.

### 4.2.1 Almost 300 Cemetery Operators Have Not Renewed Their Licences; Little Action Taken to Determine Status of Funds

We found that as of August 2020, 277 cemetery operators at 366 sites in the province have not renewed their licences (see **Appendix 1** for licence application and renewal fees). These cemetery operators represent 12% of the province’s 2,368 cemetery operators and 7% of its 5,217 sites. Of the 277 cemetery operators:

- 207 have not renewed their licences nor filed any reports since the inception of the Bereavement Authority in 2016; and
- Of the 207, 51 have neither renewed their licences nor filed the required reports with a regulator since 1992, almost 30 years ago.

We found that the Bereavement Authority had not taken further action other than sending reminders to about 30 cemetery operators that it has their email addresses on record to renew their licences and file the required reports. In many cases, the Bereavement Authority did not have updated contact information for the cemetery operators. Of the 277 cemetery operators that had not renewed their licence, only two inspections were conducted, one each in 2017 and 2018; however, these inspections were conducted due to complaints related to the cemeteries’ physical condition and access issues, and not as a result of their lapsed status. After the inspections, the cemeteries fixed the issues.

Among the 207 cemetery operators that had not renewed their licence since 2016, the records show that 89 kept a care and maintenance fund of less than \$100,000 each and the remaining 118 cemeteries had no care and maintenance fund. However, without up-to-date records, the Bereavement Authority did not know if any funds still existed, if funds were being handled appropriately or whether all the funds were actually exhausted. As well, according to the Act, cemetery operators are required to comply with rules and regulations such as any interment of human remains and scattering of cremated human remains are carried out in a

decent and orderly manner and that quiet and good order are maintained in the cemetery at all times; and, cemetery grounds, including all lots, structures and markers, are maintained to ensure the safety of the public and to preserve the dignity of the cemetery. Without knowing the current status of cemetery operators, the Bereavement Authority could not verify whether they are meeting the legislative obligations or whether the cemeteries were maintained properly.

The Bereavement Authority indicated during our audit that significant resources are required to locate these unlicensed operators and bring them to compliance. Because the Bereavement Authority inherited two information databases from both of its predecessors, the Ministry's Cemetery Regulation Unit and the Board of Funeral Services, it took the first two years just to merge the two databases into one information system, mainly due to system capability and data integrity issues. It noted that, for example, the information transferred from the Ministry's Cemetery Regulation Unit lacked details on who was responsible for some of these cemeteries. In addition, the Bereavement Authority explained that based on the information it had, it had assessed them as low-risk. The Bereavement Authority indicated that while it does plan to eventually follow up on these cemetery operators with expired licences, due to a lack of resources and higher-risk priorities, it had not yet been able to do so.

It has been almost five years since the oversight of cemeteries was transferred to the Bereavement Authority from the Ministry; it is concerning if 277 cemetery operators continue to operate with expired licences, unless the Bereavement Authority takes further action. At the time of our audit, the Bereavement Authority had not set any timelines or goals to ensure all cemeteries renew their licences.

Records of the 277 cemetery operators maintained by the Bereavement Authority showed the following: 142 (51%) are not-for-profit religious organizations; 48 (17%) are volunteer boards; 49 (18%) included other ministries, such as Indigen-

ous and Northern Affairs, Ministry of Natural Resources and Forestry and Infrastructure Ontario, as well as municipal organizations; the remaining 38 (14%) are private corporations, sole proprietorships and partnership companies.

### RECOMMENDATION 3

So that all cemetery operators that conduct business in Ontario are licensed to do so, and cannot be licensed if they are not operating appropriately, we recommend that the Bereavement Authority of Ontario:

- gather up-to-date contact information of all cemetery operators;
- follow up with all cemetery operators who did not renew their licences in a timely manner and determine the reasons for non-compliance;
- require all cemetery operators that are able to be licensed to renew their expired licences or apply for a new one within a set timeframe, such as within 60 to 90 days after notification; and
- make arrangement with local municipalities to take over those cemetery operators with expired licences that cannot be located or are unable to continue managing their cemeteries in perpetuity; and
- work with the Ministry of Government and Consumer Services to manage the remaining cemeteries that are considered to be abandoned under the *Funeral, Burial and Cremation Services Act, 2002*.

### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with this recommendation. The Bereavement Authority is working through barriers—such as deceased, unorganized or volunteer cemetery operators/board members and/or abandoned cemeteries, plus updating the Bereavement Authority's

database—to ensure that all cemetery operators conducting business in Ontario are licensed to do so, and operating safely and appropriately.

To further ensure this, in 2021/22 the Bereavement Authority will undertake each of the actions itemized by the Auditor General in this recommendation.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees with the goal of improving oversight of cemetery operators. The Ministry will work with the Bereavement Authority of Ontario and relevant stakeholders to develop options to manage abandoned cemeteries where they are located on land without a designated municipality. Should the government choose to move forward with this recommendation, development of options would be informed by the audit.

### 4.2.2 Bereavement Authority's Oversight of Cemetery Care and Maintenance Funds Ineffective

As shown in **Figure 7**, all cemetery operators that hold a care and maintenance fund are required to submit a care and maintenance report to the Bereavement Authority on an annual basis. However, based on the latest information available at the Bereavement Authority, our audit found that 166 of the 1,984 (2,368 – 384 with nil funds) cemetery operators reported having a care and maintenance fund but had not filed a care and maintenance report as of June 2020. They had not filed for between one year and over 25 years. By not implementing effective enforcement actions on the non-filers, the Bereavement Authority has not adequately monitored the \$2.1 million held by these operators and cannot be sure of either the existence of those funds or whether the income generated by the funds is being properly used for the care and maintenance of the cemeteries.

Of the 166, 119 were part of the 277 unlicensed cemeteries discussed in **Section 4.2.1**. The Bereavement Authority had taken only limited action to ensure compliance with its reporting requirement.

The objectives of this annual reporting requirement are:

- to make sure cemetery operators put aside the legislatively required amount when selling interment, or scattering rights (a percentage or a fixed amount depending on the rights) into their care and maintenance funds;
- the funds are properly accounted for on an annual basis; and
- income generated from the funds are being used for the upkeep of the cemeteries in perpetuity.

It is important that the Bereavement Authority investigate any non-compliant cemetery operators in a timely manner. As time passes, it becomes much harder to trace funds or locate records and people. Without complete and up-to-date information on the status of the care and maintenance funds, the Bereavement Authority cannot be sure of the existence of those funds or accurately assess whether operators are making the required contributions, mandated by the Act, for the future care and maintenance of their cemeteries.

Of the 166 unlicensed cemeteries, 104 of them were run by religious groups; 45 of them were represented by volunteer boards, 11 were from municipalities, and the remaining six were either a corporation or sole proprietorship.

During our audit, the Bereavement Authority indicated that following up on these cemeteries was not currently a high priority.

The consequences of failing to investigate non-filing operators in a timely manner was exemplified by the case at one cemetery that did not submit its 2014 and 2015 care and maintenance fund reports to the Ministry's Cemetery Regulation Unit, nor did it file a 2016 report to the Bereavement Authority. The Bereavement Authority dealt with this compliance problem by contacting the cemetery's five board members, three of whom were not aware of

the missed filings. The volunteer treasurer of the cemetery, who was also the son of the president, was charged in 2018 of fraud, accused of stealing more than \$175,000 over five years. As of August 2020, this case was awaiting a trial date to be heard in court. The loss of almost all of the cemetery's care and maintenance fund left the 150-year old cemetery with virtually no money to pay for its upkeep.

#### 4.2.3 Follow-Up on Shortfall in Funds, Missing Information at Cemetery Operators Not Efficient

The Bereavement Authority sent letters in 2019 to follow up on reporting deficiencies such as missing statements that were identified during staff reviews of the annual reports filed by cemetery operators. However, the Bereavement Authority did not summarize the deficiencies it found to better understand areas with the most non-compliance. Based on our classification, of the 290 deficiency letters sent to 270 cemetery operators in 2019, the top four categories were:

- a shortfall to the care and maintenance fund (128 cemetery operators);
- outstanding information from prior years (66);
- missing trustee statements (55); and
- issues related to payment of annual licensing fees to the Bereavement Authority (40).

As of July 2020, 223, or 77%, of the 290 letters had been responded to and resolved. On average, it took 46 days for the Bereavement Authority to close a file, with a range between the same day and 612 days. The remaining 67, or 23%, of the cemetery operators had not responded to the letters and/or resolved all the issues. The care and maintenance funds held by these 67 cemeteries totalled \$27 million.

The Bereavement Authority notes that for cemetery operators that reported care and maintenance funds totalling more than \$100,000, its staff will send three follow-up letters within a 12-month

period before putting them on a watch list to be considered for an inspection in the future. However, for cemetery operators that reported a care and maintenance fund of less than \$100,000, staff will only send one follow-up letter because there are too many such operators for the Bereavement Authority's resources to do more.

We noted that the Bereavement Authority receives individual operators' annual trustee statements directly from five trust companies. However, a similar arrangement with at least 62 other trustees for direct disclosure and confirmation had not been established at the time of our audit. The Bereavement Authority agreed that such an arrangement would help it to obtain confirmation independently and perform its review more efficiently.

#### RECOMMENDATION 4

To protect consumers' money deposited in care and maintenance funds maintained by cemeteries for upkeep of the cemeteries, we recommend that the Bereavement Authority of Ontario:

- make arrangements with all trustees of cemeteries to obtain access or disclosure of trustee statements directly from them; and
- perform inspections of cemeteries that did not submit their annual reports and other information on time, and order them to comply with the legislation.

#### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) appreciates the Auditor General's insights and agrees with the recommendation. As part of our commitment and mandate to protect consumers and their money deposited in care and maintenance funds maintained by cemeteries for upkeep of the cemeteries, starting in 2021/22, the Bereavement Authority will:

- obtain access or disclosure of trustee statements directly from the trustees when required by our compliance staff; and
- perform inspections as expediently as possible, within the available resources of the Bereavement Authority, of cemeteries that did not submit their annual reports and other information on time, and order them to comply with the legislation.

## 4.3 Few Consequences for Funeral Home Operators for Late, Incomplete Filings

### 4.3.1 No Penalties for Late Filings Regarding Prepaid Funds

In order to effectively safeguard consumers' funds held by funeral homes and transfer service operators, the Bereavement Authority requires funeral home operators to file a report on prepaid funds within 90 days after their fiscal year end. It is important to ensure that operators are filing the required reports on time so that any irregularities, such as missing or misallocated funds, can be identified, rectified or inspected as early as possible.

However, our audit found that as of the most recent licensing renewal period in November and December of 2019, funeral homes and transfer service operators faced no consequences if they did not file their required report on prepaid funds annually. From 2016 to 2018, the Bereavement Authority renewed the licences of seven funeral homes even though they had not filed their reports for two to five years.

In addition, funeral homes and transfer service operators faced no consequences if they did not submit the required reports on prepaid funds within 90 days of their fiscal year end as long as they filed before the renewal period in November and December annually. As a result, the reporting delay could be up to a year unless an inspection was requested by the manager of the Compliance Unit.

Our analysis focused primarily on funeral homes because they had sold 99% of all prepaid contracts and only 1% had been sold by transfer service operators. We reviewed the reports on prepaid fund information submitted by the funeral homes to the Bereavement Authority and found that only 323 or 55% of 590 funeral homes filed their 2018 reports on time. Of the 2019 reports, only 347 or 59% of 591 funeral were filed on time. Specifically, we found:

- In 2019, of the 244 late filers, or the remaining 41% of 591 funeral homes, 23 (9%) filed between more than 90 days late and up to one year after the due date. The 23 funeral homes held a total of \$38.5 million of consumers' monies in their trust funds.
- In both 2018 and 2019, 173 funeral homes filed late.

The Bereavement Authority did not know the reasons for late filings but cited that it could be changes of ownership or management at the funeral homes, or that the funeral homes simply forgot the deadlines.

In 2019, the Bereavement Authority sent failure-to-file letters to funeral homes requesting outstanding reports on prepaid funds in only three batches in May, September and November, rather than monthly. Therefore, a funeral home might not get a reminder letter until months after the report was due.

Due to the limited capability in its information system, the Bereavement Authority had to keep a list of funeral homes with overdue reports manually. The failure-to-file letters were sent only when the assistant manager of Trust Compliance had sufficient time after handling higher priority duties. The Bereavement Authority upgraded its information system in September 2019 so that an automatic email is generated and sent to the funeral home with overdue reports. Despite the upgrade, if the funeral home does not respond to the email, the Bereavement Authority still has to follow up manually.



### 4.3.2 Follow-Ups to Issues with Prepaid Trust Fund Reports Are Not Timely

Once funeral home operators file a report on their prepaid funds, the Bereavement Authority reviews the reports and sends letters to follow up on any missing, incomplete or inconsistent information. It generally provides the funeral homes two weeks to respond. We found that the Bereavement Authority did not follow up in a timely manner on funeral homes that did not respond to the letters it sent between May and December 2019.

In our review, we noted the most significant issues identified for 75 funeral homes in 2019 included: funeral homes failing to submit trustee statements and/or review engagement reports issued by a public accounting firm; providing inconsistent information from reports filed the previous year; and providing incomplete information.

As of early June 2020, eight of the 75 funeral homes had yet to correct the issues, including five that had failed to submit trustee statements outstanding from six months to over one year. The prepaid trust funds held by these eight funeral homes totalled \$12.4 million. The remaining 67 of the 75 funeral homes had resolved their issues, responding to the letters from the same day to 267 days later for an average of 22 days, slightly longer than the two weeks requested by the Bereavement Authority.

## RECOMMENDATION 5

To protect consumer funds held in trust by funeral homes and transfer services, we recommend that the Bereavement Authority of Ontario perform inspections or impose conditions or other appropriate consequences, if funeral homes or transfer services do not file reports on prepaid funds within 90 days after their fiscal year end, or fail to take timely action to correct any deficiencies identified.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with this recommendation. Starting in 2021/22, the Bereavement Authority will:

- perform inspections of late filers, as expeditiously as it can within its available resources; and
- impose conditions and other consequences for late and non-filers.

## 4.4 Poor Recordkeeping and Weak Practices for Inspection and Enforcement Actions

### 4.4.1 Publicly Reported Inspection Numbers Significantly Overstated

In its annual reports, the Bereavement Authority publicly reports the number of inspections completed at each type of licensed funeral homes, transfer services, cemeteries and crematoriums, as well as unlicensed operators. Between 2016/17 and 2019/20, the Bereavement Authority publicly reported that it conducted a total of 411 inspections. We compared the annually reported inspection numbers to the listing of inspection files captured on the Bereavement Authority information systems and determined that these inspection numbers were significantly overstated. We found that only 267 inspections of 205 operators were performed. The number of inspections publicly reported by the Bereavement Authority was overstated by 144, or 54% of the 267 inspections we verified (**Figure 12**). The discrepancies were mainly due to the inclusion of site visits that were conducted for education and awareness as opposed to inspection purposes, or the lack of documentation to support that inspections were actually performed.

**Figure 12: Discrepancies in Number of Inspections, 2016/17–2019/20**

Prepared by the Office of the Auditor General of Ontario

	2016/17	2017/18	2018/19	2019/20	Total
Funeral homes	23	80	48	56	<b>207</b>
Transfer services	4	11	8	11	<b>34</b>
Cemeteries	15	37	20	42	<b>114</b>
Crematoriums	0	12	9	12	<b>33</b>
Non-licensed operators	0	0	12	11	<b>23</b>
<b>Total Reported by the Bereavement Authority of Ontario (A)</b>	<b>42</b>	<b>140</b>	<b>97</b>	<b>132</b>	<b>411</b>
<b>Total Verified Based on Our Audit (B)</b>	<b>21</b>	<b>56</b>	<b>85</b>	<b>105</b>	<b>267</b>
Discrepancy (C) = (A) – (B)	21 <sup>1</sup>	84 <sup>2</sup>	12 <sup>3</sup>	27 <sup>4</sup>	<b>144</b>
% = (C)/(B)	100	150	14	26	<b>54</b>

1. For 2016/17, we found that only 21 inspections were completed, which is half of the 42 inspections reported by the Bereavement Authority of Ontario (Bereavement Authority). We confirmed with the Bereavement Authority that the overstatement was due to counting the same inspections twice by its staff at the time.
2. For 2017/18, we found that the Bereavement Authority conducted only 56 inspections, not 140 inspections as reported, which is an overstatement of 84. Our review of inspection files found that inspectors performed field visits, rather than inspections, in these 84 instances. We did not consider the 84 field visits as inspections because the purposes of the visits were to obtain contract templates and price lists and to educate operators about legislative changes but no actual inspection work was performed. Each visit lasted about one to two hours. No inspections of consumer contracts or financial records were completed and no inspection checklists or reports were prepared.
3. For 2018/19, our review of inspection files found that only 85 inspections were completed, not the 97 inspections as reported by the Bereavement Authority. The Bereavement Authority could not explain the discrepancy of 12 inspections.
4. For 2019/20, we found that of the 132 inspections reported by the Bereavement Authority as being completed within the year, 27 that were recorded in the inspection listing were done by one inspector on the same day in February 2020. The inspections were done at the same cemetery location that is composed of 55 different licensed cemeteries. For the 27 inspections recorded on the listing, no inspection files were completed to capture the work for this one-day visit. We also questioned how one inspector could inspect 27 licensed cemeteries in one day. We would expect to see evidences such as financial records and contracts on files for each of the 27 licensed cemeteries, if they were inspected.

#### 4.4.2 Minimal Number of Inspections; Inspection Efforts Mainly Reactive

As noted in **Section 4.4.1**, we found that from 2016/17 to 2019/20, the Bereavement Authority conducted only 267 inspections of 205 operators, which was just 3.4% of the 5,961 licensed funeral home, transfer service, cemetery and crematorium operators.

Based on our review, we found that in 2018/19 and 2019/20, of a total of 253 complaints received, 49 or 19% were forwarded to the Compliance Unit. Each of those 49 were either inspected or followed up by inspectors in a timely and appropriate manner.

The Compliance Unit's inspections were generally reactive and were triggered mainly by complaints, reporting deficiencies, licensing issues, whistle blower complaints or previous non-compliance issues.

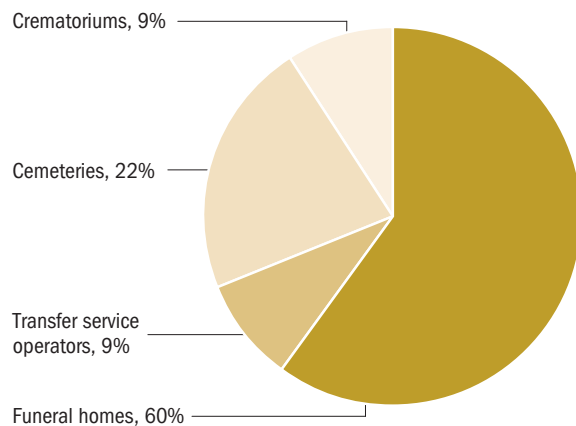
#### 4.4.3 High-Risk Operators Not Regularly Inspected

The Bereavement Authority does not proactively identify which licensed or unlicensed funeral home, transfer service, cemetery and crematorium operators should be selected for inspection based on complaints, inspection results and level of risk. The need for such a framework was identified in the Bereavement Authority's three-year business plan in 2018. However, at the time of our audit, it had not yet been established. Without such a framework, high-risk operators might not have been specifically targeted for inspection.

The Bereavement Authority does not categorize its inspections by type, but inspection records between 2016/17 and 2019/20 showed that about 60% of the total 267 inspections were at funeral homes, followed by cemeteries (22%) (**Figure 13**).

**Figure 13: Percentage of Inspections by Licensee Type, 2016/17–2019/20**

Source of data: Bereavement Authority of Ontario



We also found that the inspection coverage over the same time period among the four types of operators varied:

- Funeral homes—160 inspections were conducted, or 27% of 591 licensees.
- Transfer service operators—26 inspections were conducted, or 31% of 81 licensees.
- Cemeteries—59 inspections were conducted, or 1% of 5,217 licensees.
- Crematoriums—23 inspections, or 30% of 76 licensees.

Based on our discussions with the inspectors, the compliance risk varies among the four types of operators. For instance, because funeral homes collectively are holding a significant amount of trust funds for pre-arranged services (discussed in **Section 4.3**) and they are most contacted in the bereavement sector by consumers to arrange funeral services, they pose a high risk both financially and to the public. The inspectors also indicated that the size of funeral homes also poses various risk levels: large companies were most likely to have good recordkeeping but have higher risks of upselling; small homes might not use aggressive sales tactics but their terms of contract and financial records might be poor due to a lack of staffing and formal processes.

For cemeteries, the risk is their ability to properly manage their care and maintenance trust funds

(see **Section 4.2**). Also, with cemeteries operated by a trustee or volunteer board, the risk of having the funds mismanaged was considered higher for them than those operated by large corporations.

All these risk factors should be considered if the Bereavement Authority creates a risk-based framework.

We noted that as a result of a major fraud discovered in January 2020 at a funeral home, the Bereavement Authority started in April 2020 to collect data such as bank statements and delinquent payments to third-party service providers to assess the overall financial health of small, independently owned funeral homes. Using the information, the Bereavement Authority has started to identify and inspect potential high-risk funeral homes. Six fraud cases at funeral homes in Ontario between 2006 and 2019 are listed in **Appendix 8**. Another fraud was committed at a cemetery with a small volunteer board (discussed in **Section 4.2.2**). Consumers affected by fraud by funeral homes and transfer services can apply to the Bereavement Authority's Compensation Fund Committee for up to a maximum of \$40,000, but not if the fraud occurs at a cemetery or crematorium. The Compensation Fund was set up by the Board of Funeral Services, the Bereavement Authority's predecessor. The Bereavement Authority sets aside a portion of licensing fees from newly licensed funeral home and transfer service operators for the fund (see **Appendix 1**). As of April 2020, the fund total was approximately \$2.39 million. Since the inception of the Bereavement Authority, only six claims amounting to about \$8,400 were paid from the Compensation Fund to consumers.

#### 4.4.4 Inspection Results Not Tracked, Analyzed or Publicly Reported

We noted that—unlike its predecessor the Board of Funeral Services—the Bereavement Authority does not track or publicly report on results of inspections such as the amount that was owed to consumers due to an identified overpayment, the number of non-compliant practices found per inspection, and

types, severity and frequency of non-compliance. Without tracking, monitoring and analyzing the results of inspections and types of non-compliance, the Bereavement Authority cannot focus its inspection efforts on problematic operators to deter further problems.

The Bereavement Authority's information system (discussed in **Section 4.5**) for the Compliance Unit does not have the capabilities to extract any data or statistics on the common trends of the identified non-compliance. Based on our review of a sample of 150 inspection files from November 2018 to March 2020, we noted the following are the most serious issues:

- price lists were not available or updated;
- contract terms for funeral services to be provided did not comply with applicable legislative requirements, such as missing signatures and price totals, contracts were not dated, or purchased services were not itemized;
- embalming rooms were not well sanitized;
- personal protective equipment was not found in transfer vehicles;
- three of the least expensive caskets were not displayed in a showroom;
- refunds were not provided to customers;
- operators had poor financial positions or delays in depositing collected monies into their trust accounts; and
- payments for cremation (approximately \$600) were kept and invested in the funeral homes' prepaid trust funds, instead of passing these payments on to the respective crematoriums.

## RECOMMENDATION 6

To protect consumers through its inspection efforts, we recommend that the Bereavement Authority of Ontario use the analyses from its inspection results to establish an annual inspection plan that targets high-risk areas for inspection, and specifies the percentage of inspections to be reactive versus proactive, and how inspections are prioritized based on risk, urgency and severity of potential non-compliance.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with the recommendation and notes its synergy with **Recommendation 7**. In fact, the Bereavement Authority has started preliminary work on this recommendation.

In 2021/22, the Bereavement Authority will:

- develop an annual inspection plan that targets high-risk areas for inspection;
- define the depth and range of types of inspections that it performs in all of its future annual reports, as inspection categories were not previously defined by the Bereavement Authority; and
- define “reactive” and “proactive” and specify the percentage of inspections to be reactive versus proactive, and state their priority level based on risk, urgency and severity of potential non-compliance.

## RECOMMENDATION 7

To improve the accuracy and reporting of inspection statistics, we recommend that the Bereavement Authority of Ontario:

- restate and provide the correct number of inspections in its Annual Report for all previous years;
- conduct periodic verification of inspection counts;
- track all trigger events for inspections in one place;
- track, monitor, analyze inspections by types and non-compliance; and
- publicly report on outcomes of inspections.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

We appreciate the Auditor General's discernment and agree with the recommendation. Within its available resources, in 2021/22, the

Bereavement Authority of Ontario (Bereavement Authority) will:

- define the depth and range of types of inspections that it performs in all of its future annual reports, as inspection categories were not previously defined by the Bereavement Authority;
- conduct periodic verification of inspection counts;
- track all trigger events for inspections in one place;
- track, monitor and analyze inspections by types and non-compliance; and
- publicly report on outcomes of inspections.

#### 4.4.5 Financial Risks Higher Because Follow-Up on Serious Non-Compliance Not Timely

The Bereavement Authority's internal policies require follow-up inspections on significant issues to be performed within one year after the inspection was completed. We view the one-year internal policy as too long because the sooner the issues are fixed, the more likely consumers are protected. We found that between 2016 and 2018, of the 100 full inspections conducted at all four types of operators, inspectors identified significant issues, such as illegal retention of customer trust funds or late payments to their vendors or suppliers, at six funeral homes.

The Bereavement Authority does not track the number of instances where a follow-up inspection is required. Based on our review of inspection files for all of the six funeral homes in which significant issues were identified, we found that none of them had follow-up inspections within one year, thereby contravening the Bereavement Authority's internal policy.

For example, one of the funeral homes was inspected in May 2017 and significant financial issues were found. This included the illegal retention of money collected from consumers and not putting in the money in the trust accounts within

the 35-day requirement. However, the follow-up inspection was not completed until more than two years later, in August 2019. During the follow-up inspection, similar financial concerns were again identified; the same funeral home was found repeatedly keeping consumer money longer than 35 days. The Registrar did not revoke the licence of the funeral home until September 2020, a year after the follow-up inspection.

Another funeral home was inspected in June 2016 and was scheduled to be re-inspected by June 2017 due to concerns regarding poorly managed and disorganized financial records. However, as of June 2020, the Bereavement Authority still had not re-inspected the funeral home to determine whether the home had rectified the inspector's concerns. Our review of the inspection file found that the inspector did not document details of the amounts involved in the poor and disorganized recordkeeping, and did not recommend that the Registrar place any conditions or other restrictions on the home at the time.

When cases of non-compliance are identified, the Bereavement Authority's Registrar can take enforcement action by placing conditions on a licensee. These conditions can vary based on the nature and severity of non-compliance. We noted that the Registrar had placed conditions on eight individual licensees that were funeral directors, funeral pre-planners and cemetery sales representatives in 2019.

These conditions were placed on the licensees for selling pre-arranged services without a licence, or when licensed individuals were found by their employers to have a criminal record—in one case for fraud, and in another case for a sexual offence involving a minor. As of June 2020, these individuals with conditions had not been inspected again by the Bereavement Authority to ensure they were complying with the conditions of their licences.



#### 4.4.6 Bereavement Authority's Enforcement Tools Are Limited

We found that the existing legislative enforcement tools available to the Bereavement Authority are very limited and inflexible. As a result, it is very difficult for the Bereavement Authority to enforce compliance for matters that are not serious enough for revocation of licences. Refer to **Section 2.1.6** for a list of the legislated enforcement powers available to the Bereavement Authority and **Figure 6a** for the Registrar's actions taken in 2018/19 and 2019/20.

In December 2019, the Bereavement Authority received legislative approval from the government to create a Discipline Committee. At the time of our audit, the Bereavement Authority estimated the Committee could be operational in 2021. Other administrative authorities, such as the Ontario Motor Vehicle Industry Council, have a similar committee to take disciplinary action against licensees.

An Appeals Committee will be created at the same time as the Discipline Committee. It will hear licensees' appeals to actions taken by the Discipline Committee. Once operational, the Discipline Committee will have the power to do the following:

- order fines against a licensee (individual or corporation) of up to \$25,000;
- order a licensee to attend an educational program; and
- recoup the costs incurred arising from the compliance and enforcement actions.

Since the Bereavement Authority was created in January 2016, the main enforcement actions have been to impose conditions on a licence such as requiring a licensee to submit bank statement monthly rather than annually. This process is usually completed by mutual agreement by both the Bereavement Authority's Registrar and the licensee. Between 2018/19 and 2019/20, the Registrar revoked only five licences (**Figure 6a**).

By comparison, Consumer Protection BC, the regulator of bereavement services in British Columbia, can use its legislative authority to issue administrative monetary penalties against entities that

are found to be contravening bereavement-sector legislation. An individual can face a penalty of not more than \$5,000 and a corporation of not more than \$50,000. These penalties can be imposed without the case being heard by a disciplinary committee; however, before imposing an administrative monetary penalty, the operator must be provided with an opportunity to be heard. The BC regulator also has the authority to recoup the cost of inspection from the same entities that were found to have contravened the legislation.

As well, other jurisdictions, such as the Alberta Funeral Services Regulatory Board, the Funeral and Cremation Services Council of Saskatchewan, the Ontario Ministry of Government and Consumer Services (under the *Payday Loans Act*), and the Ontario College of Trades already have the legislative power to impose administrative penalties to address non-compliance without the costs associated with establishing and operating both discipline and appeals committees.

#### Bereavement Authority Does Not Make Details of Violations Public

Consumer Protection BC publishes all information on licensing and enforcement decisions and actions. It posts reasons for its enforcement decisions, which include detailed information such as a chronology of the incidents, the details of the violations, a summary of each inspection result and actions taken by the regulator. This information increases the ability of consumers to make informed decisions about contracting with non-compliant entities, thereby potentially reducing the incidence of violations.

Although the Bereavement Authority publishes, on its website, the suspensions, revocations, conditions or discipline actions taken against the inspected operators, we found that the published information was very limited. For each enforcement action it took, the public disclosure made by the Bereavement Authority was very generic. It cites only the intention of the Act where the violation(s) were found. Unlike Consumer Protection BC, the

Bereavement Authority provided no details about the severity of the problems, what harms were caused to the consumers, or what exactly the licensees did that was against the Act. Anyone who wants more details of any of these problematic operators had to contact the Bereavement Authority directly for further information.

At the time of our audit, the Bereavement Authority was not planning on posting additional details on the enforcement actions to its website, citing that potential sensitivity of certain cases could have negatively impacted the families involved.

## RECOMMENDATION 8

To help protect consumers against financial harm and increase deterrence, we recommend that the Bereavement Authority of Ontario:

- review and shorten its existing one-year internal policy to follow up on significant non-compliance issues;
- place appropriate conditions on operators based on the type and severity of their violations if deficiencies are not corrected in accordance with its internal policies;
- work with the Ministry of Government and Consumer Services to adopt best practices from other jurisdictions to expand enforcement tools such as the ability to levy an administrative penalty; and
- provide the public with more details on licensing and enforcement decisions and actions taken against licensed and non-licensed operators, with the privacy of affected families being protected.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) appreciates the practicality of the recommendation and will:

- begin a review in 2021/22 to shorten its existing one-year internal policy to follow up on significant non-compliance issues;

- place appropriate conditions on operators based on the type and severity of their violations if deficiencies are not corrected in accordance with its internal policies;
- work with the Ministry of Government and Consumer Services to expand enforcement powers, including enabling the Bereavement Authority to levy administrative penalties; and
- provide the public with more details on licensing and enforcement decisions and actions taken against licensed and non-licensed operators, with the privacy of affected families being protected.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees with the goal of protecting consumers against financial harm and increasing deterrence. The Ministry will work with the Bereavement Authority to review best practices from other jurisdictions. The Ministry will also develop options to expand the compliance and enforcement tools that the Bereavement Authority may utilize, such as administrative penalties. Should the government choose to move forward with this recommendation, development of options would be informed by the audit.

### 4.4.7 Weak Oversight of Inspection Work

We found that the Bereavement Authority's oversight of inspectors' work is weak. For example, inspectors' work files were incomplete, time spent by inspectors was not tracked and performance appraisals were not performed as discussed below.

#### Inspectors' Files Incomplete and Not Reviewed Properly

After the inspection fieldwork is performed, inspectors are required to complete an inspection checklist, issue a letter to the inspected entity

summarizing all identified problematic issues and non-compliances, and upload all inspection documents, including the licensee's response and other supporting documents, to the Bereavement Authority's compliance database. Once this documentation process is completed, the files are supposed to be closed in the database. However, our audit found that this was not always the case, even though these files were required to be reviewed by the manager of the Compliance Unit as part of the Bereavement Authority's quality assurance process.

Our audit reviewed a random sample of 150 inspection files prepared from 2017 to 2019 and found that 30, or 20%, of them were still open because they were either incomplete or missing required information. In one case, the inspector conducted an inspection in 2017 but failed to issue an inspection letter and did not upload the documentation to the compliance database until 2019. There was only a short memo stating that an inspection letter was never issued to the entity, and a high-level summary of the inspection results noting that the entity's financial records were very disorganized and incomplete. There were no details about how the financial records were disorganized or the financial amount involved in those records. For another ten inspections, only the inspection checklists were uploaded without other key documents such as inspector letters and supports for the identified issues.

We also found management review of inspection files was not sufficient. Many of the files, although being signed off by the manager of the Compliance Unit, were still incomplete. The dates when the manager reviewed the files were also not recorded, which made it difficult to assess the timeliness of the reviews. Also, we noted the manager, when reviewing the inspection files, did not document any areas needed for correction or improvement to assist the inspectors in completing future inspections.

### Performance Reviews Not Done

We found that performance appraisals were not done for any of the five inspectors because a formal policy was not in place. Performance appraisals are needed to evaluate staff performance against key competencies and expectations. They are also used to identify staff's strengths and areas for improvement, as well as training needs. For example, it is unknown if the incompleteness of inspection files had ever been identified as a performance issue for the staff.

### Time Spent by Inspectors Not Tracked

Depending on the nature and complexity of each inspection, they would require various amounts of time to complete. However, inspectors are not required to set timeframes before they start each inspection. The Bereavement Authority also did not require its inspectors to record the time they spent completing an inspection, by types of inspection performed, or to submit any timesheets for management review. Therefore, the Bereavement Authority could not assess whether its inspectors' time was used efficiently and effectively.

Our review of inspectors' workloads found that each inspector conducted between 16 and 24 inspections in 2019/20. Given there were about 240 working days (excluding vacations) in a year, we estimated that each inspector used roughly 10 to 15 days to complete an inspection. Ten to 15 days appeared to be high given most of the inspections took less than two days to complete. We noted that other than conducting their inspection fieldwork, inspectors need time to prepare letters to non-compliant licensees, and complete and upload supporting documents to the database. Also, at times, they were assigned to more complex and special inspections that could take months by more than one inspector to finish. However, without inspectors' time being tracked and analyzed on a regular basis, it is difficult to assess whether inspector resources were used efficiently and effectively in the areas most needed.

## RECOMMENDATION 9

To assess the sufficiency of caseloads and to improve the quality of work done by inspectors, we recommend that the Bereavement Authority of Ontario:

- establish a system to track and measure inspector time and workload;
- compare the actual time against budgeted time spent per inspection and identify reasons for significant discrepancies;
- regularly review inspectors' caseloads and quality of work to identify areas for improvement in resource allocation and for training purposes;
- require inspectors to complete their files and save all the supporting documents on a timely basis;
- document managerial reviews on each inspection file and where improvements are needed, make improvements; and
- conduct a performance review, at least on an annual basis, for each inspector.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) appreciates the Auditor General's constructive recommendation. The Bereavement Authority will:

- in 2021, develop a system to track and measure inspector time and workload. (In fact, software has been acquired and the work to develop the system has already begun);
- once it is developed, we will apply the system to compare the actual time against budgeted time spent per inspection and identify reasons for significant discrepancies, including the type of inspection and travel time to locations across the province;
- regularly review inspectors' caseloads and quality of work to identify areas for improvement in resource allocation and for training purposes;

- require inspectors to complete their files and save all the supporting documents on a timely basis;
- create a template to document managerial reviews on each inspection file, and, where improvements are needed, make improvements; and
- conduct an annual performance review for each inspector.

### 4.4.8 Insufficient Performance Measures on Inspections

The Bereavement Authority has set only one service standard for its inspections—inspection results need to be delivered to licensees within 14 business days. It reported to the public that the service standard exists, but it did not track or assess whether this standard was being met. Based on our review of a sample of 120 completed inspection reports, while 81 or 84% were completed within the 14-day target to deliver the inspection results to the licensees, 19 or 16% took longer. Eight of these were issued between 45 and 90 days after the inspections.

In contrast, the Board of Funeral Services (the Bereavement Authority's predecessor) publicly reported more performance measures and related data of its inspections; for example:

- number of inspections completed and by types;
- average time spent by type of inspection; and
- length of time to issue the inspection letters from the date of the inspection was completed.

As examples of other possible measures, we also noted that the Texas Funeral Commission and the California Cemetery and Funeral Bureau reported measures such as the percentage of licensed facilities that are non-compliant during inspection, and the average number of days to complete the entire enforcement process.

## RECOMMENDATION 10

To better measure the effectiveness of its inspection role and make improvements where and when needed, we recommend that the Bereavement Authority of Ontario measure and monitor additional performance measures, such as the number of inspections by type, average time spent per inspection, time taken to correct non-compliance issues and percentage of compliance rate as a result of inspections.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with the recommendation. Within its available resources, the Bereavement Authority will measure and monitor additional performance measures, such as the number of inspections by type, average time spent per inspection, time taken to correct non-compliance issues, and percentage of compliance rate as a result of inspections.

## 4.5 Consumer Complaints and Inquiries Poorly Tracked and Monitored

### 4.5.1 Information System Has Significant Limitations for Data Capture and Analysis

Our audit found that the information system used by the Bereavement Authority to track complaints and inquiries had significant limitations. It was unable to generate basic statistical reports separately for complaints and inquiries, such as the numbers received by fiscal year and their nature. Any breakdown was done manually, which took a significant amount of staff time.

While the Bereavement Authority publicly reported on the number of complaints received and the six common complaints, it did not know the extent of each of the six common complaints. We reviewed a total of 100 samples of complaints

filed in 2018/19 and 2019/20 and found that the majority of the complaints were based on either contractual issues or improper conduct by the funeral homes, cemeteries and other operators. Our identification of common issues was consistent with what was reported by the Bereavement Authority, but our work (summarized in **Figure 14**) provided additional details on the extent of the nature of complaints sampled.

The Bereavement Authority acknowledged the significant limitations of its information system and planned to make upgrades to the system functionality, specifically for handling of complaints and inquiries, in early 2021. The Bereavement Authority inherited its database from one of its predecessors, the Board of Funeral Services, and transferred the limited information maintained by the Ministry's Cemeteries Regulation Unit to the database. It outsources its IT requirements with the same company that handled the Board's IT needs.

### 4.5.2 Staff Did Not Enter Complaint Information Consistently Impacting the Reliability of its Complaint Handling and Tracking Process

We found that the staff did not enter data into the information system consistently. They did not consistently record the outcomes of each complaint, such as whether the result was in favour of the complainant or licensee, whether the complaint was withdrawn, or whether the complaint was referred to the Compliance Unit for inspection. For example, of our review of 50 sampled complaints received in 2019/20, 15 of them were referred to inspections. However, only three of them were recorded in the information system correctly. The outcomes recorded for the remaining 12, or 80%, were recorded incorrectly as "pending," "in favour of complainant," "withdrawn" or "none." As a result, the complaint outcomes recorded in the information system are not reliable, and would not be useful for reviews or decision-making.



**Figure 14: Nature of Complaints Sampled by the Office of the Auditor General of Ontario\***

Prepared by the Office of the Auditor General of Ontario

	2018/19		2019/20	
	#	%	#	%
Contract-related issues	18	36	15	30
Improper conduct	13	26	11	22
Interment rights issues	4	8	8	16
Took direction from wrong person/miscommunication	7	14	6	12
Unauthorized/unlicensed activities	3	6	5	10
Contraventions of regulations	4	8	3	6
General cemetery/maintenance	1	2	2	4
<b>Total</b>	<b>50</b>	<b>100</b>	<b>50</b>	<b>100</b>

\* We randomly sampled 100 complaints out of a total of 215 complaints received in 2018/19 and 2019/20 by the Bereavement Authority of Ontario.

Further, based on our sample testing of our sample of 100 complaints filed in 2018/19 and 2019/20, we identified the following errors or missing information:

- 11 complaint files with incorrect dates; they were closed before the information was first added by the staff at the Bereavement Authority. The information system does not detect the errors automatically.
- 12 complaint files were recorded as “open” in the information system even though the files were resolved and closed between nine and 27 months before our review. We were informed that staff had forgotten to update the system after the complaints were resolved.
- Of the 80 complaints that were recorded as “closed” in the information system, a final decision letter confirming their complaints were resolved had not been sent to 34 (43%) of the complainants. We noted that while 19 of complaint resolutions had been communicated to the complainants informally through emails or phone calls, the Bereavement Authority could not locate documents supporting the final decision communication for the remaining 15 complaints.

We also found that the Bereavement Authority had no formal policy and procedure in place

to determine when an inquiry should become a complaint, or whether a complaint should be forwarded to the Compliance Unit for inspection. The Bereavement Authority informed us that the response to each inquiry and complaint was determined on a case-by-case basis; but we found that the decision-making process was unclear. The Bereavement Authority did not require its staff to document the rationale for decisions made on complaints or inquiries.

#### 4.5.3 Target Turnaround Time for Processing Complaints Too Long

The Bereavement Authority has set a 60-day target turnaround time for processing a complaint—meaning that a complaint should be resolved within 60 days of the date it is acknowledged by the staff. However, the Bereavement Authority did not track and monitor whether the target was met, or assess whether the target was reasonable. Based on the 100 complaints we sampled, we found that only 21 files could be used to assess the actual turnaround time because the data entries for the remaining 79 were inaccurate, which resulted in the termination of an employee. Of the 21 sampled files, the turnaround time averaged 20 days. This confirms that the target of a 60-day turnaround time is too long.

## RECOMMENDATION 11

To better track and monitor all consumer complaints and inquiries so that they are addressed on a timely basis, we recommend that the Bereavement Authority of Ontario:

- establish a formal policy to define which kind of inquiry should become a complaint, and what kind of complaint should be forwarded for an inspection;
- upgrade the functionality of its information system so that summary reports on the number and nature of complaints can be produced electronically;
- instruct staff to record and update the status of complaints and inquiries consistently, accurately, and in a timely way; and
- review the actual time taken to process complaints and establish a more reasonable turnaround time target.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with this recommendation and appreciates the notation about upgrading the functionality of our information (database) system to support better tracking of consumer complaints and inquiries. The Bereavement Authority will:

- in 2021, write and establish a formal policy to define which kind of inquiry should become a complaint, and will create a formal intake process to determine what kind of complaints should be escalated for management review and/or forwarded for an inspection;
- upgrade the functionality of its information system so that summary reports on the number and nature of complaints can be produced electronically;

- instruct staff to record and update the status of complaints and inquiries consistently, accurately, and in a timely way; and
- review the actual time taken to process complaints and establish a more reasonable turnaround time target.

## 4.6 Review of Large-Scale Death Plan Requires Better Coordination

### 4.6.1 Timely COVID-19 Response Directives and Guidelines Issued by the Bereavement Authority

The province declared a state of emergency in March 2020. In early April 2020, the province publicly announced that deaths from COVID-19 could be as high as 3,000 to 15,000 people over the course of the pandemic in Ontario. In response to the pandemic and in anticipation of a potential surge in deaths, we found that the Bereavement Authority worked quickly and closely with other key stakeholders, including the Ministry of Health, the Office of the Chief Coroner and public health authorities to minimize the impact of a potential surge of deaths from COVID-19 on the bereavement sector.

Between March 2020 and June 2020, the Bereavement Authority issued 10 directives and 13 notices, four of which were guidelines related to COVID-19, to the bereavement sector. **Appendix 9** lists key directives and guidelines issued by the Bereavement Authority. For example, during March and April, the Expedited Death Response was established to direct the health care and long-term-care sectors in managing the potential surge in COVID-19 deaths. This included the co-ordination between storage and transport capacity of dead bodies, the number of body bags available in the health-care sector and the electronic transmission of medical certificates of death issued by medical professionals. The Bereavement Authority also produced various webinars for funeral, cremation and burial service providers to help them understand the directives and guidelines. As of June 30, 2020, there were 2,670 deaths from COVID-19 in Ontario.

#### 4.6.2 Bereavement Authority Not Initially Asked to Review Large-Scale Death Plan

The Office of the Chief Coroner is designated as the provincial management lead for large-scale death events such as a natural disaster (for example, a tornado) or a non-natural event (for example, a plane crash). Emergency Management Ontario, social services, municipalities and other partners also provided input, advice and co-ordination. We noted that the Provincial Mass Fatality Plan, dated March 2020, had yet to be finalized at the time of our audit. However, the Office of the Chief Coroner had not shared the initial version or the revised draft with the Bereavement Authority until we brought this to their attention in September 2020.

The Bereavement Authority indicated that, had the Office of the Chief Coroner shared the plan with it earlier, the Bereavement Authority could have provided relevant and key information sooner for the update of the plan and prevent the Office of the Chief Coroner's duplication of the work already done by the Bereavement Authority. For example, the Bereavement Authority already had provincial data about the storage capacity for dead bodies, such as the locations throughout the province of licensed funeral homes and other operators, and the number of dead bodies that they can hold. There was no need for the Office of the Chief Coroner to obtain similar information from the bereavement sector. In addition, the Bereavement Authority can now contribute any lessons learned from the COVID-19 pandemic and provide input into the plan.

#### RECOMMENDATION 12

To effectively address any large-scale death event such as a natural disaster or non-natural event, we recommend that the Office of the Chief Coroner, working with the Bereavement Authority of Ontario (Bereavement Authority), revisit the Provincial Mass Fatality Plan and incorporate any key information, inputs and lessons learned from the provincial response to the COVID-19 pandemic by the Bereavement Authority.

#### RESPONSE FROM THE OFFICE OF THE CHIEF CORONER AND THE BEREAVEMENT AUTHORITY OF ONTARIO

During the pandemic, the Office of the Chief Coroner (Office) and the Bereavement Authority of Ontario (Bereavement Authority) partnered to develop and rapidly deploy the Expedited Death Response Plan to manage the surge in pandemic deaths. This partnership provided the opportunity for each organization to understand and appreciate the capabilities of both of our organizations in critical times. Although the knowledge gained from the pandemic response is not directly transferable to a mass fatality situation (the mass fatality plan is for a major large-scale death event from a natural disaster such as a tornado, or a non-natural event such as a plane crash), nonetheless, the Bereavement Authority was invited in September 2020 to provide input into the Provincial Mass Fatality Plan. The most recent version of the plan identifies the Bereavement Authority as a resource for the deployment of death care services.

#### 4.7 Authority Has Not Followed Up to License Transfer Services in Faith-Based Community

An important role of the Authority is to have an effective licensing system to ensure those who are delivering funeral services are qualified and properly trained, and act in accordance with the legislation. A transfer service licensee is trained in handling deceased bodies and transporting them between the place of death, funeral homes and cemeteries or crematoriums. We found that the Bereavement Authority and its predecessor, the Board of Funeral Services, has been aware of a faith-based community in Ontario providing unlicensed transfer services for the past two decades. The Bereavement Authority had, through discussions with representatives from the faith-based community, determined that some were

not opposed to transfer service providers within their community being licensed. However, as of August 2020, no licence application had been filed and therefore no licences had been issued to them.

We obtained death registration records from the Registrar General and found that there were 31 faith-based groups that did not have a transfer service licence from the Bereavement Authority but registered the deaths that they handled with the Registrar General. Between November 2016 and October 2019, approximately 2,500 deaths were registered by unlicensed transfer service providers. The same 31 groups remained unlicensed and registered another approximately 360 deaths between March and July 2020.

In early 2020, when the Bereavement Authority's Registrar brought up this concern to the Bereavement Authority's Funeral and Transfer Services Advisory Committee, the Committee advised the Registrar that faith-based transfer service providers need to be licensed. The Committee recommended that the same type of licence issued and processes that current holders must follow should be applied to those groups that were providing transfer services at the time.

In early March 2020, the Bereavement Authority contacted numerous faith-based groups across the province stating that any religious organization wishing to provide services for transferring deceased individuals was required to apply for a transfer service licence. It is legal in Ontario for family members to transport a body during a funeral service, but non-family and anyone charging a fee is required to be licensed.

However, because the faith-based operators were unlicensed, the Bereavement Authority did not have the legislative authority, and therefore did not conduct any unannounced inspections at their premises to determine whether the faith-based community's volunteers had stopped handling deceased bodies. The Bereavement Authority has never prosecuted unlicensed operators in provincial court in the past.

## RECOMMENDATION 13

To carry out its licensing regulatory role, we recommend that the Bereavement Authority of Ontario take the necessary action to require all transfer service providers to be licensed across the province.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with the recommendation and has already started work to enable and require all transfer service providers to be licensed across the province before the end of 2020. The education and internship required acted as barriers to licensure for some transfer service providers. We are working with Humber College to modify these requirements for certain types of transfer services and expect full licensure before the end of 2020.

## 4.8 Ontario Consumers Paid Coroners \$5.9 Million in 2019/20 for Coroner Cremation Certificates; Some Provinces Do Not Require Them

During 2019/20, the Office of the Chief Coroner's 355 coroners approved a total of approximately 78,250 coroner certificates authorizing cremation of a dead body (this report refers to the certificates issued by coroners as "coroner certificates for cremation" or "coroner cremation certificate"). Each coroner certificate for cremation cost family members of the deceased \$75, for a total of \$5.9 million, which was paid entirely to individual coroners. The Office of the Chief Coroner has not reviewed the \$75 fee since 2003 when the fee was last increased by the government.

We found that British Columbia and Manitoba, for example, do not require a certificate to be authorized and issued by a coroner, or equivalent, prior to

cremation if the person dies of natural causes. These provinces' cremation requirements are:

- British Columbia: either the next of kin or a person named in the will of the deceased must give the funeral provider prior authorization for cremation. As well, a medical certificate issued by a medical professional must be issued within 48 hours after the death.
- Manitoba: a medical professional is required to complete the medical certificate of death and the funeral provider is required to prepare a burial permit.

Alberta, Nova Scotia and New Brunswick require authorization by a coroner, or equivalent, prior to cremation, but none of them charge a fee for issuing it.

Provinces can implement other policies that appear to have the same objective as a coroner certificate for cremation. For example, they can prohibit cremation until a certain number of hours have passed after death, to, for example, give time for the police to investigate the death. Refer to **Appendix 10** for a provincial comparison.

We found that two coroners in Ontario each approved about 2,200 coroner certificates for cremation in 2019/20; this represents an average approval rate of more than six certificates a day for every day of the year. Each of the two coroners (one in Toronto and the other one in the Central East region of the province) earned approximately \$165,000 in the year from coroner cremation certificates, which was the highest amount earned in the province for issuing coroner certificates for cremation.

According to a regulation under the *Funeral, Burial and Cremation Services Act, 2002*, a crematorium operator shall not permit the cremation of a body if the operator has not received a certificate issued by a coroner authorizing the cremation. A coroner certificate for cremation is required to cremate the remains of the deceased only if, when the death is registered, a burial permit has also been issued to the funeral home by the local municipality. The municipality issues the burial permit to funeral homes only after receiving a medical certificate of death signed by a medical professional.

According to Ontario's Office of the Chief Coroner, a coroner certificate for cremation "ensure[s] that a body is not lost to further investigation until the matter has been reviewed by a coroner." However, the Office of the Chief Coroner does not track the information needed to assess whether the process of issuing coroner cremation certificates actually does ensure the preservation of the body to investigation, especially when the vast majority of individuals die of natural causes. Other than records on the certificates themselves, the Office of the Chief Coroner was unable to provide us with any other statistics or information to validate the necessity of the certificate process. Such information would include the total number of requests made, how many requests were denied and what kind of actions were taken by individual coroners before a coroner cremation certificate was approved. The Office of the Chief Coroner has the capacity for additional analysis in its information system but has not yet done this analysis because of other priorities competing for staff time.

Our analysis of the limited data available to us for 2019/20 raised concerns about the effectiveness of the approval process and the consistency of procedures undertaken by coroners. While it is understandable that approving certificates will take different amounts of time depending on the circumstances of the death and the background of the deceased, we noted that approximately 13,800 (18%) of the 78,250 coroner cremation certificates issued during 2019/20 were approved less than 15 minutes after the request was submitted, with the shortest length of time being 36 seconds. Given that short amount of time, it was unclear whether the coroners had taken sufficient steps to review the request before approving the certificate. If risks can be adequately addressed by a review of less than 15 minutes, one might question whether every cremation requires that a coroner cremation certificate be issued. This is particularly relevant as cremations are on the rise. The Bereavement Authority estimated that the percentage of deceased persons in Ontario who were cremated increased from 60% in



2011 to between 65% and 70% in 2019. Only 6% of deceased persons in Ontario were cremated in 1970.

## RECOMMENDATION 14

To provide better value to family members when their loved one has passed, we recommend that the Ministry of the Solicitor General, together with the Office of the Chief Coroner:

- analyze the information captured by the Office of the Chief Coroner about coroner cremation certificates, such as the number of requests made, work performed by coroners and the result of the work completed;
- develop a process whereby coroner certificates for cremation are issued more equally and proportionately by Ontario's coroners; and
- eliminate the \$75 fee for coroner cremation certificates to align Ontario with the other jurisdictions that do not charge for them.

## RESPONSE FROM THE MINISTRY OF THE SOLICITOR GENERAL

The Ministry of the Solicitor General (Ministry) accepts the recommendation. Specifically:

- The Ministry will request the Chief Coroner to develop a surveillance mechanism to capture and audit all aspects of coroner cremation certificate data such as the number of requests made, distribution of certificates, amount of time spent investigating and approving, the number of requests denied and the number of deaths requiring further investigation.
- The Ministry will request the Chief Coroner to work with the Bereavement Authority of Ontario and Service Ontario to develop a process whereby coroner cremation certificates can be issued more equally and proportionately to Ontario coroners. This may include revising the current approach of selecting local coroners to a regionalized

approach where the funeral homes will select from a regional rotating list.

- On the concerns identified in the report on the two coroners who each earned approximately \$165,000 on coroner cremation certificates, each approving about 2,200 certificates, the Ministry will direct the Chief Coroner to conduct a thorough review of those two coroners and report back to the Ministry within six months with the Chief Coroner's findings. Subsequent to the Chief Coroner's report, the Ministry will determine whether any additional steps need to be taken.

With respect to the recommendation regarding the elimination of the \$75 fee for issuing coroner certificates for cremation, the Ministry will, in collaboration with the Ministry of Government and Consumer Services, conduct an assessment of the requirements of subsection 31(2) in O. Reg. 30/11 under the *Funeral, Burial and Cremation Services Act, 2002*. The Ministry is committed to working with the Chief Coroner to review the current coroner service delivery model with a view to ensuring an effective, accountable and compassionate process that is informed from the experiences of other Canadian jurisdictions.

## RESPONSE FROM THE OFFICE OF THE CHIEF CORONER

The Office of the Chief Coroner (Office) accepts this recommendation and, as stated in the Ministry response, will develop a surveillance mechanism to capture and audit all aspects of coroner cremation certificate data. Further, systemic evaluation will include analysis to obtain early understanding of province-wide trends in causes of death, and review for unexpected patterns relating to health-care professionals completing medical certificates of death.

As stated in the Ministry response, the Office will also work with the Bereavement Authority

of Ontario and Service Ontario to develop a process whereby coroner cremation certificates can be issued more equally and proportionately to Ontario coroners.

Unlike jurisdictions where coroners/medical examiners are paid a salary, Ontario coroners are currently paid on a fee-for-service basis; therefore, there needs to be a mechanism for remuneration for this important work. However, the Office will explore the potential of including coroner cremation certificates as part of the per diem work completed by coroners being paid on a salary or as a per diem process in the new service delivery model.

## 4.9 Weak Environmental Oversight by Environment Ministry

### 4.9.1 Monitoring of Air Emissions from Crematoriums Inadequate and Inconsistent

The Ministry of the Environment, Conservation and Parks (Environment Ministry) plays a role in regulating environmental discharges from crematoriums via Environmental Compliance Approvals (called Certificates of Approval before 2011), according to the *Environmental Protection Act*. The procedure for obtaining an Approval requires applicants to demonstrate that their air emissions comply with the Environment Ministry's current requirements. The technical experts at the Environment Ministry review the Approval applications, including an emission summary and dispersion modelling report to ensure that the crematorium meets the air emission standards in the regulation of the *Environmental Protection Act* (**Appendix 11** discusses potential risks from crematorium emissions).

These provincial air standards, as well as additional guidelines, are to be met anywhere around the facility (generally located outside the applicant's property boundaries) where the maximum concentration of the air contaminant is expected to occur, provided that the contaminant has either contacted the ground or a building.

Crematoriums would typically require Approvals for air and noise emissions. We noted that Approvals issued to crematoriums from as far back as 1969, over 50 years, remain in effect. Approvals do not expire, and the terms and conditions for operating Ontario's crematoriums are not consistent. Crematoriums do not have the same arrangements and obligations in place to ensure that they meet the province's air standards and guidelines on an ongoing basis.

We found that the Environment Ministry never compared its list of environmental Approvals of crematoriums with the Bereavement Authority's list of licensed crematoriums to ensure that both lists were up-to-date and complete. As of July 31, 2020, the Bereavement Authority's records indicated there were 71 licensed crematoriums that are legally required to have an Approval under the *Environmental Protection Act*. The majority of these crematoriums were licensed by the Ministry of Government and Consumer Services' Cemetery Regulation Unit prior to the creation of the Bereavement Authority. Of the 71, we identified one crematorium without an Approval. Without an up-to-date and complete list of crematoriums, the Environment Ministry is unable to verify if Ontario's crematoriums are complying with the province's environmental standards and guidelines.

We also found that the terms and conditions included in the Approvals issued to the Ontario's crematoriums have not been consistent over the years. Moreover, the Environment Ministry did not have a standard documented evaluation matrix or procedure that linked specific Approval terms and conditions (for example, length of record retention and obligation to undertake an emission source test) with site-specific factors such as the type of cremation equipment used. We found that the Approvals provided a general description of why the terms and conditions were established, but no justification for why they differed significantly from one Approval to the next.

Out of the 70 crematoriums that had at least one Approval available for our review, we noted:

- Eleven crematoriums (16%) are currently subject to two Approvals at once, a circumstance that might have resulted from a crematorium operator applying for a new Approval (for instance, for new environmental discharges from additional equipment), instead of amending an existing one.
- All Approvals issued to crematoriums between 1971 and 1987 lacked any terms and conditions. Therefore, for example, the Approvals for these crematoriums included no explicit requirement to operate their equipment in a particular manner (e.g., minimum operating temperature), or to retain records or data on air pollutant discharges. Fourteen crematoriums (20%) had at least one Approval without any terms and conditions, including six that were operating without any terms and conditions.
- Only 44 (63%) crematoriums had the requirement to undertake an emission source test and submit the results to the Environment Ministry within a specified time period. Of these 44 crematoriums, six did not submit these reports. Therefore, 32 (70 minus the 38 that did submit the results), or 46% never submitted an emission source test to the Environment Ministry. Emission source tests measure the emissions from a crematorium operating under standard conditions, and their results are used to verify that Ontario's crematoriums meet the province's air standards, conditions set in Approvals and Provincial Officer Orders.
- Only the Approvals for two crematoriums included an additional requirement to undertake a follow-up source test five years after the initial test was undertaken, with one Approval later amended to remove this requirement. This five-year retesting requirement is standard in Quebec, where the Clean Air Regulation under its *Environmental Quality Act* obliges the crematorium operator to undertake a source test of air emissions within one year of operation, and at least once every five years.
- Only 47 (67%) crematoriums were obligated to have a continuous emission monitoring system. These systems provide the operator with real-time data to help maintain optimal operating conditions and reduce air pollutant emissions. The Environment Ministry does not verify on a regular basis the data collected by the systems to determine whether crematoriums are complying with the terms and conditions of the Approvals. This verification is undertaken only during inspections.
- Over the period from January 2015 to May 2020, the Environment Ministry conducted 26 inspections of 20 crematoriums with Approvals. Eleven (42%) of these inspections of nine crematoriums, found violations of the terms and conditions of the Approvals. Five of the nine crematoriums that failed their inspections had Approvals that were over 10 years of age.
- Thirteen (19%) crematoriums had Approvals without any requirement for record retention related to or resulting from the operation of the site; 52 (74%) crematorium operators had Approvals that require record retention for two years; and the remainder (five crematoriums or 7%) required five-year record retentions. Without records, Environmental Officers cannot verify whether crematoriums are meeting the province's air quality standards and guidelines.

In addition, we found that, of the total of 81 Approvals issued to 70 crematoriums, 35 or 43% were more than 20 years of age with 25 crematoriums only having these older approvals. As was recognized in our *2016 Annual Report*, Environmental Approvals audit, older Approvals have less stringent terms and conditions than more recent ones. We confirmed that this 2016 finding is also valid for describing Approvals for crematoriums.

These issues could be addressed through by implementing Approval expiry dates. Our 2016 audit identified four provincial and territorial

jurisdictions (British Columbia, Alberta, New Brunswick and Yukon) that include expiration dates for environmental approvals and recommended that the Environment Ministry evaluate the benefits and costs of setting expiry dates. This recommendation has yet to be implemented by the Environment Ministry, and its commitment to do so by June 2019 was delayed to December 2020.

### RECOMMENDATION 15

To help protect the environment and comply with the *Environmental Protection Act*, we recommend that the Ministry of Environment, Conservation and Parks (Environment Ministry):

- cross-check its list for Environmental Compliance Approvals with the list of crematoriums maintained by the Bereavement Authority of Ontario to ensure that the lists are complete;
- establish a plan so that the Environment Ministry replaces the outdated Environmental Compliance Approvals issued to crematoriums with those that have terms and conditions that are consistent with current environmental standards; and
- establish a plan to proactively and comprehensively monitor the air emissions of crematoriums at regular intervals.

### RESPONSE FROM THE MINISTRY OF ENVIRONMENT, CONSERVATION AND PARKS

The Ministry of the Environment, Conservation and Parks (Environment Ministry) appreciates the Auditor General's recommendations regarding environmental approvals and will take action to improve. The Environment Ministry will follow the suggested recommendations, which include: cross-checking the Bereavement Authority of Ontario's list of licensed crematoriums; and establishing a plan to review and replace outdated Environmental Compliance Approvals and regularly

verify that crematoriums meet their emissions monitoring requirements.

### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with this recommendation and will provide the Ministry of Environment, Conservation and Parks with detailed lists of licensed crematoriums in Ontario to enable them to update their records and carry out their compliance activities.

#### 4.9.2 Oversight of Hazardous Waste Produced by Funeral Homes Insufficient

Funeral homes generate hazardous wastes that can contain pathogens and toxins, including waste oils, as well as biomedical waste such as embalming fluids, sharps, blood and anatomical waste. Exposure to hazardous wastes can result in significant environmental and human health impacts. Our audit found that the Environment Ministry's oversight of hazardous waste produced by funeral homes is insufficient.

The *Environmental Protection Act* gives the Environment Ministry the authority and responsibility to regulate the management of hazardous waste, including biomedical waste. To become licensed by the Bereavement Authority, all new funeral homes where the preparation of bodies will take place (Class 1) are required to apply online for a hazardous waste generator number from the Environment Ministry. Once the registration number has been obtained from the Environment Ministry, the applicant must submit a copy of the registration confirmation as part of the licensing application. After the initial licensing of a Class 1 funeral home, the Bereavement Authority only verifies whether these homes have their hazardous waste identification numbers when an inspection is conducted.

We found that the Bereavement Authority's list of Class 1 funeral homes included 580 funeral

homes as of July 31, 2020, whereas the Environment Ministry's list of funeral homes registered with a hazardous waste generator number is only 390. The difference of 190 represents the number of funeral homes that lack a hazardous waste generator number from the Environment Ministry. The Environment Ministry indicated that the difference could be due to the incompatibility of the two databases maintained by them and the Bereavement Authority. However, comparison between the two databases had not been done in the past.

We also found that the Environment Ministry's procedure to verify that all funeral homes report and manage their hazardous waste according to the *Environmental Protection Act* is inadequate. As part of its hazardous waste tracking system, funeral homes that generate hazardous waste must register for a hazardous waste generator number, pay an annual registration fee to the Environment Ministry, a fixed fee (called a manifest fee) for each hazardous waste shipment, as well as a fee associated with the tonnage of hazardous waste generated. Of the 390 funeral homes registered with a hazardous waste generator number, 178 (46%) paid no manifest fees between 2015 and June 1, 2020. Therefore, when also accounting for the 190 missing generator number registrations, almost 63% of Ontario's Class 1 funeral homes apparently generate no hazardous waste for collection. This is unlikely if a funeral home undertakes embalming, a procedure that generates biomedical waste, a type of hazardous waste. We randomly called 30 of the 190 funeral homes without a hazardous waste generator number, and another 30 of the 178 funeral homes without any registered hazardous waste shipments to find out whether they undertake embalming onsite. We found that 27 of those 30 sampled funeral homes without a hazardous waste generator number undertook embalming. As well, we found that 29 of another 30 sampled funeral homes did embalming without any registered hazardous waste shipments from 2015 up to June 1, 2020.

The disposal of hazardous waste into the municipal waste disposal system is an offence under the

*Environmental Protection Act*. During our audit, we noted that the Bereavement Authority, in early 2020, became aware of an incident where a funeral home put out biomedical waste for municipal waste collection. The Registrar suspended the managing funeral director for 30 days and put conditions on the funeral home as a result of disposing biomedical waste improperly. It is unclear to what extent such incidents of improper disposal occur in Ontario.

The process used by the Environment Ministry to track the generation and movement of hazardous wastes in the province is unable to identify those establishments that attempt to dispose of hazardous waste in the municipal waste disposal system. This process requires hazardous waste generators to register in the Environment Ministry's Hazardous Waste Information Network (Network) and to register each hazardous waste shipment. The Environment Ministry's verification procedure relies on reports that are automatically generated by the Network when hazardous waste shipments originate from an unregistered generator, or the waste shipment details are missing or incorrect. Between January 1, 2015, and April 30, 2020, nine of these reports from only six generators identified as operating funeral homes were produced. All of these incidents were considered low-risk, with the Environment Ministry notifying the generators of the discrepancies identified in the reports and requesting corrective action. However, these reports are not generated if the hazardous waste shipments are not registered by the generator, and if municipal waste collectors are unaware that they are collecting hazardous waste.

## RECOMMENDATION 16

To help protect the environment and comply with the *Environmental Protection Act*, we recommend that the Bereavement Authority of Ontario work with the Ministry of Environment, Conservation and Parks to verify that:



- all licensed funeral homes (Class 1) possess a current hazardous waste generator number; and
- all licensed funeral homes (Class 1) with a hazardous waste generator number, but without any declared hazardous waste generation, dispose of hazardous waste properly.

### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with this recommendation. Larger funeral home operations in Ontario typically centralize their embalming services at one funeral home location; affiliate funeral homes in the territory served by the “central embalming” location do not embalm bodies or prepare them otherwise for identification. Nevertheless, we recognize the need to ensure that hazardous waste, where generated, is disposed of in a lawful manner. To address this issue, the Bereavement Authority will ensure:

- all licensed class-1 funeral homes possess a current hazardous waste generator number; and
- all licensed class-1 funeral homes with a hazardous waste generator number, but without any declared hazardous waste generation, dispose of hazardous waste properly.

### RESPONSE FROM THE MINISTRY OF ENVIRONMENT, CONSERVATION AND PARKS

The Ministry of the Environment, Conservation and Parks (Environment Ministry) appreciates the Auditor General’s recommendations regarding ensuring hazardous waste generated by funeral homes is managed properly. The Environment Ministry will follow up to ensure funeral homes that are generating hazardous waste are registered in our Hazardous Waste Information Network, and those registered are disposing of hazardous waste appropriately.

## 4.10 Bereavement Authority Spent Over \$380,000 Attempting to Revoke Licence of Low-Temperature Alkaline Hydrolysis Operator

We found that the Bereavement Authority could be more proactive to stay on top of emerging technology such as alkaline hydrolysis. Between April 2018 and May 2020, it spent about \$388,700 in legal costs on matters related to alkaline hydrolysis, including legal fees spent to try to revoke a licence it issued in 2017. In addition, it spent another approximately \$77,900 to hire consultants performing research on the alkaline hydrolysis technology. These fees are likely to increase because the case was before the Court of Appeal at the time of our audit.

The Bereavement Authority indicated that it had received little support from the Ministry to perform any ongoing research on new technology. It found that it was difficult to prove in front of the Tribunal that the new technology was unsafe to be licenced. The Bereavement Authority was also concerned about the cost to cover any ongoing research and studies needed to assess new alternative disposition technology in the future.

Alkaline hydrolysis is an alternative method of disposal of human remains that uses caustic chemicals to break down the body with the resulting liquid effluent draining into the waste water system. It is done using machines at either high temperature or low temperature; the latter has raised concerns regarding whether prions (abnormal proteins that can cause diseases) from dead bodies can be killed with a low-temperature alkaline hydrolysis machine. **Appendix 12** lists the key events regarding the Bereavement Authority’s actions related to alkaline hydrolysis and the legal battle over the licensing and suspension of the low-temperature alkaline hydrolysis operator.

In 2015, the Ministry’s Cemetery Regulation Unit approved the licence of the first two high-temperature alkaline hydrolysis operators. In

January 2016, the licensing responsibility over cemeteries and crematoriums, along with alternative disposal methods such as alkaline hydrolysis, was transferred from the Ministry to the Bereavement Authority.

Given the lack of knowledge about the alkaline hydrolysis process and concerns over public health risks in particular, one of the first steps the Bereavement Authority took in relation to alkaline hydrolysis licensees was to issue a Registrar's Directive dated August 1, 2016. The directive required that all establishments that used alkaline hydrolysis must be licensed and stated the revised licensing conditions for alkaline hydrolysis operators, including the completion of the application form that was previously created by the Ministry and used for both flame-based cremation and alternative processes.

The Bereavement Authority became aware of the controversy between the two types of alkaline hydrolysis processes—high-temperature and low-temperature—when the manager of the Compliance Unit attended a bereavement industry conference in February 2017. In March 2017, the manager made requests for studies performed on different machines from a manufacturer, but received limited information about the machine variations. It did not amend the licence application forms to confirm which alkaline hydrolysis process applicants proposed to use. In November 2017, the Bereavement Authority approved the licence application of an alkaline hydrolysis operator without knowing that the operator planned to use a low-temperature machine, even though the Authority and the applicant had multiple interactions during the application process prior to November 2017. At the time, there was one low-temperature alkaline hydrolysis machine in use in Saskatchewan, another one in Quebec and several others in the United States.

In February 2018, the Registrar finally learned from the Compliance Unit manager that the operator was using a low-temperature machine. Subsequently, the Bereavement Authority initiated a

review of the alkaline hydrolysis process and sought advice from the Ministry of Health and Long-Term Care. In May 2018, the Ministry of Health and Long-Term Care commissioned a literature review on the alkaline hydrolysis process by Public Health Ontario. The review, released in August 2018, stated that more studies were needed to determine whether the low-temperature process posed a risk to public health.

In addition, on June 12, 2018, the Bereavement Authority performed an unannounced inspection of the operator, which identified several contraventions of the Act and the conditions previously placed on the licence. Ten days after the inspection, the Bereavement Authority's Registrar proposed to immediately suspend and revoke the operator's license. The licensee successfully appealed the proposal to the Licence Appeal Tribunal (Tribunal) in May 2019. At the time of our audit, the Bereavement Authority was seeking to appeal the decision.

In our discussion with the licensee, the operator expressed concerns that they incurred about \$340,000 to date in legal costs, in addition to the time and damage to the reputation of the licensee's operation during the licensing and litigation processes.

## RECOMMENDATION 17

To protect the public and the environment, we recommend that the Ministry of Government and Consumer Services work with the Bereavement Authority of Ontario to:

- conduct research on emerging technologies for disposing human remains; and
- allow for licensing to be delayed until the safety of the new technology is determined and decide on amendments to the legislation and/or regulations, where needed.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services (Ministry) agrees that research is

necessary to assess the safety of emerging technologies in the bereavement sector. The Ministry will collaborate with the Bereavement Authority of Ontario (Bereavement Authority) to determine how best to conduct research on emerging technologies for disposing of human remains. The Ministry will also collaborate with the Bereavement Authority to develop options to allow for licensing to be delayed until the safety of the technology is determined. Should the government choose to move forward with this recommendation, development of options would be informed by the audit.

### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) supports this recommendation. The effect of the current *Funeral, Burial and Cremation Services Act, 2002*, is to place the entire burden (including costs and timelines) of proving that a new disposition technology is safe or unsafe onto the Bereavement Authority. This situation presents a risk to the public and a substantial impact on Bereavement Authority resources.

#### 4.11 Bereavement Authority Does Not Co-ordinate Inspection Efforts with Public Health and Ministry of Labour

Aside from the inspections conducted by the Bereavement Authority at licensed funeral homes and other operators, public health units and the Ministry of Labour also carry out their inspections at these operators. We noted that the Bereavement Authority has never examined the necessity of the various types of inspections nor collaborated with any public health units or the Ministry of Labour to determine whether a more co-ordinated or comprehensive province-wide inspection approach is needed. There is also no memorandum of under-

standing between these organizations to specify the roles and responsibilities in inspections and what information should be shared on a regular basis.

As part of the annual applications for licence application renewal, the Bereavement Authority has chosen to require funeral homes and transfer services to contact the local public health unit to request an inspection. The public health inspector is responsible for completing and signing a certificate that reviews compliance with the regulations under the Act.

We found that for some funeral homes and transfer services, in lieu of a signed certificate of inspection, the Bereavement Authority has accepted a letter from the local health unit stating that the unit will not be inspecting the funeral homes or transfer service for licensing renewal purposes. The Bereavement Authority does not keep the exact number of funeral homes and transfer services that submit a letter but noted that there were at least 41 of them altogether (out of a total of 672 funeral homes and transfer services) that submitted a letter instead of inspections from three health units that have policies of not performing annual inspections:

- the Middlesex-London inspects biannually; and
- the Waterloo and Eastern Ontario Health units have not performed inspections of funeral homes and transfer services for license renewals for over a decade.

Additionally, the Bereavement Authority is aware that the Toronto public health unit will stop performing annual inspections in the latter half of 2020, but will continue inspections for all new funeral home and transfer service licensees.

The Registrar of the Bereavement Authority cited three reasons as to why he imposed the requirement of a public health inspection for annual license renewals:

- this was a practice carried on from the prior regulator (Board of Funeral Services);
- the Bereavement Authority's own inspectors view the public health inspections as neces-

sary because the public health inspectors have expertise in sanitation and infection prevention and control; and

- modern funeral homes often offer food and catering services, which magnify the health risk.

We find these reasons insufficient. In our interviews at the four health units mentioned above, staff questioned the usefulness of these inspections for the purposes of public health protection. They noted that the checklist on the existing certificate requires inspectors to review compliance only of the holding and/or embalming rooms, which are not accessible by the public. Therefore, in their view, the purpose of the inspections is more focused on workplace health and safety rather than public health. The public health units' staff remarked that workplace safety is more appropriately under the purview of the Ministry of Labour. In fact, in addition to the inspections performed by the Bereavement Authority itself, in 2018, the Ministry of Labour's inspectors inspected 23 funeral homes, cemeteries and crematoriums to determine compliance with the *Occupation Health and Safety Act*. They issued orders to 14 of those establishments to address non-compliance issues such as equipment, materials, and protective devices were not maintained in good condition; insufficient instruction and supervision to workers to protect their health and safety, and occupational health and safety policy was not prepared or outdated. The Bereavement Authority was not aware of these orders as they were not forwarded by the Ministry of Labour on a regular basis. In addition, in the only meeting in February 2019 that the Bereavement Authority had with the Ministry of Labour, there was discussion about sharing inspection information from the Bereavement Authority with the Ministry of Labour, but this sharing would not be reciprocated.

In addition, we noted that the inspections performed by the public health units are always pre-scheduled. Therefore, only minor deficiencies were identified as a result of their inspections.

While the public health units' staff agreed with the Bereavement Authority's assessment that serving food in funeral homes increases the health risk to the public, they noted that in general, it is still a rare occurrence, though the practice is growing. In addition, the funeral homes that serve food are already governed under food safety regulations, which include mandatory annual inspections by inspectors from the units' food safety program. As a result, a separate inspection process mandated by the Bereavement Authority would be unnecessary. The public health units' staff stated that due to limited resources to address expanding needs, their assessment is that risks associated with funeral homes and transfer services are generally low and their resources would be more productively allocated in other areas such as infectious disease prevention or food safety. The units also noted that the Bereavement Authority has never consulted with them regarding inspections of funeral homes.

## RECOMMENDATION 18

To implement appropriate provincewide inspection processes and coverage of the bereavement sector, we recommend that the Bereavement Authority of Ontario (Bereavement Authority):

- consult and collaborate with local public health units and the Ministry of Labour to re-examine the purposes and necessity of various inspections;
- estimate the costs of comprehensive inspection covering all key areas, if they were mainly carried out by the Bereavement Authority;
- review the licensing fees needed to cover the estimated cost of comprehensive inspection function; and
- establish a memorandum of understanding with public health units and the Ministry of Labour to specify their new roles and responsibilities over inspection.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) will open lines of communication with public health units and the Ministry of Labour. We will explore the feasibility of taking on some of the inspection roles currently provided by those agencies, in order to eliminate duplication and provide a more comprehensive inspection by the Bereavement Authority. It may be necessary for the Bereavement Authority to have more resources to make this possible.

We will endeavour to enter into a memorandum of understanding with the Ministry of Labour to exchange information on our respective inspection findings.

### 4.12 Ministry Not Assessing to Confirm Authority Meeting Its Mandate to Protect Consumers

The Ministry is responsible for overseeing the Bereavement Authority to confirm that it is fulfilling its mandate and meeting its delegated duties. The 2016 administrative agreement signed between the Minister and the Bereavement Authority lists the responsibilities that both parties must comply with. Our audit found that not all of the requirements prescribed under the administrative agreement were met or the progress in meeting the requirements was slow. As a result, the Ministry has not monitored and assessed whether the Bereavement Authority is fulfilling its mandate effectively, and confirmed that its enabling legislation is current to sufficiently protect consumers. **Appendix 13** summarizes which of the key requirements were met or not met with further discussions as follows.

#### 4.12.1 Assessment of Bereavement Authority's Performance Not Sufficient

The 2016 administrative agreement states that the Bereavement Authority is responsible to conduct, once every two years, a survey to measure its performance among all or a sample of clients, stakeholders and licensees, and provide the results to the Ministry. However, we found that the Bereavement Authority had not conducted any surveys until September 2020, after our audit fieldwork was completed, four years after its inception in 2016. The Bereavement Authority conducted two surveys in September 2020. One of the surveys was sent to 5,225 licensees; the response rate was 14% with positive feedback overall. Another survey was sent randomly to about 47,030 Ontarians; however, the response rate was only 0.2%. Based on the limited number of responses, close to half of the respondents were not aware of the existence of the Bereavement Authority, and close to three-quarters of them expressed no opinion as to how well the Bereavement Authority administered the provisions of the Act.

It also must provide the Ministry with its performance measures quarterly and outcome measures annually. Although the Bereavement Authority established five service standards in 2018, as shown in **Figure 15**, none of these standards were measured against actual results.

To fulfill its oversight role, at the Minister's discretion under the administrative agreement, the Ministry can conduct performance, governance, accountability or financial reviews (including audits) and recommend changes. The Ministry has reviewed and commented on the Bereavement Authority's draft annual reports and business plans, as well as met quarterly with Bereavement Authority staff to discuss current issues. But the Ministry has not done any other performance, governance, accountability or financial reviews since the Bereavement Authority was created. We found that the Ministry did not do sufficient follow-up to help confirm that the Bereavement Authority had



**Figure 15: Bereavement Authority of Ontario Service Standards Targets**

Source of data: Bereavement Authority of Ontario

Service Standard <sup>1</sup>	Target – Average Turnaround Time in Business Days
Personal licence application <sup>2</sup>	10
Business/operator licence application processing time <sup>2</sup>	45
Inquiry acknowledgement	1
Complaint processing time	60
Inspection results delivered to licensee	14

1. None of these standards were measured against actual performance as discussed in **Section 4.11.1**.

2. Based on applications that are submitted correctly, with appropriate supporting documentation.

established meaningful performance measures to demonstrate that it is fulfilling its mandate.

Our research identified numerous performance measures, as summarized in **Appendix 14**, that were reported in other jurisdictions but were not being used by the Bereavement Authority at the time of our audit.

#### 4.12.2 Ministry Slow to Update Key Legislation or Regulations

Another oversight responsibility, as specified in the 2016 administrative agreement, is that the Minister may, where the Minister deems appropriate, conduct policy, legislative and regulatory reviews and recommend any of these changes to the Ontario government. We noted that the Ministry, since January 2016, has done about ten reviews that resulted in legislative changes. However, we found that the Ministry was slow to address the following areas:

- The regulation update with respect to cremation of bodies containing radioactive implants took more than four years. The revised regulation specifies in what circumstances and within what time frame bodies with radioactive implants can be cremated or not. This issue had been discussed at the Ministry prior to the establishment of the Bereavement Authority. However, the Ministry had not done any consultations with crematorium

operators or any other public-facing consultation until September 2019. The regulatory change was approved in December 2019, about the same time we started our audit of the Bereavement Authority.

- The regulation amendment to create a Discipline and Appeal Committees (discussed in **Section 4.4.6**) at the Bereavement Authority took 30 months. The Bereavement Authority first requested the Ministry make a regulatory change to permit the creation of a Disciplinary Committee in April 2017. More than a year later in May 2018, the regulation change was approved, but it did not become effective until December 2019, about the same time we started our audit of the Bereavement Authority. As of the end of the audit, only the terms of reference for the Discipline Committee and the Selection Committee were drafted and pending approval by the Board. The Bereavement Authority has yet to amend the existing code of ethics regulation, subject to the Minister's approval, to expand the reach of the Discipline Committee to all types of licensees; not limiting coverage only to funeral directors according to the existing regulation. The Bereavement Authority has not revisited, together with the Ministry, the time spent and costs associated to bring both committees into operation (see **Section 4.12.4**).

### 4.12.3 Board Representation Lacks Consumer Advocacy Groups

The Bereavement Authority's bylaw requires its Board to be composed of 10 members. The bylaw further specifies that, of the 10 directors, three are appointed by the Minister, three are elected from the industry and four are elected based on skills. As shown in **Appendix 4**, we noted that the Board did not have representatives from consumer advocate groups who could provide input from the consumer perspective. Although each of the three voluntary Advisory Committees include one consumer representative, these representatives have an advisory role which is not the same as the role as a Board member who has voting rights and can make key decisions.

We also found that, with a relatively small organization of 25 staff as of March 2020, the 10-member Board represents a ratio of 2.5 staff for every Board member, which is relatively high compared with other administrative authorities. For example, the Electrical Safety Authority has a 12-member Board that oversees about 530 staff (a ratio of 44:1), and the Condominium Authority of Ontario has a seven-member Board that oversees 49 staff (7:1).

The *Rebuilding Consumer Confidence Act*, 2020, provided the Minister with the power, among others, to change the number, composition, and competency criteria of Board members of the administrative authorities, and establish rules related to the nomination process.

As of August 2020, the Board had two vacancies because the terms of the two Ministry appointees had expired. The Ministry was in the process of appointing new members at the end of our audit.

## RECOMMENDATION 19

To improve the oversight of the Bereavement Authority of Ontario (Bereavement Authority) and increase consumer representation, we recommend that the Ministry of Government and Consumer Services work with the Bereavement Authority to:

- increase public awareness of the Bereavement Authority;
- establish additional performance measures and targets to evaluate its effectiveness in achieving its mandate;
- approve agreed-upon regulation changes in a timely manner;
- effectively communicate and consult with each other regularly on key areas;
- reduce the number of Board members to the appropriate staffing ratio; and
- to elect or appoint Board member(s) who advocate for consumers.

## MINISTRY RESPONSE

The Ministry of Government and Consumer Services accepts this recommendation and will work with the Bereavement Authority of Ontario to develop a plan for implementation, including a plan to improve existing processes and establish performance measures.

## RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO

The Bereavement Authority of Ontario (Bereavement Authority) agrees with the recommendation and has set some groundwork by asking consumers in our 2020 survey whether they were aware of the authority.

To support achievement of the other points in this recommendation, the Bereavement Authority will:

- increase awareness, within our available resources, of the Authority by promoting our consumer protection work. We have already begun using media such as Internet advertisements to promote our consumer survey and Consumer Information Guide to families and the public throughout 2020;
- in 2021, expand our organizational performance measures and targets to prove our effectiveness in achieving our mandate; and

- work with the Ministry of Government and Consumer Services to move regulation changes forward in a timely manner; and to request action and consultative feedback regularly on key areas.

#### 4.12.4 Board Oversight on Authority's Operations Needs Improvement

Our review of Board governance of the Bereavement Authority identified the following areas for improvement:

- Although the Board had met regularly since 2016, it mostly focused on high-level and emerging issues in the sector, such as the financial health of the Bereavement Authority and the policy related to the provincial status of care and maintenance funds. The Board put a lesser focus on the overall operations of the Bereavement Authority. For example, targets for the service standards had been lacking since the inception of the Bereavement Authority, but the Board did not make sure appropriate targets were set in a timely manner.
- The Board did not receive complete, accurate and up-to-date information to enable it question enough about the effectiveness of the Bereavement Authority in meeting its mandate. For example, the Board did not receive enough information to make it aware of the issues that we identified in our audit relating to the accuracy of inspection data, the breakdown of the nature of complaints received, the number of unlicensed cemeteries and their status, and the late filings of care and maintenance funds as well as prepaid trust funds by many operators.
- The Bereavement Authority estimated that it could take at least one more year, from the time of our audit, to bring the bring both the Discipline and Appeal Committees into operation. It estimated that the start-up and annual costs for establishing both committees, depending on the case volumes, could

be substantial. The Board has not conducted any cost/benefit analysis of whether the establishment of both committees is cost-effective as opposed to other enforcement measures such as administrative monetary penalties, with an appeal function, as discussed in **Section 4.4.6**.

### RECOMMENDATION 20

To improve the Board oversight of the Bereavement Authority of Ontario with a mandate to protect consumers, we recommend the Board of directors:

- regularly evaluate the effectiveness of the Bereavement Authority in achieving its mandate by obtaining and reviewing complete, accurate and up-to-date information to make informed decisions; and
- re-evaluate the need and cost-effectiveness of establishing the Discipline Committee and the Appeal Committees.

### RESPONSE FROM THE BEREAVEMENT AUTHORITY OF ONTARIO BOARD

The Board of Directors of the Bereavement Authority of Ontario (Bereavement Authority) welcomes the findings and recommendations of the Auditor General. The report's recommendations will be prioritized in 2021 in its strategic plan for the next three to five years with a view to:

- establishing a process to obtain and regularly review data related to the operational effectiveness of the organization;
- establishing performance measures, including appropriate targets for operational performance such as service standards, to better evaluate operational performance; and
- evaluating the need for and cost-effectiveness of the Discipline and Appeal process and investigating the potential for legislative change with the Ministry that would permit alternate enforcement measures through administrative penalties.

## Appendix 1: Licensee Application and Renewal Fees

Source of data: Bereavement Authority of Ontario

Application Fees		Renewal Fees
<b>Operator Fees</b>		
<ul style="list-style-type: none"> <li>• Funeral homes</li> <li>• Transfer services</li> </ul>	<ul style="list-style-type: none"> <li>• \$500 application fee</li> <li>• \$270 toward Compensation Fund held by Bereavement Authority</li> </ul>	<ul style="list-style-type: none"> <li>• Base fee of \$200, and</li> <li>• \$16 per death registered (increased from \$14/death registered prior to October 2014)</li> </ul>
Cemetery	\$500	<ul style="list-style-type: none"> <li>• Base fee of \$15, and</li> <li>• \$12 per interment and scattering conducted within the year (increased from \$11 prior to July 2014)</li> </ul>
Crematoriums	\$500	<ul style="list-style-type: none"> <li>• Base fee of \$15, and</li> <li>• \$12/cremation conducted within the year (increased from \$11 prior to July 2014)</li> </ul>
<b>Personal Fees</b>		
<ul style="list-style-type: none"> <li>• Cemetery sales representatives</li> <li>• Funeral directors</li> <li>• Funeral pre-planners</li> <li>• Transfer service sales representatives</li> </ul>	\$250	\$200

## Appendix 2: Bereavement Sector Key Dates and Events

Sources of data: Bereavement Authority of Ontario (Bereavement Authority) and Ministry of Government and Consumer Services (Ministry)

Jun 1996	The <i>Safety and Consumer Statutes Administration Act, 1996</i> , is proclaimed. It allows the government to delegate certain powers and duties to designated administrative authorities. It also details the authority of designated administrative authorities, such as duties, the composition of boards, forms and fees and reporting requirements.
2002	The <i>Funeral, Burial and Cremation Services Act, 2002</i> , is passed to replace the <i>Cemeteries Act</i> (Revised) and the <i>Funeral Directors and Establishments Act</i> . However, the Act is not proclaimed and does not go into effect.
Jul 1, 2012	The <i>Funeral, Burial and Cremation Services Act, 2002</i> , is proclaimed and goes into effect after being passed in 2002.  The Ministry indicated to us that the delay was primarily due to other priorities of the government.
2012–2014	Based on the recommendations of the Bereavement Sector Advisory Committee Report in November 2001 and the Drummond Report issued in February 2012, the Ministry identifies opportunities to create a single regulator that will amalgamate the Board of Funeral Services and the Ministry's Cemeteries Regulation Unit into one entity.  The proposed amalgamation is expected to improve service delivery and reduce administration costs.  The Ministry consults with stakeholders from the cemetery, crematorium and funeral, transfer services sectors, religious organizations, municipal organizations and other interested stakeholders on the establishment of a single regulator. Stakeholders in both the cemetery and funeral sectors generally support the approach.
Jul 24, 2014	The Bereavement Authority is incorporated.
Sep 2014	The Minister appoints three directors to the interim Board of the Bereavement Authority.
Aug 2015	The Minister of Government and Consumer Services enters into an interim administrative agreement with the Bereavement Authority.
Dec 2015	The Registrar/CEO is selected by the Bereavement Authority's Board of Directors and is appointed by the Minister. The CEO of the Bereavement Authority is responsible for the Authority's administrative operations and for reporting to the Ministry. The Registrar's responsibilities are set in the <i>Funeral, Burial and Cremation Services Act</i> .
Jan 16, 2016	The responsibilities of the Ministry's Cemeteries Regulation Unit related to cemeteries and crematoriums are transferred to the Bereavement Authority, except for the responsibilities over war graves, cemetery abandonments, cemetery closures and burial sites, which are retained by the Ministry.  The Bereavement Authority starts to operate with the CEO, who is also the Registrar, and 16 staff, of which five come from the Board of Funeral Services and two come from the Cemeteries Regulation Unit from the Ministry. It hires four additional staff with a total of 21 staff at the end of March 2017.
Mar 2016	The then-Minister and the Bereavement Authority's Board of directors (consisting of seven interim members) sign the administrative agreement (see <b>Appendix 13</b> for details). The next review date of the agreement is in 2021.
Apr 1, 2016	The Board of Funeral Services, established in 1914, ceases operations. The regulatory responsibility related to funeral and transfer services under the Board of Funeral Services is transferred to the Bereavement Authority.  Prior to this date, the Board of Funeral Services administers the <i>Board of Funeral Services Act</i> (formerly the <i>Funeral Directors and Establishments Act</i> ).
Sep 2016	Bylaw #2 is passed to formalize the composition of the permanent Board of directors (10): three are appointed by the Minister, three are elected from the industry and four are elected based on skills.
Dec 2019	A regulation is amended allowing the Bereavement Authority to set up a Discipline Committee, as proposed by the Ministry. In addition, one or more appeal committees will be established to consider appeals from the discipline committee. The Bereavement Authority anticipates that the committees will be established in 2021. <b>Sections 4.4.6 and 4.12.4</b> discuss the Discipline and Appeal Committees.



## Appendix 3: Comparison of Provincial Bereavement Regulatory Authorities

Prepared by the Office of the Auditor General of Ontario

Regulatory authority	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario
	Consumer Protection British Columbia	Alberta Funeral Services Regulatory Board	Funeral and Cremation Services Council of Saskatchewan	Funeral Board of Manitoba*	Bereavement Authority of Ontario
Delegated authority by the government	✓	✓	✓	✓	✓
Areas covered:					
Funeral and transfer services	✓	✓	✓	✓	✓
Cemetery	✓	x	x	✓	✓
Crematorium	✓	✓	✓	✓	✓
Others such as telemarketing, travel agencies and home inspections	✓	x	x	x	x
Board oversees the regulator	✓	✓	✓	✓	✓

\* The Funeral Board of Manitoba is responsible for inspections, licensing and the handling of complaints and inquiries of funeral homes, transfer services, cemeteries and crematoriums. The Vital Statistics Agency of Manitoba provides back-office support to the Funeral Board of Manitoba.

## Appendix 4: Bereavement Authority of Ontario Board of Directors, March 31, 2020<sup>1</sup>

Prepared by the Office of the Auditor General of Ontario

### Elected by the Board of Directors

1. Building and Condominium Sectors (Chair of the Board)
  - Chief Administrative Officer of the Ontario Building Officials Association; and Chair of the Condominium Management Regulatory Authority of Ontario
2. Brant Community Healthcare System
  - Clinical Director
3. Retirement Homes Regulatory Authority
  - CEO/Registrar
4. VQA Ontario (Ontario Wine Appellation Authority)
  - Executive Director
5. Funeral and Transfer Services<sup>2</sup> (Bereavement Sector)
  - Licensed funeral director; president of Families First Home; and past-president and the legislative co-chair for the Ontario Funeral Service Association
6. Faith-Based<sup>3</sup> (Bereavement Sector)
  - Episcopal Delegate for Cemeteries and Insurance, the Roman Catholic Diocese of Hamilton
7. Cemetery, Crematorium and Municipal<sup>4</sup> (Bereavement Sector)
  - Former Vice President, Mount Pleasant Group of Cemeteries

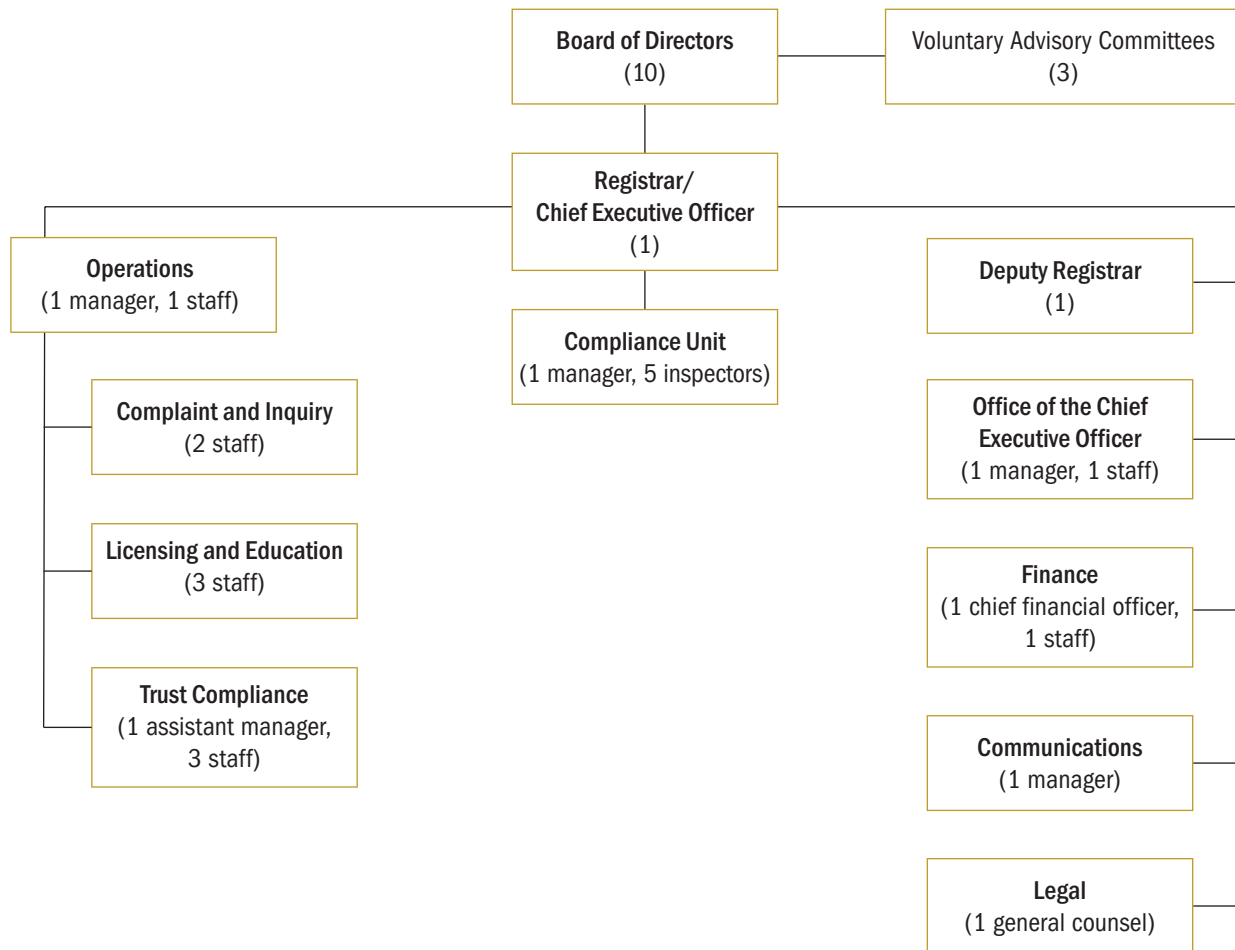
### Appointed by the Ministry of Government and Consumer Services

8. Delegated Authorities
  - Vice Chair of the Resource Productivity and Recovery Authority Board;<sup>1</sup> former board member of the Condominium Authority of Ontario; and previous CEO/Registrar of the Real Estate Council of Ontario
9. Real Estate<sup>1</sup>
  - Broker and elected board member of the Real Estate Council of Ontario
10. Runnymede Healthcare Centre
  - Former president/CEO

1. Effective August 2020, the board has two vacancies because the terms of two Ministry-appointed board members expired.
2. The Chair of the Funeral and Transfer Services Advisory Committee (volunteer). This member was replaced by another member who is also a licensed funeral director effective August 2020.
3. The Chair of the Faith-Based Advisory Committee (volunteer).
4. The Chair of the Cemetery, Crematorium and Municipal Advisory Committee (volunteer). This member was elected to become the chair of the board effective June 2020.

## Appendix 5: Bereavement Authority of Ontario Organization Chart, March 2020

Source of data: Bereavement Authority of Ontario



Note: The Bereavement Authority of Ontario outsources its information technology requirements.

## Appendix 6: Key Bereavement Activities by Types of Organization, November 1, 2018–October 31, 2019\*

Source of data: Bereavement Authority of Ontario

	Deaths Registered		Interments and Scattering Rights Performed		Cremations	
	#	%	#	%	#	%
<b>Public Company</b>						
Park Lawn	3,297	3	1,620	3	6,963	10
Service Corporation International	7,448	7	0	—	0	—
<b>Private Company</b>						
Arbor	12,487	13	7,552	12	9,441	14
Private companies with more than one location	21,625	21	1,468	2	4,529	7
Private companies with one location	52,814	52	6,513	10	25,853	37
<b>Not-for-Profit Organization</b>						
Mount Pleasant Group	3,873	4	7,226	11	2,447	3
Municipalities	0	—	16,581	26	3,076	4
Others including religious groups	0	—	23,206	36	17,626	25
<b>Total</b>	<b>101,554</b>	<b>100</b>	<b>64,166</b>	<b>100</b>	<b>69,935</b>	<b>100</b>

\* The Bereavement Authority's licensing cycle is from November 1 to October 31 in the following year. November 1, 2018 to October 31, 2019 is the latest complete data available.

## Appendix 7: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

### Bereavement Authority of Ontario

1. Effective processes are in place to make key information, including pricing and legislative requirements, transparent to enable consumers to make informed decisions relating to bereavement-related purchases.
2. Effective and efficient processes are in place to ensure that inquiries and complaints received are accurately recorded and followed up on in a timely manner. The resolution of inquiries and complaints is clearly documented and communicated to the complainants on a timely basis.
3. Effective and efficient licensing activities are in place to ensure that regulated establishments, operators and individuals comply with legislative, regulatory and policy requirements, including those requirements relating to trust funds and the environment.
4. Effective and timely inspection processes are in place for regulated establishments, operators and individuals to determine whether they comply with applicable legislative, regulatory and policy requirements, consumers are protected, and follow-up action is taken when needed.
5. Accurate, timely and complete information is regularly collected to allow management to monitor bereavement-related activities conducted by regulated establishments, operators and individuals and to take appropriate actions.
6. Meaningful performance indicators and targets are established, monitored and compared against actual results. Results are publicly reported and corrective action is taken on a timely basis.

### Ministry of Government and Consumer Services

1. The Ministry has effective and efficient processes in place to oversee the Bereavement Authority in fulfilling its mandated activities to protect consumers and to recommend updates to the legislation to address concerns that may arise in the bereavement sector.



## Appendix 8: Examples of Fraud Cases Related to Funeral Homes in Ontario

Prepared by the Office of the Auditor General of Ontario

Period of (Alleged) Criminal Actions	Person(s) Charged	Approximate Total Amount	(Alleged) Actions	Bereavement Authority of Ontario's Actions	Status of Case
2006–2015	Owner/operator Benson Funeral	\$120,000	<ul style="list-style-type: none"> <li>Prepaid funeral contract funds not deposited into trust accounts</li> <li>Forged signatures on prepaid funeral services</li> </ul>	<ul style="list-style-type: none"> <li>Investigated with police in 2017</li> <li>Authority received complaint from buyer of the funeral home who detected previous owner's financial irregularities</li> </ul>	<ul style="list-style-type: none"> <li>Pleaded guilty in 2018</li> <li>Sentenced to 12 months house arrest</li> <li>Judge noted remorse was shown and an attempt to repay customers was made</li> </ul>
2010–2014	Employee of funeral home Niagara Falls Funeral Home	1. \$64,000 2. \$28,000	1. From prepaid trust funds 2. From funeral service payments	<ul style="list-style-type: none"> <li>Investigation started by the Board of Funeral Services in 2014</li> <li>further investigated by police, which resulted in the fraud charges</li> </ul>	<ul style="list-style-type: none"> <li>Convicted in 2019</li> <li>Sentenced to 32 months in correctional institution</li> <li>Owner detected fraud when preparing to close the home in 2014 and paid for affected customers' funeral arrangements</li> </ul>
2012, 2013	One member of family-owned homes Watts Funeral Home	\$400,000	<ul style="list-style-type: none"> <li>Failed to deposit prepaid funds</li> <li>Withdrew money from prepaid trust funds</li> </ul>	Board of Funeral Services* launched investigation in 2013	<ul style="list-style-type: none"> <li>Convicted in 2018</li> <li>Sentenced to 30 months in correctional institution</li> <li>Ordered to repay affected consumers approximately \$400,000</li> <li>Convicted individual and parents closed their three funeral homes and individual gave up licence</li> </ul>
2016–2018	Owner/operator Hammond Funeral Home	\$20,000	<ul style="list-style-type: none"> <li>Improperly held and invested prepaid fees for cemetery and crematorium received from consumers</li> <li>Failed to forward charitable donations</li> </ul>	Identified in 2018 as a result of an inspection of the funeral home by the Authority	Authority's Registrar revoked the licences of funeral home and funeral home director in Nov 2018

Period of (Alleged) Criminal Actions	Person(s) Charged	Approximate Total Amount	(Alleged) Actions	Bereavement Authority of Ontario's Actions	Status of Case
2016 and 2017	Funeral director	\$20,000	Overcharged consumers for funeral services and deposited the extra funds into separate bank account	<ul style="list-style-type: none"> <li>Business partner made complaint to the Authority</li> <li>Authority then conducted an inspection</li> </ul>	Authority's Registrar revoked funeral director's licence in Nov 2017
2019	Owner/operator Baldock Funeral Home	\$400,000	<ul style="list-style-type: none"> <li>Alleged to have deposited consumer trust funds into his business operating account</li> <li>Alleged to have created fake proof of death certificates to withdraw consumer funds from trust accounts</li> </ul>	Authority launched a full investigation in January 2020 after receiving a complaint the same month	<ul style="list-style-type: none"> <li>Authority's Registrar suspended licences of the funeral director and funeral home</li> <li>Investigation was ongoing at the time our audit was completed</li> </ul>

\* The Board of Funeral Services was the predecessor of the Bereavement Authority of Ontario, which was established in 2016.

## Appendix 9: Key Directives, Guidelines and Actions by Bereavement Authority of Ontario Regarding COVID-19, March to June, 2020

Source of data: Bereavement Authority of Ontario

	Directives	Guidelines
March	<ul style="list-style-type: none"> <li>requests all cemetery operators to open and be ready to accept all types of interments as soon possible, depending on ground condition</li> <li>requests all crematorium operators to be ready to operate seven days a week</li> </ul>	<ul style="list-style-type: none"> <li>communicates that the bereavement sector and any related goods and products are essential workplaces; therefore, they are required to remain open</li> <li>issues a notice to the Muslim community. It states that the Bereavement Authority is aware that the Muslim faith typically requires funeral rites, including transportation and preparation of the deceased, are performed by friends, family or other volunteers within a mosque. However, due to the risk involved using untrained volunteers to handle the deceased in the midst of the pandemic, the Bereavement Authority strongly urges the Muslim community to use only licensed professionals to assist with transportation of the body and preparation of the body including cleansing and casketing.</li> <li>provides guidance to the Muslim community on how to wear personal protective equipment such as gloves, gowns and masks and how to wash the body</li> </ul>
April	<ul style="list-style-type: none"> <li>imposes a limit of 10 people who can attend funerals and the graveside cemetery services</li> <li>prohibits in-person witnessing of cremations</li> </ul>	
March/April	<ul style="list-style-type: none"> <li>works with Ontario's Chief Coroner's Office, the Ministry of Long-Term Care and Ministry of Health and establishes the Expedited Death Response process. For people who die in a hospital or long-term-care facility, the new protocols are to be followed for the expedited and safe pick-up of deceased individuals from these facilities by staff from funeral homes or transfer services, and electronic copies of medical certificates of death are obtained.</li> </ul>	
April	<ul style="list-style-type: none"> <li>the Registrar General of Ontario makes a regulatory change that permits the transmission of death registration documents electronically or by fax for the purpose of obtaining a burial permit. Before the pandemic, this process was primarily paper-based. Bereavement Authority works with the Registrar General and municipalities to create the new process.</li> </ul>	
May	<ul style="list-style-type: none"> <li>makes scheduled by-appointment groupings mandatory for visitations, ending the cycling-through of attendees</li> </ul>	
June	<ul style="list-style-type: none"> <li>permits and provides rules for drive-thru visitations</li> <li>changes funeral and visitation attendance limits, in alignment with Ontario government changes announced on Saturday, June 13</li> <li>rescinds prohibition on in-person witnessing of cremations in alignment with easing of provincial restrictions at that time</li> <li>Expedited Death Response was discontinued for funeral home and transfer services responding at hospitals and long-term care facilities, June 15 and 26 respectively, reflecting the reduced need and easing of provincial restrictions at the time</li> </ul>	<ul style="list-style-type: none"> <li>issues guidance on attendance limits, providing rules and best practices to support implementation of the province's COVID-19 regulation on funeral services introduced on Saturday, June 13</li> </ul>

## Appendix 10: Provincial Comparison of Key Legislative Requirements Relating to Coroner, or Equivalent, Authorization for Cremation

Prepared by the Office of the Auditor General of Ontario

Coroner, or Equivalent, Authorization for Cremation, Required Prior to Cremation of a Deceased Person		Other Documents or Procedures Relating to Cremations	Other Key Information
BC	No Cremation authorization is not required from the coroner, but funeral providers must receive authorization for all funeral services or disposition from the person named in the will of the deceased or next of kin.	An operator of a crematorium must not cremate human remains within 48 hours after the time of death [ <i>Cremation, Interment and Funeral Services Act</i> S13(1)]. Individual crematoriums and funeral homes must have cremation authorization forms to be completed by the next of kin, in accordance with the preference of the deceased. However, this authorization does not require review from the Coroner or equivalent.	When a person dies in British Columbia, the death must be registered with the Vital Statistics Agency before cremation (under the Vital Statistics Act Regulation): <ul style="list-style-type: none"> <li>A medical practitioner, nurse practitioner or coroner completes and signs the medical certification of death within 48 hours after the death and forwards it to the funeral director</li> <li>The funeral director registers the death by obtaining information about the deceased from a family member and the medical certification of death</li> <li>The funeral director issues a death certificate/disposition permit</li> </ul> A funeral home typically registers a death. An individual can also register a death and obtain a certificate and disposition permit online or in person once the individual has the medical certificate of death. Cost of a death certificate: \$27 (expedited: \$60); cost for a death registration: \$50 (expedited: \$60).
AB	Yes	n/a	The owner of a crematory shall not accept a dead human body for cremation unless the person seeking cremation files the following with the owner: A. <b>Burial Permits:</b> are required, under the Vital Statistics Act in order to bury or cremate a deceased person. Permits are printed by funeral homes or a hospital registrar. Permits are issued upon completion of the death registration document and medical certificate of death. B. <b>Medical Certificate of Death:</b> is completed by a physician or medical examiner to determine cause of death of the deceased, under the <i>Fatality Inquiries Act</i> . C. <b>Registration of Death:</b> a document that becomes a permanent legal record of the death event. Representatives from funeral home services complete the registration of death form and submit it to the government, on behalf of the family of the deceased. D. <b>Certificate of Death:</b> a legal document produced from information on the registration of death form. Many organizations (for example, crematoriums) require this document before decisions can be made on behalf of the deceased. Cost of each death document (B) to (D): \$20. Cost of burial permit (A) and authorization by a medical examiner prior to cremation: Free.

Coroner, or Equivalent, Authorization for Cremation, Required Prior to Cremation of a Deceased Person		Other Documents or Procedures Relating to Cremations	Other Key Information
SK	No Cremation authorization is not required from a coroner or equivalent, but it is required from the authorized decision-maker	<p>Funeral homes and directors shall not cremate human remains unless they have received written authorization from the authorized decision-maker (<i>Funeral and Cremation Services Act</i>).</p> <p>The following forms must be completed:</p> <ol style="list-style-type: none"> <li>1) authorization by the decision-maker to cremate or the use of alkaline hydrolysis and order for disposition; and</li> <li>2) cremation certificate issued by a crematorium after cremation is completed.</li> </ol>	<p>The physician, coroner, or prescribed practitioner (nurse practitioner) is responsible for completing the medical certificate of death. The completed certificate will be forwarded to the funeral director who is in charge of body of the deceased. The medical certificate of death must be completed before a burial permit can be issued. The funeral director is responsible for completing the registration of death.</p> <p>The funeral director will send the completed registration of death and medical certificate of death to eHealth Saskatchewan for registration and permanent record keeping. Funeral homes are responsible for submitting the death registration information to eHealth Saskatchewan, which issues burial permits.</p> <p>Cost of a death certificate: \$35 or \$40; certified photocopies of registration: \$55; (urgent service fee for either of above is an additional \$30).</p>
MB	No Cremation authorization by a medical examiner is not required, but registration of death is needed	<p>However, if it appears that the deceased person died in any of the circumstances set out in subsection 7.1(1) of the <i>Fatality Inquiries Act</i> that require an inquiry to be conducted under that Act, a permit cannot be issued before an inquiry into the death is conducted, a medical examiner completes and signs the medical certificate of death in accordance with subsection; and registration of the death is completed in accordance with this Act. This applies to both burials and cremations.</p>	<p>A funeral director from a licensed funeral service agency must register each death with Manitoba Vital Statistics Agency within five business days of having received the decedent's particulars.</p> <p>Upon the registration of a death, the funeral provider shall prepare and deliver a permit for the purpose of the burial, cremation, or other disposition of the body of the body.</p> <p>Cost of a death registration: \$30 (rushed service fee is an additional \$65).</p>
ON	Yes	n/a	<p>Under the <i>Funeral, Burial and Cremation Services Act, 2002</i> (Act), a Coroner will review the death of all people before cremation or alkaline hydrolysis takes place. The Coroner's signature is required on all cremation applications. The Coroner is signing off that the deceased did not die of a suspicious or unusual circumstance that would require further investigation. Requirement for a coroner certificate for cremation is in a regulation of the Act.</p> <p>The death must still be registered in the municipality where the death occurred. In accordance with the <i>Vital Statistics Act</i>, the death is registered by completing a statement of death and submitting this document along with the medical certificate of death or Coroner's Warrant to Bury the Body of a Deceased Person to the appropriate municipal office.</p> <p>Cost of a coroner certificate for cremation: \$75 (to the coroner who issues the certificate); cost of death registration: ranging from \$25 to \$60 to the municipality where the death occurs.</p>



Coroner, or Equivalent, Authorization for Cremation, Required Prior to Cremation of a Deceased Person		Other Documents or Procedures Relating to Cremations	Other Key Information
QC	No Authorization for cremation by a coroner is not required, but an attestation of death and declaration of death are needed	<p><b>Attestation of death:</b> must be completed by a doctor and provide basic information about the deceased, time and cause of death. Cremation can only take place if the attestation states there are no radioactive or other dangerous compounds in the body</p> <p><b>Declaration of death:</b> a document completed by a funeral director and someone who can identify the deceased, such as a family member or spouse.</p> <p>The death certificate is issued by the Registrar of Civil Status based on the attestation and declaration of death.</p>	<p>Law requires that the cremation of a body must be carried out in a manner that completely eliminates all organs and soft tissue, to the centre of the bones and skull. This section is in force since Jan 1, 2019.</p> <p>Requests should be sent immediately from a funeral service company to the Registrar of Civil Status.</p> <p>Cost of Death Certificate – normal (10 days) processing time:</p> <ul style="list-style-type: none"> <li>• Internet: \$33.25</li> <li>• Mail: \$47.75</li> <li>• Service Counter: \$53.50</li> <li>• At a service counter using the DE Clic online service: \$33.25</li> </ul> <p>Cost of Death Certificate – expedited (three days) processing Time:</p> <ul style="list-style-type: none"> <li>• Internet: \$65</li> <li>• Mail: \$70.75</li> <li>• Service Counter: \$75.75</li> <li>• At a service counter using the DE Clic online service: \$65</li> </ul>
NB	Yes A death certificate is needed to get a cremation authorization form where a coroner's signature is required	<p>The coroner will not sign the cremation authorization form until 48 hours has elapsed following the death (in accordance with the <i>Coroners Act</i> and the <i>Cemetery Companies Act</i>).</p> <p>Also, a burial permit issued by the Registrar General is required to cremate the body, in accordance with the <i>Vital Statistics Act</i>.</p>	<p>A death certificate is not required for a burial permit.</p> <p>Cost of burial permit and cremation authorization: Free.</p>
NS	Yes	<p>At the time of death, the funeral director will (a) get information about the deceased from the next of kin to complete the Registration of Death form within 48 hours of the death, and (b) have the Medical Certificate of Death completed by the attending physician, nurse practitioner or medical examiner (<i>Vital Statistics Act</i>)</p>	<p>The funeral director sends completed Registration of Death to the Vital Statistics Office of Service Nova Scotia within 48 hours of the death.</p> <p>The funeral director also provides the completed Medical Certificate of Death to the Medical Examiner's office, in order for the Medical Examiner to approve the cremation.</p> <p>Cost of cremation authorization by a medical examiner: Free of charge.</p>
PE	Yes	<p>Cremation authorization by a coroner is required to release a body for cremation, burial or transport. A medical certificate of death and burial permit are also required (in accordance with the <i>Coroners Act</i> and <i>Vital Statistics Act</i>).</p>	<p>Authorization for cremation by a coroner is issued before a death is registered with Vital Statistics and a burial permit is issued.</p> <p>A burial permit is given to a funeral director or person overseeing the burial, and a crematorium cannot cremate a body without a valid burial permit.</p> <p>Cost of cremation authorization by a coroner: \$25.</p> <p>Cost of a medical death certificate and/or burial permit: Free of charge.</p>

## Appendix 11: Potential Risks of Emissions from Crematoriums

Prepared by the Office of the Auditor General of Ontario

A large body of peer-reviewed research shows that the types of emissions resulting from cremation (for example, particulate matter, dioxins and mercury) could have a negative impact on public health and the environment. However, a 2020 Canadian review undertaken by the National Collaborating Centre for Environmental Health located only one study that investigated the health outcomes of individuals who live in proximity to a crematorium. Although this study found a correlation between crematorium emissions and health impacts, the 2020 review could not find studies showing causal links.

According to the 2020 review, the composition and amounts of pollutant emissions from crematoriums depend on the following four factors: (1) the composition of the casket and body, (2) the design of the cremation system, (3) the operational parameters of the cremation system, and (4) emissions control measures. Ontario has laws and regulations that affect all of these factors.

Relative to the first factor (composition of the casket and body), a regulation under the *Funeral, Burial and Cremation Services Act, 2002*, (Act) includes mandatory upstream measures that can reduce air pollutant emissions. Specifically, it obligates crematorium operators not to cremate bodies with pacemakers, some radioactive implants, and caskets that include hazardous or other specified materials. However, the Act does not specify or impose controls on the presence of mercury-containing dental amalgams in human remains.

Extrapolating from a U.S. agency's scientific studies/models of mercury in human remains, and accounting for all significant sources of mercury in Ontario, we estimated that crematoriums could be responsible for about 18% of Ontario's mercury emissions (approximately 103,300 deaths in Ontario in 2017 x Canada's 73% cremation rate in 2019 x 1.49 grams of mercury per body cremated / 619 kilograms of total mercury emissions in Ontario in 2017). In comparison, almost all other pollutant emissions from crematoriums amount to less than 0.1% of Ontario's total. However, the possible risk of public exposure to contaminants depends on proximity to crematoriums.

Unlike Ontario, other jurisdictions, including Sweden, Norway, Denmark and Germany, address potential mercury emissions from cremation by restricting or phasing out the use of mercury amalgams in dental procedures. In Canada, the federal government signed (2013) and ratified (2017) the Minamata Convention on Mercury, which commits to reducing the health and environmental impacts from mercury exposure. However, neither the federal government nor Ontario has proposed or taken actions to restrict the use of dental amalgams containing mercury.

## Appendix 12: Key Events in Licensing and Suspension of Alkaline Hydrolysis Operator, 2016–2020

Sources of data: Bereavement Authority of Ontario and Ministry of Government and Consumer Services (Ministry)

Jan 2016	Provincial government creates the Bereavement Authority of Ontario. It assumes all existing licensees, including two pre-existing alkaline hydrolysis licensees, both of which use the high-temperature process.
Aug 1, 2016	Bereavement Authority's Registrar issues a directive requiring that all operators intending to perform alternative processes to dispose of human remains, including alkaline hydrolysis, must be licensed.
Nov 24, 2017	Bereavement Authority approves the licence application of an alkaline hydrolysis operator without knowing that the machine was low-temperature because the application does not ask the question.
Feb 2018	<ul style="list-style-type: none"> <li>Registrar learns that the operator is operating a low-temperature machine and becomes concerned of the potential public health risks involved.</li> <li>Registrar suspends any further approval of new alkaline hydrolysis licences and initiates the review of the alkaline hydrolysis process.</li> </ul>
May 2018	Registrar seeks advice from the Ministry of Health and Long-Term Care, which then turns to Public Health Ontario on the question of whether the low-temperature alkaline process poses a risk to public health when effluent is discharged to the local waste water treatment authority.
Jun 12, 2018	Bereavement Authority inspectors perform an unannounced inspection of the operator's facility that uses the low-temperature machine. The inspectors identify several occupational health-and-safety concerns. On the basis of this inspection, the Registrar determines that the operator has created an immediate and serious risk of harm and should be suspended immediately.
Jun 22, 2018	Registrar suspends the operation immediately and issues a proposal to suspend the licence of the operator. The operator files an appeal within 15 days.
Aug 9, 2018	At the request of the Bereavement Authority and the Ministry of Health and Long-Term Care, Public Health Ontario reviews the literature on the technology and concludes that while effluent from high-temperature alkaline hydrolyses is unlikely to contain infectious agents, further studies are needed for low-temperature processes.
May 23, 2019	The operator successfully appeals the proposal of revocation at the Licence Appeal Tribunal (Tribunal). The Tribunal concludes the operator acted within the law and with honesty and integrity. It cannot conclude the operations of the business create a risk to public health and safety.
Oct 22, 2019	Bereavement Authority's appeal to the Divisional Court is dismissed.
Jun 2020	The matter is before the Ontario Court of Appeal.

## Appendix 13: Requirements of 2016 Administrative Agreement between Bereavement Authority of Ontario and Minister of Government and Consumer Services

Prepared by the Office of the Auditor General of Ontario

	Frequency	Met/Not Met
<b>Ministry's Responsibilities</b>		
Recommend regulatory changes to the Lieutenant Governor in Council and propose legislative changes to the Legislative Assembly	Not specified*	Although not required, progress was slow in making changes in a few key areas (See <b>Section 4.12.2</b> )
Conduct policy, legislative and regulatory reviews	Not specified*	
Conduct performance, governance, accountability or financial reviews (including audits) and recommend changes as a result	Not specified*	Although not required, such reviews were not conducted (See <b>Section 4.12.1</b> )
Minister should make reasonable efforts to meet with the Board Chair	Not specified*	Met
<b>Bereavement Authority's Responsibilities</b>		
Provide Ministry with a strategic plan	Every five years	Met
Provide Ministry with a business plan and annual report	Annually	Met
Conduct a survey to measure its performance among all or a sample of clients, stakeholders and licensees, and provide results to Ministry	Every two years	Not Met (See <b>Section 4.12.1</b> )
Provide Ministry with performance measures	Quarterly	
Provide Ministry with outcome measures	Annually	
Develop a risk management framework and risk management plan to address and mitigate identified risks	Not specified	Met
Pay the Ministry an oversight fee (\$100,000)	Annually	Met

\* At Minister's discretion.

## Appendix 14: Best Practice Performance Measures Used by Other Jurisdictions

Prepared by the Office of the Auditor General of Ontario

Area of Operation	Source of Best Practice
<b>Handling of Complaints and Inquiries</b>	
<ul style="list-style-type: none"> <li>Percentage of complaints resolved within a targeted timeframe</li> <li>Average turnaround time</li> <li>Average amount of refund issued</li> </ul>	Board of Funeral Services*
<ul style="list-style-type: none"> <li>Percentage of complaints resolved within six months</li> <li>Percentage of complaints resulting in disciplinary action</li> </ul>	Texas Funeral Commission
<ul style="list-style-type: none"> <li>Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator</li> </ul>	California Cemetery and Funeral Bureau
<b>Licensing – Initial Application and Renewal</b>	
<ul style="list-style-type: none"> <li>Average time to complete a licence renewal or application</li> <li>Overall quality of the licensing processes based on survey responses obtained from licensees</li> </ul>	Consumer Protection BC
<b>Inspection and Enforcement</b>	
<ul style="list-style-type: none"> <li>Number of inspections by types</li> <li>Average time spent by type of inspection, breakdown by inspection and reporting time</li> <li>Results/outcome of inspections:               <ul style="list-style-type: none"> <li>Amount owing to consumers due to overpayments</li> <li>Number of non-compliances found per inspection</li> <li>Types of non-compliance identified</li> <li>percentage of inspections where compliance is confirmed</li> </ul> </li> <li>percentage of compliance achieved following enforcement action</li> </ul>	<ul style="list-style-type: none"> <li>Consumer Protection BC</li> <li>Board of Funeral Services*</li> </ul>
<ul style="list-style-type: none"> <li>Percentage of licensed facilities that are non-compliant during inspection</li> <li>Recidivism rate for those receiving disciplinary action</li> </ul>	Texas Funeral Commission
<ul style="list-style-type: none"> <li>Average number of days to complete the entire enforcement process</li> </ul>	California Cemetery and Funeral Bureau
<b>Customer Service</b>	
<ul style="list-style-type: none"> <li>Customer service report that measures courtesy and knowledge of staff, timeliness of service, handling of complaints, ease of access to information on their website, and helpfulness/accuracy of publications</li> </ul>	Texas Funeral Commission
<ul style="list-style-type: none"> <li>Customer satisfaction surveys: questions related to the courtesy and knowledge of staff, timeliness of service, handling and addressing complaints</li> </ul>	California Cemetery and Funeral Bureau

\* The former regulator of funeral homes and transfer services in Ontario prior to the establishment of the Bereavement Authority.





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