

Chapter 1

Section 1.09

Ministry of the Environment, Conservation and Parks
 Ministry of Public and Business Service Delivery
 Ministry of the Solicitor General and the Office of the Chief Coroner

Follow-Up on 2020 Value-for-Money Audit: Bereavement Authority of Ontario

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	1				
Recommendation 2	2	2				
Recommendation 3	5		4	1		
Recommendation 4	2	2				
Recommendation 5	1	1				
Recommendation 6	1	1				
Recommendation 7	5	4		1		
Recommendation 8	4	1	2		1	
Recommendation 9	6	6				
Recommendation 10	1		1			
Recommendation 11	4	3	1			
Recommendation 12	1	1				
Recommendation 13	1	1				
Recommendation 14	3	1	1		1	
Recommendation 15	3	1	2			
Recommendation 16	2	1	1			
Recommendation 17	2		2			
Recommendation 18	4	2				2
Recommendation 19	6	2	2	1		1
Recommendation 20	2	2				
Total	56	32	16	3	2	3
%	100	57	29	5	4	5

Overall Conclusion

The Bereavement Authority of Ontario (Bereavement Authority), Ministry of the Environment, Conservation and Parks, Ministry of Public and Business Service Delivery (formerly Ministry of Government and Consumer Services), Ministry of the Solicitor General and the Office of the Chief Coroner, as of August 31, 2022, have fully implemented 57% of actions we recommended in our 2020 Annual Report. The Bereavement Authority and the ministries have made progress in implementing an additional 29% of the recommendations. The remaining 14% had little or no progress, will not be implemented or are no longer applicable.

The Ministry of Public and Business Service Delivery and the Bereavement Authority have fully implemented recommendations such as standardizing the price lists among all licensed operators, including identifying what services are required by law and what is optional, conducting unannounced inspections and mystery shopper visits, conducting performance reviews, at least annually, for each inspector, cross-checking the listing of Environmental Compliance Approvals maintained by the Ministry of the Environment, Conservation and Parks to ensure that the listing is complete, and verifying that all Class 1 licensed funeral homes possess a current hazardous waste generator number.

However, the Bereavement Authority and the ministries continue to make progress in implementing 29% of the recommendations, including the Ministry of Public and Business Service Delivery working with the Bereavement Authority—to adopt best practices from other jurisdictions to expand enforcement tools such as the ability to levy an administrative penalty and conducting research on emerging technologies for disposing human remains. In addition, the Bereavement Authority has made progress in implementing recommendations including measuring and monitoring 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, upgrading the functionality of its information

system so that summary reports on the number and nature of complaints can be produced electronically, and establishing additional performance measures and targets to evaluate its effectiveness in achieving its mandate. The Ministry of the Environment, Conservation and Parks is in the process of establishing a plan to proactively and comprehensively monitor the air emissions of crematoriums at regular intervals.

The Bereavement Authority has made little progress on three (5%) of the recommendations, including publicly reporting on the outcome of inspections and electing or appointing Board member(s) who advocate for consumers.

The Bereavement Authority, the Ministry of the Solicitor General and the Office of the Chief Coroner will not implement 5% of the recommendations, including the Bereavement Authority providing 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 and to eliminate the \$75 dollar fee for coroner cremation certificates to align Ontario with other jurisdictions that do not charge for them. We continue to believe that these recommendations should be implemented.

The status of actions taken on each of our recommendations is described in this report.

Background

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. 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.

Our audit found that the Bereavement Authority 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 was 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 was needed to protect and educate consumers who purchase bereavement services and products.

Some of our significant findings were as follows:

- Most funeral homes and other operators did 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.
- Funeral selling practices could still include pressure tactics and providing 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.
- Prices for the same or similar services varied significantly. 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.
- All cemetery operators are required by regulation to renew their licences annually with the Bereavement Authority, but not all did. We found that, as of August 2022, out of a total of 2,287 cemetery operators in Ontario (2,368 as of August 2020) who must file an annual licence

return, 220 (277 in 2020), or 10% (12% in June 2020), were operating without their licences renewed, and 88 (207 as of August 2020) of these operators had not renewed their licences nor filed any other reports with the Bereavement Authority since its inception in 2016.

- The Bereavement Authority's oversight of care and maintenance funds for 166 cemetery operators needed to be actioned. We found in August 2022, of the 1,947 (1,984 in June 2020) cemetery operators that reported having a care and maintenance fund, 42 (166 in June 2020) of them had not filed the required care and maintenance report. Based on the most recent information available as of August 2022, the 42 (166 in June 2020) cemetery operators collectively held a total of \$338,000 (\$2.1 million in 2020) in their care and maintenance funds.
- Between 2018/19 and 2021/22, the Bereavement Authority inspected only 7.5% of all licensed funeral homes and other operators (3.4% in the period between 2016/17 and 2019/20). Our 2020 audit found that inspections were not conducted on a proactive basis but instead were generally reactive in nature. 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.

We made 20 recommendations, consisting of 56 action items, to address our audit findings.

We received commitments from the Bereavement Authority, Ministry of the Environment, Conservation and Parks, Ministry of Public and Business Service Delivery (formerly Ministry of Government and Consumer Services), Ministry of the Solicitor General and the Office of the Chief Coroner that they would take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2022 and August 2022. We obtained written representation from the Bereavement Authority of Ontario, Ministry of the Environment, Conservation and Parks, Ministry of Public and Business Service Delivery, Ministry of the Solicitor General and the Office of the Chief Coroner that effective November 24, 2022 they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Aggressive Pricing and Selling Practices in the Bereavement Sector

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.

Status: Fully implemented.

Details

In our 2020 audit, we found that only 26 of the 100 the sampled licensed funeral homes, transfer services, cemeteries and crematoriums of various sizes and locations across the province disclosed a price list on their websites. We also found that of the 22 licensed funeral homes, transfer services, cemeteries and crematoriums who responded to our email inquiry for price information, only nine or 41%, also provided the Bereavement Authority of Ontario's (Bereavement Authority) free consumer information guide, *A Guide to Death Care in Ontario (Guide)*. A regulation under the *Funeral, Burial and Cremation Services Act, 2002*, requires that

all licensed operators provide the Guide to potential consumers before they enter into a contract.

In our follow-up, we found that in April 2021, the Ministry of Public and Business Service Delivery, (formerly, the Ministry of Government and Consumer Services, Ministry) made a regulatory change under the *Funeral, Burial and Cremation Services Act, 2002*, that took effect on July 1, 2021. As a result, every bereavement service operator who maintains or makes use of a website to promote, or to enter contracts for, the sale or provision of a licensed supply or service is required to make available in a clearly visible place on that website:

- a free, printable electronic version of the operator's price list; and
- a link to the consumer information guide prepared by the Registrar of the Bereavement Authority.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we engaged a firm to conduct mystery shopping at licensed funeral homes, transfer services, cemeteries and crematoriums. The mystery shoppers identified that at times they were provided misleading information on whether certain services were mandatory or optional.

In our follow-up, we found that in October 2021, the Bereavement Authority sent a notice to all licensed funeral homes, transfer service, crematorium and cemetery operator recommending the voluntary use of price list templates. The Bereavement Authority developed separate price list templates for each type of licensed operator. The price list templates break down

the bereavement services required by law and which services are optional. As part of its inspection process, the Bereavement Authority reviews price lists to determine compliance with its price list templates.

- *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.*

Status: Fully implemented.

Details

In our 2020 audit, mystery shoppers identified that at times they felt pressured, were given misleading information and experienced upselling and aggressive sales practices.

In our follow-up, we found that in May 2021, the Bereavement Authority hired a company with expertise (the company) to conduct both telephone and in-person “mystery shops” of licensed cemeteries, operators and funeral homes. As a result of COVID-19 pandemic restrictions, telephone calls were made and recorded using a written script to determine whether the licensed operator such as a funeral home is participating in upselling or other unethical practices. Five hundred and twenty-six telephone interviews were completed between June 2021 and mid-April 2022 and 47 in-person visits were made between mid-February 2022 and mid-June 2022. The Bereavement Authority’s contract terms with the company requires an assessment of every licensed operator over a five-year contract period.

In November 2021, the Bereavement Authority provided the company with a listing of larger, corporately owned, funeral home operators to be scheduled for in-person shopping by the firm. In-person shopping commenced the week of February 14, 2022 with the easing of pandemic restrictions. As of April 2022, the company has completed 34 in-person visits. Any survey result provided by the company with a score of 50% or less will be assessed by the Bereavement Authority to see why the operator received that score and the operator may be inspected if necessary. As of April 2022, 16 mystery shopper interactions have resulted in a score of 50% or less. The Bereavement Authority

reviewed the full results of the mystery shopper script and has initiated earlier inspections of those locations deemed as higher risk of non-compliance with rules and regulations.

Weak Oversight of Cemetery Operators

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;*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that 277 cemetery operators at 366 sites in the province had not renewed their licences. In many cases, the Bereavement Authority did not have updated contact information for the cemetery operators.

In our follow-up, we found that the Bereavement Authority has been contacting cemetery operators to gather updated cemetery operators contact information. In January 2021, the Bereavement Authority sent a notice to the cemetery profession requesting cemetery operators provide updated contact information. For the cemetery operators that were still missing up-to-date contact information, the Bereavement Authority then undertook a campaign starting in April 2021 to attempt to contact all remaining cemetery operators. When the Bereavement Authority successfully reached a contact person for a cemetery operator, this information was updated in the cemetery information database. As of June 30, 2022, the Bereavement Authority collected licensing forms and confirmed contact information for 2,306 out of 2,354 operators, leaving 48 remaining cemetery operators for which the Bereavement Authority does not have up-to-date contact information. The Bereavement Authority expects to have up-to-date contact information for the remaining 48 cemetery operators by December 2023.

- *follow up with all cemetery operators who did not renew their licences in a timely manner and determine the reasons for non-compliance;*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that 277 cemetery operators at 366 sites in the province had not renewed their licences. The Bereavement Authority had not taken further action other than sending reminders to about 30 cemetery operators to renew their licences and file the required reports.

In our follow-up, we found that Bereavement Authority staff conducted follow-ups by phone and email on outstanding annual reporting and licensing information after the initial contact was made with cemetery operators. Cemetery operators who failed to come into compliance after unsuccessful follow-up were escalated to further action such as an inspection. The Bereavement Authority requested the Ministry's Registrar, under the *Funeral, Burial and Cremation Services Act, 2002*, make an application to the Superior Court of Justice to have two cemeteries declared abandoned because the known cemetery operator could not be found or was unable to maintain the cemetery, and/or there was no licensed operator for the cemetery. The Bereavement Authority subsequently withdrew these requests because the municipalities agreed to voluntarily assume responsibility for operating these cemeteries. The current number of cemeteries operators still not licensed as of June 30, 2022 was 81.

Per the Bereavement Authority, 39 of these unlicensed cemeteries are located on federal or provincial Crown land or in unorganized townships. The Bereavement Authority is holding ongoing discussions with the Ministry to determine next steps with respect to those cemeteries located on provincial Crown land. In addition, the Bereavement Authority is currently investigating five of these cemeteries that have been identified as duplicates in its cemetery database and four closed cemeteries that are still listed as active in its cemetery database.

As a result, after considering the total number of cemetery operators not licensed (with consideration

of cemeteries that may not need to be licensed, are duplicate entries or are actually closed and not in need of a licence) there are 33 cemetery operators have been identified that are not yet licensed. For these 33 unlicensed cemeteries, the Bereavement Authority has sent letters to 19 municipalities, six cemeteries are being assessed by its compliance unit for potential inspection or enforcement action, seven remain unlicensed and one cemetery file has been transferred to the Ministry to commence the abandonment process. The Bereavement Authority expects all these actions to be completed by December 2023.

- *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;*

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we found that 277 cemetery operators at 366 sites in the province had not renewed their licences. The Bereavement Authority had not taken further action other than sending reminders to about 30 cemetery operators to renew their licences and file the required reports.

In our follow-up, we found that in 2022, the Bereavement Authority initiated a series of email blasts and follow-ups with cemetery operators to increase the number of on-time submissions of license renewals. This increased the percentage of on-time submissions to 67% in 2022 from 52% in 2021.

As noted in the second action item in **Recommendation 3**, we found that as of June 30, 2022, the Bereavement Authority has identified 33 cemetery operators that require a licence. As stated above, the Bereavement Authority is currently conducting outreach and research with municipalities and landowners. Their responses will determine what course of action will be taken such as recommending a voluntary transfer to the applicable municipality or recommending that the Ministry's Registrar under the *Funeral, Burial and Cremation Services Act, 2002* apply to a judge of the Superior Court of Justice to have the cemetery declared abandoned. It is expected that this will be completed by December 2023.

- *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;*
Status: In the process of being implemented by January 2023.

Details

In our 2020 audit, we found that 277 cemetery operators at 366 sites in the province had not renewed their licences. The Bereavement Authority could not verify whether these operators are meeting the legislative requirements or whether the cemeteries were maintained properly.

In our follow-up, we found that as of June 30, 2022, the Bereavement Authority contacted 67 municipalities to notify them that there is an existing cemetery operator located within their municipality that currently is unlicensed and the cemetery is not being cared for at the present time. The municipalities were asked if they could contact the cemetery operator to discuss the ongoing condition and operations of the cemetery and the renewal of the cemetery operator annual licence.

If the current cemetery operator is deemed unable to continue operating the cemetery or could not be located, the municipality was requested to contact the Bereavement Authority to advise of the current circumstances and undertake discussions regarding the possible voluntary transfer of the cemetery ownership and associated responsibilities to the local municipality.

The Bereavement Authority informed us it prefers to work with municipalities to voluntarily transfer cemetery ownership rather than force its transfer. The Bereavement Authority also noted that there is no option to contact municipalities for sites located on Crown and unorganized lands.

As of November, 2022, the Bereavement Authority was still working on making arrangements with municipalities or taking enforcement action for 17 remaining sites (not including those on Crown and unorganized lands). It expects that the necessary arrangements will be made with local municipalities associated with these sites by January 2023.

- *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.

Status: Little or no progress.

Details

In our 2020 audit, we found that as of August 2020, 277 cemetery operators at 366 sites in the province had not renewed their licences.

In our follow-up, we found that the Bereavement Authority has been working on contacting those cemetery operators who are not currently licensed. As of June 30, 2022, the Bereavement Authority identified 33 cemetery operators as being unlicensed.

For the 33 unlicensed cemeteries, if a known cemetery operator cannot be found or is unable to maintain the cemetery, or if there is no licensed operator for the cemetery (for example, because the local municipality is not willing to accept transfer of ownership and operation of the cemetery on a voluntary basis), certain persons can apply to a judge of the Superior Court of Justice to have a cemetery declared abandoned. Therefore, potentially up to 33 cemetery operators may be subject to applications to the Superior Court of Justice to have the cemeteries declared abandoned. The Registrar at the Ministry, under the Act, is one of the persons who may, in certain circumstances, apply to court for a declaration that a cemetery is abandoned. As of June 30, 2022, the Bereavement Authority has referred two cemetery files to the Ministry's Registrar to commence an application to the Superior Court of Justice to have them declared abandoned but these requests were subsequently withdrawn because the municipalities agreed to voluntarily assume responsibility for operating these cemeteries.

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;*
Status: Fully implemented.

Details

In our 2020 audit, we found 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.

In our follow-up, we found that in June 2021, the Bereavement Authority had requested that cemetery operators make arrangements with their trust companies to submit the cemetery care and maintenance trust statements directly to the Bereavement Authority. The trust companies were requested to submit statements annually for all care and maintenance funds held within three months of the cemetery operator's fiscal year-end, starting with the current year. As of April 2022, nine of the 27 trustees are now submitting their statements directly to the Bereavement Authority, which accounts for 91% of all care and maintenance funds. The Bereavement Authority sent letters directly to the remaining 18 trustees in summer 2022 requesting that they submit their care and maintenance statements directly to the Bereavement Authority. All 18 remaining trustees have committed to providing financial statements directly to the Bereavement Authority by December 2022.

- *perform inspections of cemeteries that did not submit their annual reports and other information on time, and order them to comply with the legislation.*

Status: Fully implemented.

Details

In our 2020 audit, we found that 166 of the 1,984 cemetery operators reported having a care and maintenance fund but had not filed a care and maintenance statement within the past year, or in some cases, over 25 years.

In our follow-up, we found that in August 2022, the Bereavement Authority identified 220 of the 1,947 cemetery operators that did not submit their required annual report and licensing renewal information. As of August 2022, the Bereavement Authority completed fourteen inspections of cemetery operators that had

failed to submit the required annual licensing information and reports.

For the remaining non-compliant cemetery operators, the Bereavement Authority stated its inspections of cemeteries that did not submit the required annual licensing information and reports on time are to be completed as expediently as possible within the available resources of the Bereavement Authority.

The Bereavement Authority informed us that an inspection is not an effective first response tool to ensure compliance with reporting requirements by cemetery operators. Cemetery reports, financial books and records are generally held by a volunteer in their home, which restricts an inspector's ability to effectively inspect on site. We are satisfied this meets the intent of the recommendation.

The Bereavement Authority indicated it has significantly reduced the number of non-renewed licenses through persistent follow-ups by its staff. For cemeteries operators still not compliant, the Bereavement Authority can demand required information using its legislative authority, or issue a cease operations order or assign an inspector. If these actions are exhausted or not practical, the Bereavement Authority will consider recommending the voluntary transfer of responsibility for the operation of the cemetery to a municipality or by requesting the Ministry's Registrar under the *Funeral, Burial and Cremation Services Act, 2002* to apply to a judge of the Superior Court of Justice to have the cemetery declared abandoned.

Few Consequences for Funeral Home Operators for Late, Incomplete Filings

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.

Status: Fully implemented.

Details

In our 2020 audit, we found that only 323 or 55% of 590 funeral homes filed their 2018 prepaid funds reports on time. Of the 2019 reports, only 347 or 59% of 591 funeral homes filed on time.

In our follow-up, we noted for the 2021 prepaid fund reports that the Bereavement Authority identified 222, or 40%, of funeral home operators who missed the deadline to file the required prepaid fund reports. However only nine funeral homes were late by more than 60 days. As a result, these operators were added to a watchlist which is an internal process to track operators with potential non-compliance issues such as those that had missed filing deadlines.

The Bereavement Authority indicated that late filers of prepaid fund reports were to be scheduled for priority inspection, as expediently as possible within available resources. As a result, nine funeral homes were identified for inspection. Three had operational circumstances such as ongoing litigation with the Bereavement Authority that did not lend itself to an inspection. The remaining six operators were inspected.

Poor Recordkeeping and Weak Practices for Inspection and Enforcement Actions

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.

Status: Fully implemented.

Details

In our 2020 audit, we found that 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.

In our follow-up, we found that in mid-2021, the Bereavement Authority developed an annual inspection plan that targets high-risk areas for inspection. This plan was developed partially as a result of analyses of past inspection results. In the plan, the Bereavement Authority defined “reactive” and “proactive” and specified the percentage of inspections to be reactive versus proactive. The Bereavement Authority also defined different priority levels for inspections based on risk, urgency and severity of the operators’ potential non-compliance.

The Bereavement Authority defined the depth and ranges of types of inspections that it performs and will use these definitions in all of its future annual reports. The Inspection Plan will focus on funeral homes and transfer service operators for 2021/22 and 2022/23, and, based on this experience, will be broadened in 2023/24 to include cemeteries and crematoriums.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority publicly reported that it conducted a total of 411 inspections; however, this was an overstatement as only 267 inspections had been performed.

Our follow-up found that in its 2020/21 annual report, the Bereavement Authority restated its inspection statistics to identify the correct number of inspections performed for the previous five fiscal years.

- *conduct periodic verification of inspection counts;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority publicly reported that it conducted a total of 411 inspections, however this was an overstatement as only 267 inspections had been performed.

Our follow-up found that as of October 2021, the Bereavement Authority now verifies inspection counts by performing a monthly review of the inspection count using an inspection tracking spreadsheet.

- *track all trigger events for inspections in one place;*
Status: Fully implemented.

Details

In our 2020 audit, we found that 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.

Our follow-up found that as of January 2021, the Bereavement Authority maintains a watchlist as a central repository for all escalated matters related to licensees, that might require inspection or other action. This enables the Bereavement Authority to track all potential trigger events for inspections in one place as well as the necessary next steps depending on the severity of the complaint.

- *track, monitor, analyze inspections by types and non-compliance;*
Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority does not track the results of inspections by type or the severity and frequency of non-compliances from inspections.

In our follow-up, we found that as of April 2021, the Bereavement Authority is now tracking, monitoring, and analyzing inspection counts by type and areas of non-compliance. An inspection tracking spreadsheet was created that now records all inspections scheduled and completed by fiscal year. At the commencement of a new inspection, the spreadsheet is updated with

information such as the licensee name, inspector and date the inspection is opened. A risk rating is recorded on the spreadsheet after it has been determined once the inspection was completed and a deficiency letter is sent to the operator such as a funeral home.

- *publicly report on outcomes of inspections.*
Status: Little or no progress.

Details

In our 2020 audit, we found that the Bereavement Authority did not track or publicly report on results of inspections such as the amount that was owed to consumers due to an identified overpayment or the number of non-compliant practices found per inspection.

In our follow-up, we found that the Bereavement Authority is awaiting implementation of its new information technology system in order to establish a search engine that will allow the public to search the Bereavement Authority database for the licensee of their choice. With scheduled completion of the new information system by the fall of 2023, the Bereavement Authority will be posting inspection results on its public registry.

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;*
Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority's internal policies require follow-up inspections on identified significant issues to be performed within one year after the inspection was completed. We viewed the one-year internal policy as too long because the sooner the issues are fixed, the more likely consumers are protected.

In our follow-up, we found that in October 2021, the Bereavement Authority reduced the turnaround time to

follow up on significant non-compliance issues. Any follow-up action undertaken is now based on a risk score severity of the identified deficiencies which will prioritize the Bereavement Authority's follow-up actions. Significant non-compliance issues that are deemed a six or seven out of 10 on the Infraction Scorecard have resulted in a follow-up inspection with a turnaround time of six to nine months.

- *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;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that when cases of non-compliance are identified, the Bereavement Authority's Registrar can take enforcement action by placing conditions on a licensee. We noted that the Registrar had placed conditions on eight individual licensees in 2019 but as of June 2020, these individuals with conditions had not been inspected again to ensure they were complying with the conditions of their licences.

In our follow-up, we found that in October 2021 the Bereavement Authority implemented a new policy to reduce the turnaround inspection time to follow up on significant non-compliance. As a result, the Bereavement Authority, effective April 2022, is to undertake follow-up inspections under these new time frames if cases of significant non-compliance were identified. Therefore, the requirement to place appropriate licensing conditions on operators if previously identified deficiencies were found not to be corrected in follow-up inspections has yet to occur. As the Bereavement Authority undertakes more timely follow-up inspections, the Authority could place appropriate licensing conditions against those operators if deficiencies are found to not be corrected on a timely basis. This is expected to occur by December 2022.

- *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;

Status: In the process of being implemented by January 2023.

Details

In our 2020 audit, 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.

In our follow-up, we found that the Ministry of Public and Business Service Delivery (Ministry) posted a consultation paper in June 2021, which included a potential policy proposal to expand the Bereavement Authority's compliance and enforcement tools. The proposal was to:

- provide the Bereavement Authority's Registrar with the ability to issue administrative penalties (up to a maximum of \$10,000) and compliance orders under certain circumstances, to be determined;
- create an appeal mechanism, for example to the Licence Appeal Tribunal, to give subjects of an administrative penalty or compliance order a way to challenge a penalty or order; and
- provide authority for the Ministry to direct that the funds from administrative penalties go into a fund administered for the purposes of supporting consumer education.

At the time of our follow-up, the planned implementation date for these additional powers is an anticipated deadline of January 2023 subject to government decision-making and legislative priorities.

- *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.*

Status: Will not be implemented. While the Bereavement Authority does not plan to provide more details to the public on licensing and enforcement decisions and actions taken against licensed and non-licensed operators, the Office of the Auditor General of Ontario continues to believe that this transparency would still be beneficial to do going forward. The practice recommended is performed by Consumer Protection BC.

Details

In our 2020 audit, we found that 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.

In our follow-up, we found that the Bereavement Authority standardized the presentation, timing and content of licensing decisions involving suspensions, revocations, refusals, and discipline. However, the Bereavement Authority stated it deals with conduct issues that have sensitivities beyond what a consumer would normally encounter in a regulated sector. Therefore, the Bereavement Authority will only release brief, general details regarding allegations to protect the privacy of the consumers involved, and to prevent emotionally victimizing other uninvolved families that may have used the same provider in the past.

The Bereavement Authority stated that by publishing the licensee's name and the type of general licensing action taken, a consumer is informed and can make their decision whether to use the provider or not. Therefore, there is no additional benefit in publishing more details about an incident beyond current practice

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority's inspectors are not required to set time frames 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.

In our follow-up, we found that the Bereavement Authority implemented the use of a time tracking system for all inspectors to document their inspection time starting in July 2021. The Bereavement Authority requires all inspectors to record their time by the type of activity such as inspection travel time, on-site inspection, home office administration work and team meetings.

- *compare the actual time against budgeted time spent per inspection and identify reasons for significant discrepancies;*

Status: Fully implemented.

Details

In our 2020 audit, we found the Bereavement Authority could not assess whether its inspectors' time was used efficiently and effectively. 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.

In our follow-up, we found at the beginning of each inspection, the Inspection Manager establishes a budgeted time estimate for the inspection, using known information of the upcoming inspection such as the location and anticipated complexity and historical inspection results for the selected operator and type of inspection. The Inspection Manager records this estimated budgeted time for each inspection along with the date assigned, the inspector's name and the licensee name, on each inspection budgeting spreadsheet.

At the conclusion of each inspection, the Inspection Manager downloads the inspection time booked and then compares the actual time against budgeted

time spent. For all significant time discrepancies that are over 25% of the budgeted time, the Inspection Manager is required to hold discussions with the inspector to identify the reasons for the excessive time spent on the examination and to identify improvements for future examinations.

- *regularly review inspectors' caseloads and quality of work to identify areas for improvement in resource allocation and for training purposes;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority's management review of inspection files was not sufficient. Many of the files, although being signed off by the Inspection Manager of the Compliance Unit, were still incomplete and there was no documentation of any areas needed for correction or improvement to assist the inspectors in completing future inspections.

In our follow-up, we found that since July 2021, the Bereavement Authority Inspection Manager now regularly reviews each inspectors' workload. After each inspection is completed, the Inspection Manager reviews the details and quality of the inspection report and other inspection-related documents and provides direct feedback to the inspector. Where necessary, the Inspection Manager will recommend improvements on inspection files if any improvements are needed (including if there are concerns over missing supporting documentation or the completeness of all files) and the Inspection Manager will send back the inspection report and file to the inspector to make these improvements before the inspection file is signed off by the Inspection Manager.

- *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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority's inspectors' work files were incomplete. 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 our follow-up, we found that starting in July 2021, the Bereavement Authority established a policy requiring the inspectors to complete and store supporting documentation within 30 days after the inspection date. As part of the managerial review of files, the Inspection Manager verifies all inspection files are completed and all required supporting documents are uploaded.

We also found that starting in July 2021, the Inspection Manager reviews each inspection file and provides direct feedback to the inspector. Where necessary, the Inspection Manager will recommend improvements on inspection files if any improvements are needed (including if there are concerns over missing supporting documentation or the completeness of all files) and the Inspection Manager will send back the inspection report to the inspector to make these improvements before the inspection file is signed off by the Inspection Manager.

- *conduct a performance review, at least on an annual basis, for each inspector.*

Status: Fully implemented.

During our 2020 audit, we found that performance appraisals were not done for any of the inspectors because a formal policy was not in place.

In our follow-up, we found that starting in July 2021, a performance review program started for all inspection staff. The program includes feedback, performance evaluation, as well as self-appraisal with each inspector answering several self-assessment questions during their performance review process. The Inspection Manager provides feedback on things the appraisee does well, improvements to be made and any professional development courses or training that would benefit the inspector. This is to occur every six months going forward.

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.

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that 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. In contrast, the Board of Funeral Services (the Bereavement Authority’s predecessor) publicly reported more performance measures and related data of its inspections.

In our follow-up, we found that in September 2021, the Bereavement Authority proposed six draft performance measures relating to inspections to the Ministry, such as number of inspections by type (for example, proactive versus reactive) and the average time taken per inspection. In October 2021, the Ministry provided initial feedback on the draft performance measures. In July 2022, the Bereavement Authority submitted revised performance measures to the Ministry for further staff review. Ministry staff comments were received in August 2022. The measures were presented to the Bereavement Authority Board at its September 2022 meeting and approved. The measures are to be submitted to the Minister for approval. Once approved by the Minister, the Bereavement Authority is planning to post revised performance measures online and include them in its annual report. This is expected to occur by December 2022.

Consumer Complaints and Inquiries Poorly Tracked and Monitored

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;*

Status: Fully implemented.

Details

In our 2020 audit, we 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.

In our follow-up, we found that in March 2021, the Bereavement Authority created and implemented a written policy to define the process of handling inquiries and complaints. The policy defines when an inquiry becomes a complaint and sets out the process of escalation of complaints to intake for a determination as to whether an inspection or other enforcement action is warranted.

Based on the policy, staff review and discuss complaints at a weekly complaint meeting and a determination will be made if further action is warranted for the complaint, such as if an inspection is warranted, or whether there may be potential for legal or disciplinary action. The policy provides examples of factors when a complaint should be escalated for further action such as:

- the complaint reveals deficiencies of a regulatory nature, such as contract-related issues, overcharging, etc.; and/or
- the complaint reveals a violation of conditions of licence, failure to comply with a Registrar’s Directive, failure to respond to an inquiry for information, etc.

- *upgrade the functionality of its information system so that summary reports on the number and nature of complaints can be produced electronically;*
Status: In the process of being implemented by October 2023.

Details

In our 2020 audit, we 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.

In our follow-up, we found that in May 2022 the Bereavement Authority awarded a contract to an information technology company to implement a new customer relationship management system. This new core business application will replace the existing system to significantly improve the efficiency, accuracy, and productivity of the Bereavement Authority's business operations, including management of complaints and ability to generate reports on the number and nature of complaints received. The new customer relationship management system is expected to be implemented by October 2023.

- *instruct staff to record and update the status of complaints and inquiries consistently, accurately, and in a timely way;*
Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority staff did not enter data on complaints and inquiries into the information system consistently. In some cases, information in the system was missing or inaccurate.

In our follow-up, we found that in May 2021, training was provided to the Bereavement Authority staff who handle complaints on how to properly record and update the status of complaints and inquiries consistently, accurately, and in a timely way. The training was related to three new policies and procedures that were implemented in March 2021 related to entering an inquiry or complaint into the system, entering license

inquiries into the system and entering information into cases as well as closing cases in the system.

- *review the actual time taken to process complaints and establish a more reasonable turnaround time target.*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority had set a 60-business day target turnaround time for processing a complaint—meaning that a complaint should be resolved within 60 business 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. The average turnaround time for a sample of files averaged 20 business days, suggesting a target of 60 business days is too long.

In our follow-up, we found that effective April 2022, the Bereavement Authority adopted a new 30-business day timeline for closing complaints and a new response timeline for licensees to respond to complaints from 10 business days to five business days. This was developed based on a review of previous complaints and the time it took to close those. In addition, to meet the new target response timelines, the Bereavement Authority hired a third complaints officer to deal with complaints.

Review of Large-Scale Death Plan Requires Better Co-ordination

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.

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Provincial Mass Fatality Plan (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.

In our follow-up, we found that in July 2021, the Office of the Chief Coroner worked with the Bereavement Authority to update the Plan. The Plan includes information on human remains collection, body storage sites and the requirements for a temporary mortuary. In the Plan, the Bereavement Authority is listed as a resource for first responders. When necessary, the Bereavement Authority can communicate immediately with Ontario funeral homes and transfer service operators to obtain information on bereavement sector inventories and capacities by region.

Authority Has Not Followed Up to Licence Transfer Services in Faith-Based Community

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.

Status: Fully implemented.

Details

In our 2020 audit, we found that the Bereavement Authority and its predecessor, the Board of Funeral Services, had 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.

In our follow-up, we found that in January 2021, the Bereavement Authority created standard conditions for transfer service operator licences for faith-based operators who provide transfer services in Ontario. Licensing conditions restrict operations to allow a faith-based organization to only service members of its own faith-based community and not the public at large. The licence allows the faith-based organizations to legally provide transportation services to their members.

The Bereavement Authority announced these licensing changes in January 2021 and invitations to complete applications for licensure were sent to the faith-based operators. The Bereavement Authority is working with faith-based operators to successfully meet the requirements to obtain the new restricted transfer service licence. Twenty-one faith-based organizations that conduct transfer services for their members have been licensed by the Bereavement Authority. The Bereavement Authority is not aware of any additional (unlicensed) organizations providing transfer services in Ontario.

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

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that 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 for investigation. 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.

In our follow-up, we found that in May 2022, the Office of the Chief Coroner created a series of questions that must be answered to allow a coroner to review the circumstances surrounding a death before a cremation certificate is approved and cremation takes place. The Coroner is now required to document that each request has been carefully considered, and that their approval aligns with the existing cremation certificate procedure which was effective October 2021. When funeral home operators are making a cremation certificate request, they are also asked if there are any concerns related to the deceased which may warrant a death investigation. This information will be flagged for the investigating coroner responsible for the cremation certificate approval. As of May 2022, this information is now captured in the Office of the Chief Coroner's database.

To further increase the Office of the Chief Coroner's ability to collect and analyze data, in January 2022, the Death Analytics for Safety and Health Unit became operational. The unit applies public health sciences to analyze and disseminate death data, with a goal to advance community safety programs and services as well as prevention and intervention programs. This also includes the analysis and review of cremation certificate data to inform policy making decisions.

Since October 2021, Regional Supervising Coroners are also required to complete a standardized annual performance review for all coroners under their jurisdiction. The review will include an audit of cases investigated and several metrics including the number of cremation certificates issued. The documented performance review is to ensure a consistent approach to managing the performance of coroners, including oversight of the cremation certificate process by linking it to the coroner performance review.

- *develop a process whereby coroner certificates for cremation are issued more equally and proportionately by Ontario's coroners;*

Status: In the process of being implemented by April 2023.

Details

In our 2020 audit, we found that the Office of the Chief Coroner's 355 coroners approved a total of approximately 78,250 coroner certificates authorizing cremation of a dead body which is a legal requirement in Ontario. We also found that two coroners each approved about 2,200 coroner certificates for cremation in 2019/20; thereby, they each 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.

In our follow-up, we found that starting in October 2021, if the signing coroner works in a region where there is an on-call schedule for cremation certification approval, they must be on call to be eligible to complete the certificate. If for any reason, the on-call coroner is not available, the Regional Supervising Coroner should be contacted before the request is approved. These changes are to ensure the equal distribution of cremation certificate approval among the coroners.

The Regional Supervising Coroner is responsible for the oversight of cremation certificate distribution, which includes equitable distribution throughout the region and that cremation certificates are proportional to a coroner's relative investigation caseload. The Office of the Chief Coroner is developing a new service delivery model for death investigations which will include the development of a stand-alone policy on scheduling and caseloads. Additional staffing resources will also be considered to provide more oversight to ensure cremation certificates are linked to a coroner being on call. This model is expected to be implemented by April 2023.

- *eliminate the \$75 fee for coroner cremation certificates to align Ontario with the other jurisdictions that do not charge for them.*

Status: Will not be implemented. The Ministry of the Solicitor General and the Office of the Chief Coroner have no plan to eliminate the \$75 fee for coroner cremation certificates in Ontario. The Office of the Auditor General of Ontario continues to believe that this fee should be eliminated.

Details

Our 2020 audit found that each coroner certificate for cremation cost family members of the deceased \$75, which was paid entirely to individual coroners. 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. 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 the certificate.

In our follow-up, we found that the Office of the Chief Coroner does not accept this recommendation due to the legislative requirement for a cremation certificate and the public safety benefits of the cremation certificate approval process, such as the review of the medical certificate of death before the body is cremated, to identify deaths that might require investigation. This approval process also provides the last opportunity for families and others to express concerns about the death before the body is cremated and valuable evidence is lost.

Weak Environmental Oversight by Environment Ministry

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Environment Ministry never compared its list of Environmental Compliance Approvals of crematoriums with the Bereavement Authority's list of licensed crematoriums to ensure that both lists were up-to-date and complete.

In our follow-up, we found that in November 2021, the Environment Ministry cross-checked its listing of crematoriums with Environmental Compliance Approvals to the listings of licensed crematoriums provided by the Bereavement Authority. The lists were found to be 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;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that of the 81 total Environmental Compliance Approvals issued to 70 crematoriums, 35 (or 43%) were more than 20 years of age, with 25 crematoriums only having these older approvals. Older Environmental Compliance Approvals have less stringent terms and conditions than more recent ones.

In our follow-up, we found that in 2021 and early 2022, the Environment Ministry had assessed the conditions attached to each of the 76 crematoriums' Environmental Compliance Approvals as the first step to help develop a plan to update these Approvals. As part of this assessment, the Ministry found that:

- seven facilities had environmental compliance approvals with no cremator specific conditions;
- 14 facilities had Environmental Compliance Approvals that contain some conditions such as continuous monitoring conditions for temperature and oxygen; and
- 55 facilities have Environmental Compliance Approvals with conditions that were in line with the Ministry's current requirements for crematoriums.

Therefore, the Environment Ministry has identified 21 crematoriums that need to have updated environmental approvals. As the next step, the Ministry has held internal discussions on developing a project plan including establishing the scope and criteria to review and address each outdated crematoria Environmental

Compliance Approval. Three crematorium environmental approvals were updated due to the recent approval of incoming Environmental Compliance Approvals applications from these three crematorium operators. A plan is expected to be developed for the other 18 crematoriums by December 2022.

- *establish a plan to proactively and comprehensively monitor the air emissions of crematoriums at regular intervals.*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that only 44 (63% of the 70) 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.

In our follow-up, we found that starting in November 2021, the Environment Ministry undertook air inspection audits at all crematoriums, which were completed in July 2022. The audits evaluated compliance with the existing environment compliance approvals at each crematorium. The Ministry has issued all inspection reports and is continuing to work on individual compliance plans.

The Ministry is reviewing the compliance status of each crematorium facility along with additional risk criteria, such as:

- proximity of the crematorium to residential areas, schools, hospitals, etc;
- history of complaints related to crematorium operation; and
- how current the crematorium's air emission modelling is based on the age of Environmental Compliance Approval to determine compliance with air standards.

Using the above risk analysis, the Ministry will rank all crematorium facilities and develop a plan by December 2022 to determine potential requirements for monitoring air emissions of crematoriums at regular intervals. Under the plan, those crematoriums

identified as the highest risk are to be prioritized for action, which may include:

- the requirement to update air Environmental Compliance Approval;
- the requirement to undertake air emissions monitoring that may include source testing and/or continuous emissions monitoring in stack; and/or
- placement of the facility on a list for enhanced compliance oversight.

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;*

Status: Fully implemented.

Details

Our 2020 audit found that the Environmental Protection Act gives the Ministry of the Environment, Conservation and Parks (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. 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.

In our follow-up, we found that in September 2021, the Bereavement Authority surveyed all licensed funeral homes to determine if the entities had a current hazardous waste generator number. These results were shared with the Environment Ministry. The Bereavement Authority found all licensed funeral homes except

one funeral home had the required hazardous waste generator number. This funeral home obtained the hazardous waste generator number in October 2021.

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

Status: In the process of being implemented by March 2023.

Details

Our 2020 audit found that of the 390 funeral homes registered with a hazardous waste generator number, 178 (46%) paid no manifest fees (associated with hazardous waste shipments) between 2015 and June 1, 2020.

In our follow-up, we found that the Environment Ministry cross referenced information from the September 2021 survey conducted by the Bereavement Authority with data in the Ministry's Hazardous Waste Information Network to determine if funeral homes requiring registration were properly registered and/or shipping hazardous waste. Using this information to target non-compliant funeral homes with the highest risk that could be generating hazardous waste, the Environment Ministry is planning to conduct inspections of 336 licensed funeral home establishments in the 2022/23 fiscal year to confirm that any hazardous waste generated is being disposed of properly. For the period April 1, 2022–June 30, 2022, the Ministry completed 137 of the 336 inspections. Initial analysis from the inspections completed indicates that the majority of non-compliances were administrative in nature.

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

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;*

Status: In the process of being implemented by January 2023.

Details

During our 2020 audit, we found that the Bereavement Authority could be more proactive to stay on top of emerging technology such as alkaline hydrolysis.

In our follow-up, we found that in early 2021, the Ministry of Public and Business Service Delivery met with the Ministry of Labour, Immigration, Training and Skills Development, (formerly the Ministry of Labour and Training, Skills Development); Ministry of the Environment, Conservation and Parks; and Ministry of Health to determine if these ministries had capacity or expertise in conducting research on the health and safety of emerging technologies for disposing human remains. However, these ministries indicated that they do not have the expertise or capacity to conduct the required research and that such research is out of their scope. The Ministry performed a jurisdictional scan of United States, United Kingdom, and Australian jurisdictions for existing and proposed legislation regarding the legalization and regulation of human composting as a means of disposing of human remains.

In April 2021, the Ministry corresponded with a stakeholder group that advocates for the licensing of natural organic reduction operators in Ontario. This group provided contact information for a number of researchers in various jurisdictions that could assist the Ministry. Between September 2021 and July 2022, the Ministry contacted select experts, jurisdictions, and government entities in an attempt to gather research literature, such as peer reviewed studies, to help evaluate the safety of this technology.

The Ministry also posted a consultation paper in June 2021, which stated that the Ministry was proposing to work with public health experts to establish a research process to confirm the safety of new alternative disposition technologies, and sought feedback from the public about who would be most appropriate to conduct such research.

The Ministry has to determine the next steps to take regarding establishing a standardized research process

to confirm the safety of new alternative disposition technologies. It is planning to engage the Bereavement Authority and other relevant partner ministries and Public Health Ontario in discussions as necessary. This is expected to be completed by January 2023.

- *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.*

Status: In the process of being implemented by January 2023.

Details

In our 2020 audit, we found that between April 2018 and May 2020, the Bereavement Authority 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 our follow-up, we found that in early 2021, the Ministry communicated with bereavement sector regulators and government staff in Saskatchewan, Alberta, Nova Scotia, Quebec and British Columbia to determine their rules with respect to the licensing of emerging technologies, among other topics.

The Ministry also received feedback from the Ministry of Labour, Immigration, Training and Skills Development about examples within the *Occupational Health and Safety Act* where a precautionary approach is used where something such as the use of new technology or the ability to operate specific equipment is permitted only once it has been determined to be safe.

The Ministry posted a consultation paper in June 2021, seeking public comments regarding potential legislative and/or regulatory changes to ensure that providers of any emerging alternative disposition technologies are not automatically eligible to apply for a licence under the *Funeral, Burial and Cremation Services Act, 2002* until the health and safety of the technology has been confirmed through research, without altering current licensing of alkaline hydrolysis operators.

The evaluation of options about how to proceed with this recommendation was deferred due to the provincial election in June 2022. The Ministry notes

that this allows for additional consideration, further analysis, and refinement of the options in order to determine the best path forward. The Bereavement Authority has not received any new applications to license operators using new disposition technologies during the time the government has been considering next steps regarding the safety of new technology. The Ministry plans to provide a proposal regarding new technology for consideration by the government by January 2023. If the government decides to proceed with proposing legislative changes, the Ministry would be directed to prepare a Bill for introduction into the Legislative Assembly.

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

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;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that 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 inspections at these operators. 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.

In our follow-up, we found that the Bereavement Authority met with the Ministry of Health in February 2021 to discuss what is involved in public health inspections as compared to the inspections conducted by the Bereavement Authority. The Ministry of Health

agreed to follow up on the feasibility of developing an inspection and disease control checklist for Bereavement Authority inspectors. However, this work was initially put on hold given that the focus of the Ministry of Health and Public Health Units was on the province's COVID-19 response. This work will not proceed due to work demands on the Public Health Units.

In lieu of a Public Health Unit inspection checklist, the Bereavement Authority drafted a detailed Letter of Attestation for all Class 1 funeral homes and transfer service operators in February 2022 that is going to be part of the annual licence renewal process. The Letter of Attestation requires all Class 1 funeral homes and transfer service operators to report on the physical condition of their embalming and holding rooms. The Bereavement Authority is planning to incorporate the Letter of Attestation as part of its funeral home and transfer service operator licence renewal process starting in November 2022.

The Bereavement Authority met with the Ministry of Labour, Immigration, Training and Skills Development (formerly the Ministry of Labour, Training and Skills Development) in September 2021. They decided upon an information-sharing approach and agreed to collaborate on developing an Information Sharing Agreement regarding inspections being completed by the two organizations. The Agreement was signed by both parties in July 2022.

- *estimate the costs of comprehensive inspection covering all key areas, if they were mainly carried out by the Bereavement Authority;*

Status: No longer applicable.

Details

During our 2020 audit, we noted 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 inspections at these operators. 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.

In our follow-up, we found that the Bereavement Authority indicated that estimating the costs of a comprehensive inspection were based on the Bereavement Authority taking on the inspection activities of other regulators such as the Ministry of Labour, Immigration Training and Skills Development and the Public Health Units. Based on outreach to both parties in 2021, there was no interest on the part of these groups to combine inspections. The Bereavement Authority does not have any authority to require the Ministry of Labour, Immigration, Training and Skills Development and the Public Health Units to merge their inspection activities with their inspection function. Therefore, estimating the costs of a comprehensive inspection is not being considered further.

Partially as a result of the need to direct resources to other activities in response to the COVID-19 pandemic, Public Health Units have stopped performing certain inspections of licensed funeral homes and other operators, and the Letter of Attestation for all Class 1 funeral home and transfer service operators will allow the Bereavement Authority to collect information that the Public Health Unit's inspections used to collect. Additionally, the Information Sharing Agreement between the Bereavement Authority and the Ministry of Labour, Immigration, Training and Skills Development (as discussed in the first action item in **Recommendation 18**) will define the roles and responsibilities of both parties to ensure that both parties' inspections cover the different areas they are each responsible for related to licensed funeral homes and other operators.

- *review the licensing fees needed to cover the estimated cost of comprehensive inspection function;*

Status: No longer applicable.

Details

During our 2020 audit, we noted that 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 inspections at these operators. 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.

In our follow-up, the Bereavement Authority indicated that estimating the costs of a comprehensive inspection were based on the Bereavement Authority taking on the inspection activities of other regulators such as the Ministry of Labour, Immigration, Training and Skills Development and the Public Health Units. Based on outreach to both parties in 2021, there was no interest on the part of these groups to combine inspections. The Bereavement Authority does not have any authority to require the Ministry and Public Health Units to merge their inspection activities with their inspection function. Therefore, estimating the costs of a comprehensive inspection is not being considered any further and therefore no requirement to review licensing fees. As noted in the first action item in **Recommendation 18** that Public Health Units have stopped performing certain inspections, the signed Information Sharing Agreement between the Bereavement Authority and the Ministry of Labour, Immigration, Training and Skills Development (as discussed in the first action item in **Recommendation 18**) defines the roles and responsibilities of both parties to ensure that both parties' inspections cover the different areas they are each responsible for, this appears to be appropriate.

- *establish a memorandum of understanding with public health units and the Ministry of Labour to specify their new roles and responsibilities over inspection.*

Status: Fully implemented.

Details

During our 2020 audit, we noted that there is no Memorandum of Understanding between the Bereavement Authority, Public Health Units and the Ministry of Labour to specify the roles and responsibilities in inspections and what information should be shared on a regular basis.

In our follow-up, we found that in February 2022, the Ministry of Labour, Immigration Training and Skills Development and the Bereavement Authority decided

on an information-sharing approach and drafted an Information Sharing Agreement, which included each parties' roles and responsibilities. The Bereavement Authority and the Ministry of Labour, Immigration, Training and Skills Development signed an Information Sharing Agreement in July 2022.

Due to work demands on Public Health units, in February 2022, the Bereavement Authority proceeded to create a detailed Letter of Attestation that all Class 1 funeral home and transfer service operators must complete and submit annually to the Bereavement Authority at the time of licence renewal starting in November 2022.

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

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the results of a Bereavement Authority survey sent randomly to about 47,030 Ontarians was that close to half of respondents were not aware of the existence of the Bereavement Authority and close to three-quarters of respondents had no opinion as to how well the Bereavement Authority administered the provisions of the *Funeral, Burial and Cremation Services Act, 2002*.

In our follow-up, we found that starting in 2021, the Bereavement Authority developed an annual communications plan for the year, focusing on sharing family and consumer protection information with all Ontarians. This has resulted in the Bereavement Authority taking a number of actions to increase public awareness of it. This includes advertising in a number

of different mediums, including through Facebook targeted promoted posts, in a quarterly consumer protection magazine and making social media posts on LinkedIn and Twitter.

- *establish additional performance measures and targets to evaluate its effectiveness in achieving its mandate;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found numerous performance measures that were reported in other jurisdictions but were not being used by the Bereavement Authority at the time of our audit.

In our follow-up, we found that in September 2021, the Bereavement Authority submitted revised performance measures to the Ministry of Public and Business Service Delivery, (formerly the Ministry of Government and Consumer Services), for review and feedback. These included measures that are in use by other jurisdictions and/or sectors, including the average amount of refund issued as a result of a complaint, percentage of complaints resulting in disciplinary action and customer satisfaction surveys that include questions on the courtesy and knowledge of staff, timeliness of service, handling and addressing of complaints and processing of licensing renewals. The Ministry provided initial feedback on the draft performance measures in October 2021. In July 2022, the Bereavement Authority submitted revised performance measures to the Ministry for further staff review. Ministry staff comments were received in August 2022. The measures were presented to the Bereavement Authority Board at its September 2022 meeting and approved. The measures are to be submitted to the Minister for approval. The Bereavement Authority is planning to publish these performance measures, if approved by the Minister, online and include them in its 2023/24 annual report. The Bereavement Authority is planning to release its 2023/24 annual report in the summer of 2024. Minister approval for the performance measures is expected to be sought by December 2022.

- *approve agreed-upon regulation changes in a timely manner;*

Status: In the process of being implemented by January 2023.

Details

In our 2020 audit, we found that the Ministry was slow to approve and implement proposed regulation changes.

During our follow-up, we noted that in April 2021, the Ministry made regulatory changes related to licence display and price transparency requirements which came into force on July 1, 2021 and to the cemetery care and maintenance fund/account framework which came into force on January 1, 2022.

The Ministry posted a consultation paper in June 2021, seeking public input on potential proposals, including potential changes to not permit licensing of new disposition technology providers until the safety of the new technology has been confirmed, to expand the compliance and enforcement tools available to the Bereavement Authority and to permit the Bereavement Authority's Registrar to order a municipality, in certain circumstances, to operate a cemetery that appears abandoned or neglected. The evaluation of options about how to proceed with **Recommendation 8** related to compliance and enforcement tools and **Recommendation 17** related to licensing of new disposition technology providers, and to address concerns raised by stakeholders, was deferred due to the provincial election in June 2022. The Ministry notes that this allows for additional consideration, further analysis, and refinement of the options in order to determine the best path forward.

This recommendation is in the process of being implemented, with an anticipated deadline of January 2023, subject to government decision-making and legislative priorities.

- *effectively communicate and consult with each other regularly on key areas;*

Status: Fully implemented.

Details

In our follow-up, we learned that the Ministry holds regular quarterly meetings with the Bereavement Authority's senior management team to discuss the oversight requirements set out in the Administrative Agreement between the Ministry and the Bereavement Authority, emerging issues, and to seek feedback on potential legislative and/or regulatory proposals. There is also now ongoing regular communication between the Ministry and the Bereavement Authority that includes:

- regular (quarterly) meetings between the Assistant Deputy Minister and the Bereavement Authority's CEO; and
- Deputy Minister meetings with the Bereavement Authority's CEO as needed.

There is also ongoing informal staff correspondence and discussions about ongoing or emerging issues. The Bereavement Authority also provides feedback to the Ministry in response to any email requests sent by the Ministry.

- *reduce the number of Board members to the appropriate staffing ratio;*

Status: No longer applicable.

Details

In our 2020 audit, we 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.

In our follow-up, we noted that there was an increase in the number of Bereavement Authority staff from 25 in 2020 to 37 in early 2022. Therefore, the Bereavement Authority Board concluded the ratio between the number of Board members and staff is now more appropriate. Furthermore, the Board decided that reducing the number of Board members would increase the remaining Board members' workload and ultimately result in less effective Board governance.

- *to elect or appoint Board member(s) who advocate for consumers.*

Status: Little or no progress.

Details

In our 2020 audit, we found that the 10-member Board did not have representatives from consumer advocate groups who could provide input from the consumer perspective.

In our follow-up, we found that the Bereavement Authority Board of Directors is still considering whether to elect or appoint Board member(s) who would advocate for consumers. The recommendation is to be discussed at a November 2022 Board meeting to consider if further action will be taken on this matter.

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;*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Board mostly focused on high-level and emerging issues in the sector, such as the financial health of the Bereavement Authority and the policy considerations related to cemetery care and maintenance funds and accounts. The Board put a lesser focus on the overall operations of the Bereavement Authority and did not receive complete, accurate and up-to-date information to enable it to question enough about the effectiveness of the Bereavement Authority in meeting its mandate.

In our follow-up, we found that in November 2021, the Bereavement Authority has established new and enhanced reporting to the Board through the use of expanded CEO and Registrar Reports to assess the operational effectiveness of the organization. The CEO

report presents updates relating to the organization. It includes evaluation of the following categories:

- **People and Culture:** includes any changes to the Bereavement Authority's organizational chart, the number of full-time hires and any vacancies, and updates on employee engagement or professional development.
- **Sector intelligence:** includes the evaluation of market conditions and other specific issues.
- **Business plan dashboard:** includes any improvement or changes in business processes and the status of the business plan.
- **Contracts and procurements:** includes any contracted items over \$50,000 and any items of note under \$50,000.
- **Information technology:** A full report has been included as a separate agenda item in the Board package, as the CRM updates are always discussed in detail during every Board meeting.
- **Litigation:** includes any non-regulatory litigation matters.
- **Finance:** A full report has been included as a separate agenda item on the Board package.

The Registrar's Report includes quantitative evaluations of specific data such as:

- **Service Standards and the current average number of days for turnaround time.**
- **Statistics for Operator Licensing:** includes the number of licensed locations/sites, processed applications, cemetery sites transferred etc.
- **Personal licensing statistics:** includes the number of individual licensees (active or licensed with conditions) for each type of licence class.
- **Complaints:** includes the number of year-to-date consumer inquiries, consumer complaints and licensee inquiries, as well as the percentage increase or decrease compared to last year.
- **Watchlist:** includes the number of licensees added, number of licensees removed and the total licensees on the watchlist.
- **Intake:** includes the total number of cases referred to Intake, the number of cases referred to Inspections / Complaints / Registrar / Legal and the number of cases with no further action.

- **Number of inspections:** includes the number of inspections for each licence class for 2021 and 2020.
- **Financial compliance:** includes how many licence renewals, care and maintenance and prepaid fund reports are processed by the Financial Compliance team
- **Registrar's actions:** includes the year-to-date number of licence refusals, revocations, suspensions, conditions and immediate suspensions.

As a result, the Board is provided more complete and up-to-date information from Bereavement Authority management through these reports.

- *re-evaluate the need and cost-effectiveness of establishing the Discipline Committee and the Appeal Committees.*

Status: Fully implemented.

Details

In our 2020 audit, we found that the Board has not conducted any cost/benefit analysis of whether the establishment of the Discipline Committee and the Appeal Committee is cost-effective as opposed to other enforcement measures such as administrative monetary penalties, with an appeal function.

In our follow-up, we found that in January 2021, the Bereavement Authority's Board of Directors agreed to move ahead to establish the Discipline Committee and the Appeal Committee after the need and cost-effectiveness of these two committees was considered.

The enforcement alternative that was considered (implementation of administrative monetary penalties) would have required changes to legislation and regulations to allow them to be used. The Bereavement Authority's Board of Directors concluded administrative monetary penalties were not an alternative to the Discipline Committee and Appeal Committee but could be used as an enforcement tool in addition to the Discipline Committee and the Appeal Committee.

Currently, the Registrar has very limited enforcement tools available (by being able only to issue proposals to either suspend, revoke or place conditions on a licence). These actions are subject to appeal before the Licence Appeal Tribunal. Therefore, Discipline and

Appeal Committees would provide another compliance mechanism and would be especially useful in cases that do not warrant a full licence revocation.

The Board of Directors approved membership of the Discipline and Appeal Committees in June 2021 after a six-month recruitment process. In January 2022, training was provided to the appointed Discipline Committee members.