

Challenging Quebec’s Bill 66: Restoring Quebec Families’ Rights to Care for Their Own after Death

Community Deathcare Canada, Legislative Committee

November 23, 2017

Community Deathcare Canada, along with many concerned citizens in Quebec and other Canadian provinces, seek to challenge Quebec’s new Bill 66, which imposes restrictive limitations on the rights of next of kin to provide care for a loved one after death, without funeral industry involvement. Through awareness and advocacy activities, we hope to clarify and restore the original rights of Quebec citizens regarding after-death care, while providing for the necessary medical and legal safeguards. We call on Quebec lawmakers and public officials to reconsider and revise current legislation, in order to reinstate the rights of families to perform their own funeral rites without government-required commercial business involvement.

[Community Deathcare Canada](#) is an emerging non-profit group, representing the needs and interests of Canadians who seek to re-engage with dying and deathcare in more meaningful, holistic, and environmentally sustainable ways. We imagine a culture where death is reclaimed as an honoured part of life, and believe in the healing and transformative possibilities of a more intimate and participatory relationship with dying and deathcare. We acknowledge that families and their loved ones have the inherent wisdom and the rights, both moral and legal, to care for their own dying and dead with any guidance and support they may choose. Our legislative committee monitors and responds to legal matters related to dying and deathcare in Canada, including the recent limitations imposed by Bill 66 in Quebec.

In all other provinces of Canada, families continue to maintain their legal right to provide after-death care for a deceased next-of-kin without involvement of funeral industry professionals. Families may transport, provide after-death care, complete required paperwork, and arrange for disposition of their deceased loved one, without hiring funeral industry professionals or services.

This is a fundamentally Canadian ideal—that individuals, families, and households have the right to choose whether to care for their loved ones after death or to hire a third party to take care of those duties for them. It is unacceptable that Quebec has reneged this fundamental Canadian right by crafting new legislation that protects the business interests of funeral industry providers over the rights of Quebec citizens.

Few occasions are as trying or intimate for any family as a death; it is especially unfortunate that families should be legally compelled to engage in an expensive and unnecessary commercial transaction when death occurs. While it is true that a minority of Quebec

families will choose to provide their own after-death care, and most will prefer to rely on funeral directors, it is the right to make that choice that we seek to reinstate.

Quebec's Bill 66 obligates citizens to hire a private business—at considerable cost—to perform something they may otherwise want to do themselves. Consider these other common life events: In all provinces, expectant mothers may have their babies at home; fathers may take leave from work to care for their children; and engaged couples may plan and carry out their own weddings without hiring professional planners or caterers. **All Canadians should have the right to be cared for at home by their families as they near the end of life, and after they die, if they so choose.**

Until the nineteenth century, the Canadian funeral was almost exclusively a family affair—family and close friends performed most deathcare duties, including washing and laying out the body, building the coffin, digging the grave. Over time, the funeral industry developed with practices and recommendations that became accepted as the norm. Families lost touch with traditional methods and values, though many rural and less affluent families throughout the country, as well as certain religious and cultural groups, continued to care for their own after death. Unfortunately, most people (including some in critical positions who should be aware, such as medical examiners, vital statistics staff, hospital personnel and others) do not know that family-directed after-death care is a legitimate option.

In recent years, a growing number of Canadians have sought to return to these earlier customs—customs our great-grandparents would instantly recognize and consider a normal part of family life. We contend that it is the role of government to assist citizens by passing fair and reasonable legislation that enables them to fulfill the responsibilities related to family-led after-death care with relative ease while ensuring compliance with vital statistics, laws and relevant regulations.

- A funeral can be one of the most expensive purchases a family makes aside from a house, a car, or post-secondary education. A full-service conventional funeral often costs more than \$10,000. By contrast, a household willing to file the correct paperwork and transport the deceased to the crematory themselves can spend less than \$750. Quebec citizens willing to be self-sufficient when a death occurs should not be prevented from doing so by laws that compel them to spend money they don't have.
- The basic legal requirements for the certification and recording of deaths are similar across Canada. They are designed to ensure that deaths are certified by medical professionals, both for the detection of foul play and for accurate health and disease information, and to ensure that the body is buried, cremated, or donated to anatomical science within a reasonable period. While the particulars vary (e.g., some provinces require disposition of the body within a certain number of days), these

basics are universal. In most cases, all that is required at death is a properly completed and filed death registration, permits for transport and disposition, and the body's actual disposition. Ceremonies, caskets, obituaries and embalming are options left to the consumer's discretion, and are not requirements of the law.

- The myth of alleged public health risks from dead or un-embalmed bodies is at the heart of disingenuous efforts to influence legislation that disempowers families, as we have witnessed in Quebec's Bill 66. According to Dr. Michael Osterholm of the Center for Infectious Disease Policy and Research, "...the mere presence of a dead body without regard to its embalmed status and one that is not leaking blood from an open wound or perforation, does not pose any increased risk of infectious disease transmission for the person who might handle that body or review it in a private setting. Once a human dies, infectious agents that would be of any concern, including those on the individual's skin or internal organs, is greatly diminished... there simply is no measurable risk of that body transmitting an infectious disease agent. The use of embalming is of no consequence in reducing this risk...."¹
- Funeral directors have no forensic legal role in any death. Their function, when hired by families, is to complete the non-medical portion of the death registration and to file it with the municipal registrar. It is important to note that it is the family who supplies the biographical information on the decedent; the funeral director merely transcribes the data.
- Once the death is registered, the registrar will issue a burial/transit or cremation permit. Completing this paperwork requires no special skills or knowledge, and there is no legitimate legal or practical reason why the next-of-kin cannot do so. Mothers who give birth at home, for example, may complete and file a birth certificate.

In order to ensure that Quebec citizens can reclaim their right to care for a loved one after death, we propose the following language for adoption or adaptation by Quebec legislators:

Nothing contained in this section/title shall be construed to prohibit the next-of-kin or designee(s) from carrying out the disposition and funeral services of the decedent privately and without hiring a funeral establishment. Such kin and designees shall not be required to be licensed

¹ 1 Dr. Osterholm's complete testimony can be accessed at http://www.funerals.org/faq/pdf-pamphlets/doc_download/217-dr-osterholm-letter-on-embalming-and-public-health-2009. Additional scientific information on the lack of health risk from the dead is collected in Funeral Consumers Alliance's white paper, "Dead Bodies and Disease: The Danger That Does Not Exist". <https://funerals.org/?consumers=dead-bodies-disease-danger-doesnt-exist>

funeral directors in order to carry out the tasks associated with the disposition, including but not limited to, preparing, filing and obtaining necessary certifications and permits, preparation of the body (not including embalming), transport of the body to the place of final disposition, and any desired ceremonies. No agency or department may promulgate any regulation that interferes with these rights and abilities except in cases of demonstrated and immediate threats to public health or safety. No agency or department shall refuse to furnish necessary authorizations to the next-of-kin or designee(s) provided those designees correctly supply information and/or paperwork that satisfy provincial laws. Nor shall any agency or department require the family to hire or otherwise engage a commercial funeral establishment to accomplish such tasks.

Elected legislators cannot be experts in all the subjects with which they must deal, and they understandably turn to the purported professionals for advice in crafting laws. Without a countervailing opinion from outside the commercial funeral industry, lawmakers can be misled by funeral trade groups about the so-called “necessity” of enacting anti-consumer restrictions, cloaked in the language of “protecting the public health,” which is a misleading and unfounded argument.

Community Deathcare Canada counts members from across Canada with years of practical experience in helping to educate and support families in caring for their own after death, and can offer Quebec lawmakers valuable testimony and advice.

In conclusion, it is our fervent wish that Quebec legislators and policymakers broaden their frame of reference and work to create funeral laws that empower families to choose dignified, reasonable and compassionate care of their deceased loved ones that reflects their family’s values, without compelling commercial transactions and without legal prejudice.

*This statement from Community Deathcare Canada borrows significant content from the National Home Funeral Alliance’s document: “Restoring Families’ Right to Choose: the call for funeral legislation change in America,” revised Sept. 1, 2015. www.homefuneralalliance.org