

OSPG Guidance: Declarations of Competency and Conflict of Interest

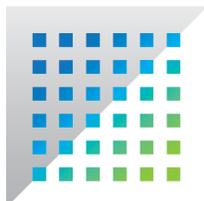
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OSPG Guidance: Declarations of Competency and Conflict of Interest

Purpose:

This guidance document outlines the measures expected to be put in place by regulatory bodies once the PGA is in force as well as the approach that will be taken to complete policy work prior to implementing the declaration provisions at a later date.

Context:

The *Professional Governance Act (PGA)* includes provisions in Part 6, Division 2, that require registrants to submit declarations of competency and declarations of conflict of interest when they are engaged to provide services within their regulated practice. Sections 59 - 62 of the PGA specify the requirements for competence declarations and conflict of interest declarations, the procedure for registrants, and disclosure, guidelines and directives. These sections will not be brought into force with the rest of the PGA. Measures that meet the intent of the declarations provisions will be put in place first and policy work will continue to prepare for sections 59 - 62 coming into force at a later date.

Policy Intent:

The intent of the declaration provisions is to ensure that professionals in their fields are accountable to the obligations in their code of ethics, including:

- practicing only in those fields where training and ability make the registrant professionally competent;
- providing accurate information in respect of qualifications and experience;
- avoiding situations and circumstances in which there is a real or perceived conflict of interest and ensuring both real and perceived conflicts of interest are properly disclosed, and necessary measures are taken so a conflict of interest does not bias decisions or recommendations.

Measures to be put in place once the PGA is in force will support the accountability of professionals and contribute to meeting the policy intent of the declarations.

Regulatory bodies have a role to play in ensuring systems are in place to hold professionals accountable to these ethical obligations. These systems include:

- Setting categories of registrants and specializations, and credentialing registrants against these categories;
- Monitoring registrant competence within those categories;
- Ensuring registrants keep their competence up-to-date through continuing professional education as appropriate;
- Ensuring registrants understand, and can identify and avoid conflicts of interest;
- Monitoring registrant actions to address real or perceived conflicts of interest in the course of their work;



Standards of Good Regulation:

The OSPG Standards of Good Regulation set out standards and criteria that will be considered when assessing regulatory body performance over time. The following Standards of Good Regulation relate to transparency and accountability in respect of registrant competency information:

- 1. The regulatory body provides accurate, accessible information about requirements for registration, standards, guidance, processes and decisions**
- 11. The regulatory body maintains and makes publicly available an accurate and complete register of professionals**

The following Standards of Good Regulation relate to the role of the regulatory body in setting standards of professional and ethical conduct and standards of competence and associated guidance:

- 7. The regulatory body maintains up-to-date standards of professional and ethical conduct and standards of competence**
- 8. The regulatory body provides up-to-date guidance to help registrants apply the standards; the guidance addresses emerging areas of risk and appropriately prioritizes**

Please refer to the Standards of Good Regulation document for further information about these standards.

Background:

The Professional Reliance Review noted that professionals self-determine whether they have the qualifications to undertake certain work with no checks or transparency to the public, clients, or authorities having jurisdiction. Assurance statements are only required in some cases, such as building codes. Declarations of competency were included as a solution to this gap.

Conflicts of interest were identified as a major concern during the Professional Reliance Review, resulting in declaration requirements to provide opportunity for registrants to demonstrate that they have considered whether they are in a state of real or perceived conflict of interest.

Feedback received from the PGA Intentions Paper on declarations of competency and conflict of interest made reference to the risk of duplicating existing competence accountability processes, such as assurance statements, seals, and signatures. Additionally, regulatory bodies emphasized that the administrative burden could be high for both competency declarations and conflict of interest declarations related to thresholds, filing processes, and roles.

The policy direction outlined here has been developed based on feedback to date and was presented and discussed at the March 2020 regulatory body meeting.

Policy Direction and Implementation:

Sections 60 - 61 will not be brought into force initially. Implementation of the declarations of competency and declarations of conflict of interest will follow a staged approach, beginning after the PGA is brought into force.

For declarations of competency:



- In stage one, registrants will need to self-declare areas of practice as part of an annual declaration and renewal process.
 - Regulatory body bylaws will require this information from registrants; the requirement for provision of this information should be linked to registrant in good standing status.
 - Self-declaration of areas of practice will be a requirement beginning with the first registration renewal period following the PGA coming into force.
 - Regulatory bodies will need to publish registrant's areas of practice on the register and may include a disclaimer that this information is self-declared (see OSPG Guidance - Register for more information).
- In stage two, regulatory bodies should review the declared areas of practice and refine and standardize categories of areas of practice over time.
 - Regulatory bodies should work towards standardizing categories of areas of practice after two renewal periods, unless additional data is needed.
 - Within these areas of practice, regulatory bodies will develop specific competence requirements over the next several years to strengthen and evaluate ongoing competence.
 - Regulatory bodies may consider an increase in the number of restricted and specialized areas of practice where appropriate.
- In stage three, the OSPG will work with industry and government to evaluate where specific project-based declarations of competency provide value and may develop regulations that would implement sections 60 - 61 within this context.
 - The OSPG expects to continue policy work in this area throughout 2021.

For declarations of conflicts of interest:

- In stage one, regulatory bodies will work to ensure registrants have a strong understanding of their conflict of interest obligations through:
 - Guidance
 - Credentialing process
 - Continuing education
- In stage two, regulated firms will be required to promote and verify that registrants are meeting their conflict of interest obligations. Firms will be expected to have a conflict of interest policy and outline in their Professional Practice Management Plans how they will verify employee adherence to the policy.
- In stage three, the OSPG will work with industry and government, to evaluate where specific project-based conflict of interest declarations may be necessary and may develop regulations that would implement sections 60 - 61 within this context.
 - The OSPG expects to continue policy work in this area throughout 2021