

Professional Governance Act (PGA)

Implementation Update

April 16, 2021 – Rebecca Freedman and Kate Haines

Agenda

1. Overview of professional governance
2. Regulatory framework of the PGA including practice rights
3. Duty to report and regulation of firms
4. Standards of Good Regulation and OSPG Operations

1. Overview of Professional Governance



What is the PGA? Who is the OSPG?

- Both established in response to 2018's Professional Reliance Review
- The PGA is a common governance framework for regulated professions
- The OSPG is a new oversight office for regulatory bodies that administer those professions
- We are a small office under the Ministry of Attorney General (Justice Services Branch)

Why is professional regulation important?

- Self-regulation is a privilege granted through legislation to protect the public interest.
- Regulated professionals have an ethical and legal duty to put the interests of the public ahead of their own.
- Regulated professionals are granted exclusive rights to practice certain disciplines or use certain titles.
- This system helps the public understand who is qualified to practice in those areas.



Which professions are under the PGA?

- Association of BC Forest Professionals (ABCFP)
- Applied Science Technologists and Technicians of BC (ASTTBC)
- BC Institute of Agrologists (BCIA)
- College of Applied Biology (CAB)
- Engineers and Geoscientists BC (EGBC)
- Coming soon: Architectural Institute of BC (AIBC)



What stays the same under the PGA?

- Five regulatory bodies continue regulating the same professionals they did before
- Registrants still primarily interact with their regulatory body

What is new under the PGA?

- Regulatory bodies operate under the governance framework of the PGA, instead of their individual professional statutes
- OSPG has a new oversight role to ensure that regulatory body operations are in the public interest



2. Regulatory framework of the PGA

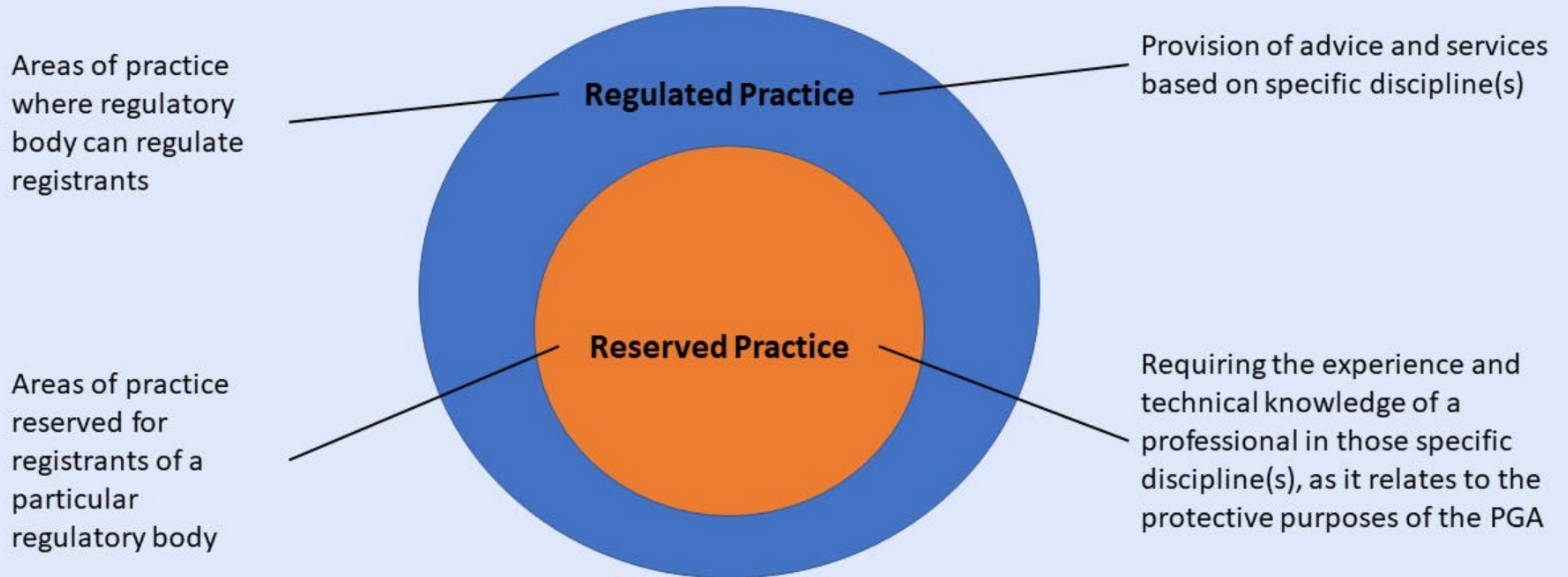
Governance under the PGA

- Statute: Enabling legislation that provides authorities for key structures and functions of a regulatory body (s 59–62 not in force)
- Regulations: LGIC regulations as required for the PGA to function
- OSPG Guidance: Where possible, expectations set out in guidance to regulatory bodies
- Bylaws: Mandatory bylaws as required by PGA, as well as for management, duties and purposes of regulatory bodies
- Reg Body Guidance: Supporting registrant practice and operational matters about governance

PGA regulations

- Professional Governance General Regulation (existing): additions for oath of office, firm regulation, administrative matters
- Professional regulations (new): sets out scope of regulated practice, reserved titles, and reserved practice (if any) for each regulatory body
- Transitional regulation (new): staggered elected councillor vacancies, consequential amendments to other regulations





PGA practice rights model – summary

Regulated Practice

- Goal for implementation: re-establish status quo from current statutes under the framework of the PGA (with some modernization)
- Regulated practices definitions ensure that all registrants are subject to regulation under the PGA
- All regulatory bodies follow formula of “provision of advice and services based on [discipline(s)] in relation to [specific matters]”



Pre-existing Reserved Practices

- Reserved practice carried forward for Engineering, Geoscience and Forestry
- Status quo re-established in framework of PGA, articulated in consistent, modern format
- Requiring the experience and technical knowledge of the professional, in the context of the public interest purpose of the PGA (public safety and environmental protection)
- Will be supported by materials published by OSPG and regulatory bodies
- Includes backstop referencing reserved practice definitions from repealed statutes

New Reserved Practices

- PGA provides for establishing new reserved practices – legislature has set out that BCIA, CAB, and ASTTBC are eligible to seek reserved practice
- Would ensure that all practitioners are qualified, competent and accountable by way of registration with a regulatory body under the PGA
- Superintendent is supportive of exploring reserved practice for those regulatory bodies, subject to appropriate process and engagement
- Process is quite far along for Applied Biology and Agrology (expect to come into force in 1-2 years) – may take more time for ASTTBC
- New reserved practices would be a subset of the regulated practices already granted
- Regulated practices of CAB and BCIA exclude areas of reserved practice already granted to other regulatory bodies under the PGA
- Will be based on the modern, consistent format set out for the existing reserved practices
- OSPG and regulatory bodies conducting further engagement prior to setting out details in regulation
- Employers and professionals will be supported in the transition to new reserved practices



“practice of professional engineering” means the provision of

- (a) advice or services that are based on an engineering discipline, or
- (b) advice or services that are ancillary to those described in paragraph (a);

“engineering discipline” means agricultural, biomedical, bioresource, biosystems, building, chemical, civil, computer, electrical, environmental, food, forest, geological, geomatics, industrial, marine, mechanical, mechatronics, metallurgical, mining, naval architecture, nuclear, petroleum, software and structural engineering and engineering physics;

- 5**
- (1) For the purposes of section 51 (1) (b) [*reserved practice*] of the Act, the practice of professional engineering, as it relates to matters that, having regard to the protective purposes, require the experience or technical knowledge of a professional engineer or professional engineering licensee, is a reserved practice that may only be carried out by or under the supervision of a registrant.
 - (2) Without limiting subsection (1), the reserved practice under that subsection includes the practice of professional engineering within the meaning of the former Act as it read immediately before its repeal.

“practice of professional forestry” means the provision of

- (a) advice or services in relation to trees, forests, forest lands, forest resources, forest ecosystems or forest transportation systems, or
- (b) advice or services that are ancillary to those described in paragraph (a);

- 4**
- (1) For the purposes of section 51 (1) (b) [*reserved practice*] of the Act, the practice of professional forestry, as it relates to matters that, having regard to the protective purposes, require the experience or technical knowledge of a professional forester or registered forest technologist, is a reserved practice that may only be carried out by or under the supervision of a registrant.
 - (2) Without limiting subsection (1), the reserved practice under that subsection includes the practice of professional forestry within the meaning of the *Foresters Act*, S.B.C. 2003, c. 19, as it read immediately before its repeal.

“protective purposes” means the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace.

PGA practice rights model – examples

3. Duty to Report and Regulation of Firms



Duty to Report

- New statutory duty on a registrant to promptly report another registrant to a regulatory body when s. 58 conditions met
- Duty extends to employers or partners of registrants
- Focus on significant harm to the environment or to the health or safety of the public or a group of people
- Reprisal protection
- OSPG and regulatory body guidance/training for registrants and employers in 2021



Firm Regulation

- PGA provides authority for firm regulation culture and work environment of professionals supports and aligns with their professional and ethical practice
- EGBC will start regulating engineering and geoscience firms July 2021
- Other regulatory bodies 2 to 5 years away from regulating firms
- Regulatory bodies and OSPG working collaboratively on method of delivery for multidisciplinary firms



Government Registrants

- Government registrants must be prescribed as firms – can be a ministry or agency of the government
- Phased approach to onboarding ministries: First are a selection of government entities engaged in engineering and geoscience
- MOTI, FLNRORD, WorksafeBC, Technical Safety BC, OGC (BC Hydro forthcoming)
- Other ministries will be brought on over time (e.g. EMLI, ENV)
- EGBC webinar online, ability to connect directly

4. Standards of Good Regulation and OSPG Operations

Transparency and Accountability	
1	Regulatory body provides accurate, accessible information about requirements for registration, standards, guidance, processes and decisions.
2	Regulatory body is clear about its duty and responsibilities, applies policies appropriately across all functions and avoids inappropriate advocacy.
3	Regulatory body applies a diversity and equity lens to processes and policies that impact its registrants and the people they serve.
4	Regulatory body takes action within its operations to support reconciliation with Indigenous peoples, including supporting the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).
5	Regulatory body examines and reports on its own performance, incorporates feedback, lessons learned and best practices across all functions.
6	Regulatory body assesses and mitigates risks to the environment or to the health and safety of the public in respect of its registrants.

Setting Standards of Competence and Conduct	
7	Regulatory body maintains up-to-date standards of professional and ethical conduct, standards of competence, and standards of practice
8	Regulatory body provides up-to-date guidance to help registrants apply the standards; the guidance addresses emerging areas of risk and appropriately prioritizes.

Education and Continuing Competence	
9	Regulatory body maintains up-to-date standards for academic requirements, trainee programs and continuing education programs (CEP) that prioritize public interest protection within the profession and Indigenous reconciliation.
10	Regulatory body works collaboratively with educational providers to support registrants in meeting identified outcomes through education and continuing education.

Registration	
11	Regulatory body maintains and makes publicly available an accurate and complete register of professionals.
12	Regulatory body has a registration process that is transparent, objective, impartial and fair.
13	Regulatory body enforces title and reserved practice based on risk and the response is targeted and proportionate.
14	Regulatory body confirms registrants continue to be in good standing.

Audits and Practice Reviews	
15	Regulatory body has a transparent, objective, impartial and fair process for proactively assessing the conduct or competence of its registrants.

Complaints and Discipline	
16	Anyone can raise a concern about a registrant related to incompetence, professional misconduct, conduct unbecoming a registrant, or a breach of the PGA, its regulations or the regulatory body's bylaws.
17	Regulatory body's investigation and discipline process is transparent, objective, impartial, fair, and allows for thorough, evidence-based and proportionate responses to complaints.
18	Regulatory body ensures all decisions are made in accordance with its processes, and are consistent with the PGA and its statutory objectives, the regulatory body's standards, and relevant case law.
19	Regulatory body prioritizes cases to protect the public interest and takes appropriate action.
20	All parties to a complaint are kept updated on the progress of their cases and can participate effectively in the process where appropriate.

OSPG Standards of Good Regulation

OSPG Operations Year One

- Set and update policies and regulations as needed
- Establish OSPG audit and investigation processes and year one plan
- Support the Architectural Institute of BC's transition to PGA
- Consider and recommend new designations
- Collaborate through the Professional Governance Advisory Committee
- Conduct research, evaluate our policies and guidance, and share best practices
- Communicate through OSPG website and annual report



OSPG

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