

BAO

Bereavement
Authority of
Ontario

Consumer
Information
Guide

A Guide to Death Care in Ontario

Everything you need to know.



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Losing a loved one can be a difficult and stressful time.

Whether you need to arrange a funeral, burial, cremation or transfer service now, or are planning ahead for yourself or someone else, this guide can help you make an informed choice.

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This guide was created to inform consumers of their rights and responsibilities when planning funerals, burials, transfer services or cremations. This guide will walk you through the steps you need to take to ensure that you protect yourself as a consumer.

Visit www.thebao.ca to learn more.

The Bereavement Authority of Ontario (BAO) administers provisions of Ontario's *Funeral, Burial and Cremation Services Act, 2002* on behalf of the Ministry of Government and Consumer Services as part of Consumer Protection Ontario.

Consumer Protection Ontario is an awareness program delivered by Ontario's Ministry of Government and Consumer Services and other public organizations. It offers information on consumer rights and public safety, and directs you to the appropriate agency if you have a complaint or dispute with a business.



LEGAL DISCLAIMER

Please note that this guide is provided for general information only. Use of this guide is not intended to act as a substitute for legal advice or as a replacement for the *Funeral, Burial and Cremation Services Act, 2002*. Readers are encouraged to retain qualified and independent legal counsel to answer any legal questions or address any legal issues. Where there is any discrepancy, the Act and regulations will take precedence.

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Terms You Need to Know

Alkaline Hydrolysis: A chemical process that uses a solution of water and potassium hydroxide or sodium hydroxide to reduce a body to components of liquid under pressure and bone. Remaining bone fragments are dried and reduced to a substance similar to cremated ashes.

Care and Maintenance Fund: A trust fund that helps ensure the long-term upkeep of a cemetery.

Casket: A container intended to hold a dead human body for funeral, cremation or interment purposes that is not a vault, burial container or grave liner.

Cremation: A process that uses incineration to reduce a body to an ash or granular substance.

Columbarium: A structure designed for the purpose of interring cremated human remains in niches or compartments.

Crypt/Mausoleum: A structure, other than a columbarium, used as a place for the interment of human remains in tombs, crypts or compartments.

Grave: A place for burial of human remains, typically a hole dug in the ground and marked by a stone or mound.

Interment: The burial of human remains, including the placement of human remains in a lot (grave, crypt or niche.)

Interment rights: The right to require or direct the interment of human remains in a lot or the disinterment of human remains from that lot.

Lot: An area of land in a cemetery containing, or set aside to contain, interred human remains and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium and any other similar facility or receptacle.

Niche: A space in a columbarium or mausoleum wall to hold an urn.

Scattering rights: The right to scatter cremated remains in a cemetery.

Provider: The operator of a cemetery, crematorium, funeral establishment or transfer service.

Supplies: Caskets, markers and monuments, vaults, urns and flowers.

Transfer Service: A service to the public with respect to the disposition of dead human bodies, including the transportation of dead human bodies and the filling out of necessary documentation with respect to the disposition of dead human bodies.

Vault: A secondary container that is protective, rigid, sometimes waterproof, and usually made of concrete, fiberglass, plastic or similar reinforced material, within which the primary casket, coffin or urn containing human remains is placed prior to burial in the ground.

1. Before making arrangements

One of the first things to determine after someone dies is who has the authority to decide what will happen to the body of the deceased.

WHO HAS THE LEGAL AUTHORITY TO MAKE DECISIONS?

Generally, the person(s) appointed as the Estate Trustee(s) has the legal authority to make such decisions. Ontario has statutes and common law to determine who may act as the legal representative(s) when a person passes away without a valid will. The ultimate decision maker will be specific to the circumstances of each case but will generally default to a court-appointed Estate Administrator or the deceased's next of kin.

Here is a partial list of who may act as the legal representative:

1. Estate trustee, also called an executor or executrix, who is named in the will (or an administrator appointed by the court)
2. Spouse
3. Adult children (18 and over)

Laws with respect to the handling of the deceased person's body are different than the use and inheritance of interment rights. If you are the legal representative, the Provider may ask you to provide photo identification and proof of your authority, such as a valid will or court order, before making arrangements. To learn more visit www.ontario.ca and search for the phrase "What to do when someone dies".

WHEN IS IT NECESSARY TO USE A PROVIDER?

You may contact either a funeral establishment or a transfer service to have the deceased person transferred from the place of death.

A family member of the deceased may carry out the funeral and transfer services (with the exception of arterial embalming), if those services are provided at no charge and/or benefit. For burial or cremation, you must involve a cemetery or crematorium. Refer to the chart on page 8 to see the types of service offered by each Provider.

HOW TO CHOOSE A PROVIDER

When choosing a Provider:

- Consider recommendations from family or friends.
- Talk with more than one Provider at different facilities about their services. Make sure you are confident that they understand and are able to meet your needs.
- Ask the Provider for a price list and written price estimate to assist you when comparing prices and services.
- Ask for and review a copy of the cemetery's by-laws.

HOW DO I DONATE A BODY OR ORGANS?

To donate organs for transplant, or the entire body for scientific research, arrangements must be made quickly and directly with health professionals. To learn more, contact the Trillium Gift of Life Network at www.giftoflife.on.ca.

SERVICES PROVIDED

The following chart outlines the types of services usually offered by Providers. You may purchase certain supplies, such as caskets, monuments, markers and flowers from any supplier, but you should notify your Provider prior to entering into a contract.

Description of Service	Service Provider			
	Funeral Establishment	Transfer Service	Cemetery	Crematorium
Removing the body from the place of death	✓	✓		
Placing the body in a casket and delivering it to a cemetery or crematorium	✓	✓		
Registering the death	✓	✓		
Arranging to transport the body of the deceased out of Ontario	✓	✓		
Wash and dress the body	✓	✓*		
Transport the body to or from a place of worship	✓	✓*		
Hosting memorial services, celebrations of life and receptions including the rental of facilities (no body or cremated remains present)	Can be hosted by anyone			
Coordinating religious and non-religious funeral services or receptions including the rental of facilities (with the body or cremated remains present)	✓			
Embalming	✓*			
Providing caskets, urns, vaults and flowers	✓	✓	✓	✓
Providing in-ground graves			✓	
Providing crypts in a mausoleum			✓	
Providing niches in a columbarium			✓	
Providing monuments	✓	✓	✓	✓
Providing places to scatter cremated remains			✓	
Providing openings and closings of graves, niches or crypts			✓	
Conducting cremation or alkaline hydrolysis				✓
Providing viewing of cremation				✓

* Must have class 1 licence

2. Making some important decisions

When making arrangements, there are important decisions you will have to make.



WHAT ARE SOME FUNERAL OR MEMORIAL SERVICE OPTIONS?

A celebration of someone's life helps surviving family and friends grieve the loss of a loved one. You can choose a funeral, memorial or graveside service. A service may be private (by invitation only), or public (open to anyone). Other options are to have a public or private visitation/viewing, a funeral procession, or practice any other respectful social, traditional or cultural ritual.

IS A CASKET REQUIRED AND WHAT ARE THE OPTIONS?

You may buy or rent a casket or provide your own, however a Provider can refuse to accept outside caskets. If you choose to provide your own casket and a Provider allows it, then a Provider may not charge you extra, as long as it is safe, appropriate for the intended use, and meets the requirements of the cemetery or crematorium.

Caskets vary in style, and prices may range from a few hundred to several thousand dollars.

Keep in mind that some caskets cannot be used for cremation, because they are made of materials that will not burn. Price lists should clearly indicate which caskets are not suitable for cremation. If you are uncertain, ask the Provider for written confirmation of suitability. The casket must also meet cemetery and crematorium by-laws. Caskets are not used during the alkaline hydrolysis process.

WHAT IS EMBALMING AND IS IT REQUIRED?

Embalming is the process of replacing blood and bodily fluids with a chemical solution to temporarily preserve the body. In Ontario, embalming is not required by law, however, in some instances a Provider may recommend it due to the length of time between death and the visitation, burial or cremation. Ask your funeral establishment representative to explain the process of embalming so that you can make an informed choice.

WHAT BURIAL OPTIONS DO I HAVE?

With burial, the deceased is placed in a grave with or without a casket. A rigid container may be required to transport the body. A casket is required when placing the body in a crypt. Check the cemetery's by-laws for its specific burial requirements.

In Ontario, the body or cremated remains must be buried in a licensed cemetery.

For burial in a grave you may purchase a vault or outer liner to further protect the body in the casket. This container is placed in the ground and is usually made of concrete or fiberglass. Generally, it is not mandatory to use a vault or outer liner unless required by the medical officer of health.

For burial in a crypt (entombment) the casket is placed in a sealed crypt in a mausoleum. A mausoleum is usually an above-ground structure made of concrete, stone or marble that contains a number of crypts. Not all cemeteries have mausoleums.

HOW DO I TRANSPORT HUMAN REMAINS OUT OF THE PROVINCE?

A deceased person's body may be moved outside of Ontario once a Provider has obtained a certificate from a Coroner.

If a deceased person is being transported to another country, then embalming and a sealed casket or container may be required by the receiving country or the transportation company.

If you choose to transport human remains (including cremated remains) out of Ontario, you must also follow the laws that apply in the receiving province or country. Contact a Provider for details or visit www.catsa.gc.ca/cremated-remains

WHAT CAN BE DONE WITH CREMATED/ALKALINE HYDROLYSIS REMAINS?

With cremation or alkaline hydrolysis the deceased's body or skeletal remains are reduced to an ash or granular substance. The remains are then placed in a small box or urn along with a metal identification tag. You may provide your own urn or purchase one from a Provider. Check the crematorium and cemetery by-laws for the type and size of container allowed. If you choose cremation or alkaline hydrolysis, it is strongly recommended that you make plans for the final disposition of the remains.

A Provider can store remains for up to one year and may charge a deposit for this service. If the remains are claimed within one year the deposit will be refunded in full. After one year the Provider may use the deposit to inter the remains in the common grounds of a cemetery.

WHAT ARE INTERMENT/SCATTERING RIGHTS?

Interment rights refer to the right to bury human remains (including cremated remains) in a lot (grave, crypt or niche). If you are named on the interment rights certificate, you are the interment rights holder, and may request a burial or disinterment, or place a decoration, marker, monument or inscription on the monument, as long as you follow the cemetery's by-laws

If you are the scattering rights holder, you may scatter cremated remains in a designated place within the cemetery, in accordance with its by-laws.

Note: Ownership of all cemetery land remains the property of the cemetery owner. Interment rights and scattering rights holders acquire only the right to use the lot or scattering grounds and to have a marker or monument installed, in keeping with the cemetery's by-laws.

SCATTERING: WHAT IS PERMISSIBLE IN ONTARIO?

Here are some choices:

- You may buy rights to bury or scatter the remains in a designated part of a cemetery. Scattering rights may not be available at all cemeteries.
- You may buy rights to place the cremated remains in a niche (or compartment) in a columbarium.
- Although the burial of cremated remains is not permitted outside a licensed cemetery, you may scatter the ashes or cremated remains on private property with the written consent of the land owner.
- You may also hire a Provider to scatter the remains. Only a Provider is permitted to charge you for this service.
- You may also scatter the cremated remains on unoccupied Crown lands and Crown lands covered by water so long as there are no signs prohibiting scattering.
- If you wish to scatter cremated remains on municipally-owned lands, check local by-laws first.
- For more information, visit www.ontario.ca and search for the crown use policy

WHAT SHOULD I KNOW ABOUT BUYING INTERMENT OR SCATTERING RIGHTS?

Before you make a purchase, each cemetery must provide:

- Its current price list;
- Its by-laws; and
- An explanation of any restrictions on the rights you are buying (such as restrictions on memorialization options, monuments, etc.).

Contact a cemetery directly, compare prices and review the by-laws before you decide where to inter or scatter your loved ones remains. Your contract will specify the number of interments (bodies or cremated remains) or scatterings you are entitled to with each interment or scattering right.

Part of the money you pay for interment and scattering rights will be placed in a care and maintenance fund. Income earned from this fund is used to maintain the cemetery for the future. The care and maintenance contribution depends on the type and cost of the interment rights.

RESELLING INTERMENT OR SCATTERING RIGHTS

You may resell interment or scattering rights to a third party if the cemetery by-laws allow it. If you resell, you must inform the cemetery operator, who will then transfer the rights to the new owner. You cannot resell rights for a price greater than the price on that cemetery's current price list. If the by-laws do not allow you to resell the rights to a third party, the cemetery operator must buy them from you at the price on the cemetery's current price list, less any payments that were made to the cemetery's care and maintenance fund. A cemetery operator may charge an administration fee when you resell your rights. The cemetery does not have to buy back rights for a grave in a plot (two or more lots originally bought as a unit) if one of those graves has been used.

ARE THERE ANY TYPES OF FINANCIAL ASSISTANCE PROGRAMS?

If you do not have enough money to pay for funeral or transfer services or for cremation or burial, you may be eligible for assistance from your local municipality. Speak to your Provider and/or municipality, and take the appropriate follow-up measures **before** you sign a contract with a Provider.

If approved, the municipality's financial assistance plan may limit your choice of casket, urn or grave and related services. Some municipalities may require that you pay a portion of the cost.

3. Your contract

When you make arrangements with a Provider, you may want to bring a family member or friend along with you as the process can be stressful. Once the supplies and services are selected, you will be asked to sign a contract with the Provider.

WHAT SHOULD I KNOW BEFORE SIGNING A CONTRACT?

Make sure you are dealing with a licensed Provider (ask to see their licence).

Ensure you have read and obtained the Provider's price list to make choices you can afford.

Review the cemetery's or crematorium's by-laws for any special rules that you must follow, including restrictions on the purchase of supplies and services.

Make sure the contract has details about the things you have agreed to buy or rent, such as:

- Services, facilities and vehicles
- Casket, urn, vault, grave, crypt, niche or monument
- Any other payments (for newspaper notices, police escorts, honorarium for religious officials, catering, etc.)
- Any applicable taxes and commissions or benefits the Provider will receive for referrals

If the supplies and services you have purchased are not available at the time of need, you must be provided with supplies and services of equivalent value, at no additional cost.



DID YOU KNOW?

For the contract to be valid (referred to as "enforceable"), it must be signed by you and the Provider. Ensure that you receive a signed copy. The Provider will explain your cancellation and refund rights.

HOW DO I CANCEL A CONTRACT?

In some cases, you may cancel your contract in writing at any time before the supplies or services have been provided.

Here is the cancellation process in most cases:

1. Give written notice to the Provider stating that you want to cancel the contract.
2. Within 30 days of providing written notice, the Provider will refund your payment for any supplies or services that you have not yet received.
3. The amount of your refund will depend on when you cancel and whether the Provider has incurred costs.

CANCELLING A CONTRACT FOR INTERMENT OR SCATTERING RIGHTS

You may cancel contracts for interment and scattering rights by giving written notice of cancellation to the Provider:

- If written cancellation is submitted within 30 days of the purchase and if you have not used the rights, you will receive a full refund.
- If written cancellation is submitted later than 30 days of the purchase, you will receive a refund of the amount paid or the market value (whichever is greater), less the amount deposited into the cemetery's care and maintenance fund.
- In accordance with the by-laws of the cemetery, you may be required to resell the rights on the open market .
- Where cancellation is not permitted after 30 days, you are able to sell interment rights to a 3rd party.

YOUR CONTRACT CHECKLIST

The Provider must give you a copy of the contract upon signing and other important documents. Make sure your contract includes:

- The name of the person who is paying for the contract (the purchaser).
- The name of the person for whom the supplies or services are to be provided (the recipient/the deceased).
- The name of the licensed operator you are dealing with (the Provider).
- A description of the supplies or services you have chosen and details of when and how they are to be provided.
- The price of each supply or service, taxes and the total price.
- All payment, cancellation and refund policies, including the right to change your mind and cancel the contract.
- For interment rights, make sure the contract also includes the detailed location and description of the grave, crypt or niche.
- A copy of this guide.
- For scattering rights, make sure the contract also includes the location and description of where the scattering may occur.

Your Provider must also give you the following documents:
 - A copy of the cemetery's or crematorium's by-laws.
 - A certificate of interment rights or scattering rights once these rights are paid in full. The certificate must include the name of the person who can legally authorize an interment or scattering.



DID YOU KNOW? BE SPECIFIC.

Review the contract and price list carefully and ask questions to ensure that all of your requirements and expectations are specified. For example, if you want jewelry removed before the casket is closed, make sure these details are included in the contract.

4. Pre-arranging and prepaying

Many people plan ahead to prepare for their death, and some choose to pay in advance for their final arrangements.

WHY IS PLANNING AHEAD A GOOD IDEA?

- It saves your family and friends from having to make many difficult decisions during a time of grief.
- It gives you a say in planning your own arrangements.
- It gives you time to assess and compare your options.
- Prepaying may reduce or eliminate the financial burden on your family.

WHAT HAPPENS UPON DEATH?

Your legal representative (such as the estate trustee, etc.) should take your pre-arrangement documents to the Provider to show proof of payment, discuss arrangements and to make any changes to the contract if necessary.

If a supply or service is no longer available, one of two things may occur:

1. Your Provider may make a reasonable substitution, but at no extra charge. Substitutions must be similar in value, style, design and construction to what is included in your contract.
2. Your legal representative may cancel that part of the contract by providing written authorization or may enter into a new contract.



DID YOU KNOW? DISCUSS YOUR PLANS

After your death, your legal representative may, by law, change your pre-arranged funeral, burial or cremation plans. It is important to discuss your wishes with him or her and your family.

DO I HAVE TO PAY IN ADVANCE?

No, you can simply pre-arrange your supplies or services without prepaying. Some Providers may keep a record of your arrangements at no cost - ask your Provider about this service. If you decide to prepay, your Provider will ask you to sign a contract. See “Your Prepayment Checklist” on page 21.

HOW CAN I PREPAY MY CONTRACT?

With most Providers, there are two ways to prepay:

Trust:

1. You can pay the money to the Provider to be held for you “in trust”, either at a bank, trust company or with an independent trustee. It will earn income over the years until it is needed to pay for the supplies or services you have requested.

Insurance/Annuity:

2. You can buy insurance from an insurance company. Your Provider may have an insurance program in place. With this option, you should buy enough insurance to cover the costs of your pre-arranged supplies or services at the time of need. The insurance company will then pay the Provider at the time of your death. If you buy insurance directly from an insurance company, you will still need to have a contract in place with a Provider to have the insurance policy assigned directly to them.



DID YOU KNOW? TRUST AND INSURANCE

Refunds on cancellation of prepaid contracts funded by trusts differ from those funded by insurance policies. It's a good idea to learn as much as you can before you talk to a Provider.

HOW DO I BUY INSURANCE TO PAY FOR PRE-ARRANGED SERVICES?

Buying insurance is a two-step process:

1. You must sign a prepaid contract with your Provider for the services and supplies you choose.
2. You must sign an insurance contract (called “the policy”) with the insurance company to pay the Provider for the supplies and services. The policy will set out the rules you and the insurance company must follow, including payment of any fees, your right to cancel the policy and any rights you may have to a refund.

Ask your Provider to explain the advantages and disadvantages of their prepaid trust and insurance options.

IMPORTANT: If you don't understand what your Provider is asking you to sign or to pay for, stop. Ask more questions. Alternatively, you can find another Provider who will explain things more clearly.



DID YOU KNOW? CANCELLATION CHARGES

Ask about any fees, interest, financing and cancellation charges that may apply and the total cost of making monthly payments. In most cases, you will save money by paying in full rather than over time.

WHAT HAPPENS IF PRICES INCREASE AFTER I'VE PREPAID?

At the time of death, the money held in trust (or the insurance proceeds), will be used to pay for the supplies and services set out in the contract. Costs will be based on prices in effect at the time of death. Whether you will be required to pay additional charges depends on whether your contract is guaranteed (see below). Your Provider must give the legal representative a statement showing:

- The amount your insurance will pay for your prepaid supplies or services, or the amount held in trust to pay for them (including income earned); and
- The current cost of the supplies or services you requested.

If prices have gone up, the income (interest or growth) is used to offset the increase in costs.

If you have a guaranteed contract: You (or your legal representative) will not be asked to pay more for supplies or services, as long as you have met the terms of your contract. Taxes are not guaranteed. You will have to sign the contract and pay for any services, supplies or taxes that were not included in the prepaid contract. All prepaid contracts entered into on or after July 1, 2012, must be guaranteed.

If you have a prepaid contract signed prior to July 1, 2012, it may not be guaranteed: You (or your legal representative) may have to pay additional costs to cover the higher prices. For example, if you have an existing non-guaranteed contract for which the price of supplies and services is \$8,000 at the time of death, and the value of the trust or insurance is \$7,500, your estate will owe the Provider \$500.

WHAT HAPPENS IF THERE IS MONEY LEFT OVER AFTER EVERYTHING IN THE CONTRACT IS PAID FOR?

The answer depends on the date of your contract and the laws that applied at the time you signed:

- For cemetery or crematorium contracts signed on or after April 1, 1992, and funeral or transfer service contracts signed on or after June 1, 1990, leftover money will be paid to the estate. The law does not require a refund for contracts entered into before these dates.
- For funeral and transfer service contracts entered into after July 1, 2012, the purchaser can select a person who can receive leftover money.

WHAT HAPPENS IF I WANT TO CANCEL OR CHANGE MY PREPAID CONTRACT?

You, your legal representative or another person named in the contract may cancel or change your prepaid contract at any time before the supplies or services are provided. You must give the Provider notice in writing.

You may or may not receive all of your money back. The following rules apply:

- If your money was to be held in trust and you cancel within 30 days of the date you entered into the contract, you will receive a full refund.

- After 30 days, you will receive a refund plus any income earned, but the Provider may retain 10% of the amount paid to a maximum of \$350. In addition, the Provider is required to refund the income earned or the income that would have been earned on the money had it been deposited as required by law.
- With rare exception the Provider will retain the value of the supplies and services that have been provided prior to cancellation.
- Cancellation of a prepaid contract does not necessarily cancel the related insurance policy. Cancellation fees for an insurance policy vary. Before you buy or cancel an insurance policy, you should clearly understand the implications of the insurance company's cancellation policy.

HOW IS MY PREPAID MONEY PROTECTED?

Ontario law protects your prepaid money in several ways:

- When you prepay, your Provider must give you a contract that states the total amount of money you have paid to-date and the terms of payment for any balance you owe.
- If you prepay with a funeral establishment for funeral supplies and services or a transfer service for transfer supplies and services, your money is protected by a compensation fund which is used to return money to consumers if, in rare cases, their prepaid money is not available when needed. The fund will cover losses only if you prepaid with a licensed funeral establishment or transfer service.
- The Provider is required by law to choose only safe investments for prepaid trust funds.
- You are entitled to ask your Provider at least once each year where and how the money is invested and how much money you have in your trust account.
- If you buy an insurance policy to fund your pre-arranged contract, you will pay the insurance company directly. Your money is protected under the Insurance Act.

YOUR PREPAYMENT CHECKLIST

Keep the following documents in a safe place where your legal representative(s) can easily find them and give a copy to the person who will likely be making the arrangements.

The Provider will give you:

- A signed contract that sets out the supplies and services you requested and their price. If the contract includes embalming, you will be asked to provide written consent for this step
- An interment or scattering rights certificate (once these rights are paid in full)
- A receipt for the money you paid to be placed in trust OR a copy of your insurance policy and enrollment form
- Copies of any other documents you have signed

For your own records, you should keep:

- Your cancelled cheques or electronic payment records
- Receipts as proof of payment

Remember to ask:

- About the advantages and disadvantages of paying by insurance or having your prepaid money held in trust
- Where your money will be invested, and the type of investment and expected growth
- What your refund will be if you cancel your insurance policy
- About the guarantee that must be provided on all prepaid contracts entered into on or after July 1, 2012
- What fees will apply if you choose to cancel the contract

5. Complaints

Consumer protection, in a marketplace that is safe, secure and professional, is a priority for the Bereavement Authority of Ontario.

The BAO reviews complaints pursuant to the *Funeral, Burial and Cremation Services Act, 2002*.

While the BAO attempts to resolve disputes wherever possible, the parties are strongly encouraged to attempt to resolve their concerns directly with the Provider before contacting the BAO. The Registrar's authority in handling complaints is limited to the scope of the *Funeral, Burial and Cremation Services Act, 2002* and its regulations.

The Registrar cannot award damages.



For more information on making a complaint visit www.thebao.ca or email complaints@thebao.ca

To learn more about...

Funerals, burials, cemeteries, crematoriums,
and transfer services contact:

Bereavement Authority of Ontario

www.thebao.ca

(647) 483-2645 | (844) 493-6356

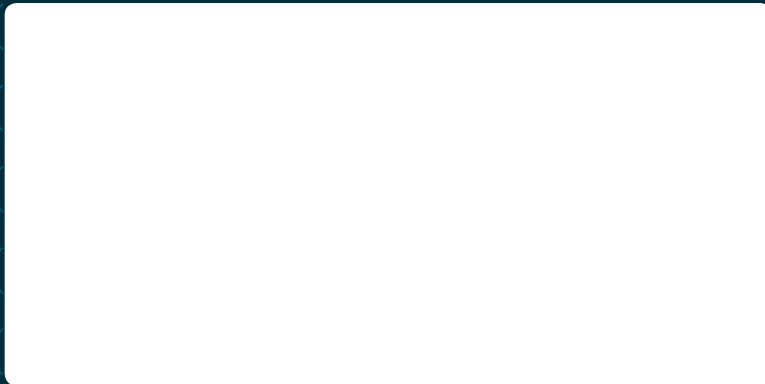
info@thebao.ca



Funeral, Burial and Cremation Services Act, 2002,
and its regulations:

www.e-laws.gov.on.ca

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