OSPG Policy Update, May 2020

OSPG is determining its policy approach in a number of key areas as we work towards fully implementing the *Professional Governance Act* (the PGA) in the fall of 2020. Below you will find updates on these key policy areas.

## Advocacy

The PGA requires regulatory bodies to only act in an advocacy role in accordance with the PGA, and allows for additional rules, conditions or limits to be set in regulation. The policy intent is that regulatory bodies avoid activities that may lead to the perception, or reality, that the regulatory body is putting the interests of registrants ahead of the public interest.

The OSPG will not be setting additional rules, conditions or limits in regulation at this time. OSPG has developed guidance to assist regulatory bodies in ensuring their activities are focused on their statutory duty and responsibilities: regulating registrants and serving and protecting the public interest.

The guidance provides some questions for regulatory bodies to consider and asks them to note their reasoning for carrying out an activity that may not directly relate to their statutory duty and responsibilities.

## Declarations of Competence and Declarations of Conflict of Interest

The PGA requires professionals to provide declarations that they are competent and free from real or perceived conflicts of interest when engaged to provide professional services.

Given the complexity of this policy area, OSPG does not intend to bring the requirements for declaration of competence and declarations of conflict of interest into force with the rest of the PGA in Fall 2020. OSPG will work with government and with industry in evaluating when specific project-based declarations of competency and declarations of conflict of interest may be necessary, which will inform the policy approach and the implementation of the PGA declaration requirements in the future.

The following measures will support registrants in meeting the intent of declarations and will be put in place when the PGA comes into force:

As part of the annual renewal of registration process, regulatory bodies will be requiring registrants to self-declare the specific areas or aspects of the profession in which they maintain competency to practice. These annual declarations will be published on the register, beginning with the first registration renewal for a regulatory body after the PGA is in force.

To support registrants having a strong understanding of their conflict of interest obligations, regulatory bodies may enhance guidance, their credentialing process, and their continuing education requirements. Additionally, as firms become regulated, they will be required to promote and verify compliance of their staff with the firm’s conflict of interest policy (required in their Professional Practice Management Plan).

More details on competency declarations and the above measures will follow from OSPG and the regulatory bodies.

## Duty to Report to Regulatory Bodies

The PGA requires registrants to report the practice of an identified registrant when there is reasonable and probable grounds to believe that the identified registrant’s practice may pose a risk of significant harm to the environment or to the health and safety of the public or group of people. This reporting duty extends to an employer or partner of an identified registrant when employment or partnerships are impacted because of the risk of harm from the identified registrant’s practice.

OSPG and regulatory bodies will collaborate to develop and promote guidance needed for registrants and for other persons (employers and partners) to understand this duty. Guidance will be rolled out after the PGA is in force. OSPG’s focus will be on promoting compliance with the duty to report rather than seeking to enforce compliance.

Regulatory bodies may put additional obligations on their registrants to report when a registrant’s conduct is in question or when the registrant is out of compliance the PGA or a regulatory body’s bylaws.

Persons who report an identified registrant or who assist in a complaint or prosecution are protected from reprisals. Regulatory bodies and OSPG will put protocols in place for ensuring reprisal complaints are addressed.

## Firm Regulation

The PGA allows a regulatory body to regulate firms when it has been extended the authority through regulation and has developed the necessary bylaws to do so. Regulated firms must become registrants of the regulatory bodies and like individual registrants, must comply with the requirements of the PGA, subsequent regulations and the bylaws of the regulatory bodies.

Engineers and Geoscientists BC (EGBC) has worked towards the regulation of firms for many years, building upon the experience of other jurisdictions in regulating engineering firms. Therefore, they will be given authority in Fall 2020 to regulate firms that provide engineering and geoscience services, with a target commencement of their program in July 2021.

The regulatory program for firms being developed by EGBC is centered on Ethics, Continued Education, and Quality Management. EGBC’s program is influenced by at least three factors: EGBC’s similar, voluntary Organizational Quality Management (OQM) program for firms that they have run successfully for several years; the Association of Professional Engineers and Geoscientists of Alberta (APEGA)’s firm regulation program; and the International Organization of Standardization (ISO)’s quality management systems. The regulation of firms will allow for greater accountability of professional firms, align a firm’s professional obligations with the obligations of its professional staff, while providing an educational and value-added program for the registrant firms.

Other regulatory bodies may develop regulatory programs and be granted authority to regulate firms in the future, building upon the experience and lessons learned from EGBC. How multi-disciplinary firms may be regulated in the future is an important policy area that requires further development.

## Practice Rights

The PGA specifies that all five regulatory bodies (EGBC, ABCFP, BCIA, CAB, and ASTTBC) may be granted reserved practices, often known as practice rights. This means that the ability to practice a profession is reserved for registrants of that regulatory body, with the exception of persons who may practice aspects of the profession in accordance with another legislation. Practically speaking, it means that a person must register with a regulatory body and meet all their professional, ethical and competency standards in order to offer their services as a professional.

Under their current legislation, EGBC and ABCFP’s regulated practices are already reserved, meaning that anyone who independently practices as an engineer, a geoscientist, or a forest professional must be a registrant of the appropriate regulatory body. These reserved practices will continue under the PGA.

Following the PGA coming into force, certain practices of CAB, BCIA and ASTTBC may be reserved, along with clear provisions and timelines for when these would come into effect (likely after several years). These three regulatory bodies are working on proposals of what their reserved practice may look like. OSPG intends to engage the interested public on the proposed new reserved practices and will consider this input in regulation development.