

# Professional Association Audit Report – College of Applied Biology

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## 1. Introduction

This report is one component of the Professional Reliance Review announced by the Minister of Environment and Climate Change Strategy George Heyman in October 2017. The Province is conducting a review of the professional reliance model of the natural resource sector to ensure the highest professional, technical and ethical standards are being applied to resource development in British Columbia. The Review has include several components, including assessing the enabling legislation and activities of professional associations that govern qualified professionals (QP), including the BC Institute of Agrologists (BCIA), the Applied Science Technologists & Technicians of BC (ASTTBC), the College of Applied Biology (CAB), the Engineers and Geoscientists of BC (EDBC), and the Association of BC Forest Professionals (ABCFP). This report provides the results of an examination of the College of Applied Biologists.

Professional reliance takes different forms across the natural resources sector, but in general terms is a regulatory model in which government sets the natural resource management objectives or results to be achieved, and professionals hired by proponents decide how those objectives or results will be met. Generally, government oversight focuses on monitoring, compliance and enforcement, rather than reviewing and approving plans or project designs. In doing so, government relies on the professionalism of the qualified professional (QP), the professional and ethical codes they are required to follow, and oversight by the professional associations to which they belong.

The Professional Reliance Review will make recommendations on:

1. Whether professional associations that oversee QPs employ best practices to protect the public interest;
2. Whether government oversight of professional associations is adequate; and
3. Conditions governing the involvement of QPs in government's resource management decisions and the appropriate level of government oversight to assure the public their interests are protected.

## 2. Approach and Scope

A multi-agency government team of 5 members met with representatives of the CAB to discuss how the association is meeting its obligations under the *College of Applied Biology Act (Act)*, and a number of issues relating to professional governance and professional reliance. A number of questions were provided in advance, and the CAB provided considerable information and document both before and during the interview, which was held on November 23, 2017.

The focus of this report is to assess whether and how the CAB is meeting its obligations under the *Act*, to help inform the Professional Reliance Review's consideration of Issue #1 above. The assessment includes issues such as: standards of enrollment, including continuing professional development and maintaining competency; code of ethics, including conflicts of interest; standards of professional conduct; and liability and professional negligence.

The interview team considered the current legislation, bylaws, formal submissions from CAB, documents publically available on the CAB website, and the information from interviews with CAB staff. This report does not address whether the *Act*, council bylaws or CAB policies and procedures employ best management practices to protect the public interest, but provides important information for that evaluation. This report is one part of a broader review that will consider comments from professionals, members of the public, government employees, and other professional regulators and governance experts, all of which will inform any recommendations that result from the project.

### **3. CAB Governance Context**

The *Act* came into force in 2002, establishing the College of Applied Biology (the College) to regulate applied biology professionals in BC. The legislative purpose of the College is to uphold the public interest by:

- Preserving and protecting scientific methods and principles;
- Upholding principles of stewardship; and
- Ensuring the integrity, objectivity and expertise of its members.

According to its website, the College regulates professional biologists and technologists to ensure that the government and citizens of BC can rely on sound resource management recommendations and decisions. The College has no legislated advocacy role for professionals – this function is provided by other groups, such as the Association of Professional Biologists. In their own words, the College advocates for use of professionals, but does not advocate on issues. Its mandates are to set standards for entry into the profession of applied biology and to hold its members accountable for their conduct and practice.

The College is a corporation comprising members of the College and a legislated council that governs and administers the affairs of the College. As required by the *Act*, the council consists of at least 5 councillors elected by practicing members and up to 3 non-members appointed by the Minister of Environment and Climate Change Strategy; a president and one or more vice presidents elected by members; and the immediate past president. Councillors serve on a volunteer basis only, receiving no remuneration other than to cover 'necessary and reasonable' expenses occurred while engaging in the affairs of the College.

The *Act* grants council the right to make rules (akin to bylaws) in relation to matters that the College regulates, such as membership requirements, rights and privileges; standards of conduct and

competence; and audit and disciplinary processes. Rules pertaining to the organization or duties of council, meetings of the College, and fees require ratification by members.

#### **4. Membership**

The *Act* prescribes 6 categories of membership: Registered Professional Biologists (R.P. Bio), Registered Biology Technologists (R.B. Tech), Applied Biology Technicians (A.B.T), Biologists in Training (B.I.T.), Registered Biology Technologists in Training (Trainee (R.B. Tech)), or Applied Biology Technician in Training (Trainee(A.B.T)). The *Act* grants members *right to title*, meaning members can use the professional titles associated with their membership category (i.e. R.P.Bio, R.B.Tech, A.B.T., B.I.T., Trainee (R.B.Tech), Trainee (R.B.T)), but does not grant *right to practice*. This means that the *Act* does not prohibit a person from working as a biologist, technologist or technician in BC if they are not a member of the College, and as such they would not be subject to the professional and ethical standards regulated by the College. The College currently has approximately 2300 registered members.

The *Act* enables council to establish a limited set of additional categories of members by making a rule. The College has made a submission to the Ministry requesting a legislative amendment to allow them to create additional new categories in response to ever-changing areas of practice in the profession, for example where an individual is practicing some form of biology but their primary degree is not in an area recognized by the current entrance requirements (for example, Environmental Science). The College has stated that regulating these practitioners, and ensuring they adhere to the Code of Ethics (see section 5 of this report), would increase accountability and protection of the public interest.

The *Act* grants council the authority to establish a credentials committee that advises on applications for enrolment, admissions, or reinstatements in all member categories. The College has established this committee, currently chaired by a Professor from the University of Northern British Columbia, to vet all applicants. The council does not accept members to the credentials committee who do not hold current R.P.Bio. status and have a minimum of 5 years current practice.

##### **4.1. Enrollment Standards for Professional Membership and License**

The *Act* enables council to make rules about the rights and privileges of members, as well as requirements and procedures for admission (or reinstatement) to the College. The College has established detailed rules pertaining to the qualifications required for membership in each membership category. These include education requirements specifying type of degree and coursework, and work experience requirements specifying type and duration. The College has indicated that they are working with academic institutions in BC and Alberta to align course offerings with the membership credentials requirements to establish a clear path for students towards becoming a professional biologist.

The standard application process includes academic requirements, work experience, and completion of ethics course and exam administered by the CAB. As an example, registration as an R.P. Bio requires an applicant to submit documentation demonstrating completion of a Bachelor's degree from a recognized post-secondary institution, in biology or another biological science. Coursework must include 25 science courses, 13 of which must be in biology, as well as requirements for higher level courses in applied

biology, ecology, statistics, systematics, cellular and organismal biology. Interdisciplinary requirements include at least one course in each of communications, mathematics and chemistry.

In addition, applicants for the title of R.P.Bio must demonstrate at least three years work experience practicing applied biology after graduation, including progressive use of professional judgement and discretion. These requirements are confirmed through references, as well as through the submission of at least one professional report that meets specified criteria. All member acceptances are conditional upon completion of an ethics course and achievement of 100% on an exam within 12 months. This is further addressed in the Code of Ethics section below.

The College reports that approximately 25% of the 100 applicants per year are denied membership in the first round. These applicants receive detailed instructions on how to address deficiencies in order to reapply. Applicants who are turned down can appeal to council and a new sub-set of the Credentials Committee would review the application.

The College reports that in spite of what they consider to be rigorous enrolment criteria, challenges remain to ensuring consistent professional standards across its membership because of the New West Provincial Trade Agreement (NWPTA) that guarantees labour mobility. As BC is a signatory to the agreement, the College believes it is required to accept applicants from other jurisdictions who hold a professional biology designation, regardless of whether they meet the College's credentialing rules. The College estimates that 13% of applicants who did not meet membership requirements in BC subsequently gained membership in the Alberta Society for Professional Biology, and then applied to the College through NWPTA. The College views this as an unintended consequence of the NWPTA agreement and has requested Ministry support to address this issue.

#### **4.2. Continuing Professional Development and Training**

In addition to ensuring members meet high enrolment standards, a key role of the College is to ensure members maintain and increase their competency. The *Act* enables council to make rules pertaining to a continuing education program for practicing members. The council has established the Continuing Professional Development (CPD) Program to meet this need, and has delegated administration of the program to the Audit and Practice Review Committee (APRC).

All registered members and members in training must achieve a minimum of 100 CPD points over 3 years, and must record their activities annually on the College-supplied excel tracking form. This information must be retained by the member, but is only submitted in the case of an audit (see Audits below).

The CPD program comprises 4 areas of professional development:

- i. Professional Practice: day to day work in the field of applied biology;
- ii. Continuing education, including:
  - a. General professional learning (e.g. career planning, leadership skill development, time management, information technology, first aid), and

- b. Applied biology learning (activities undertaken to maintain competencies or develop new areas of practice);
- iii. Service to the community and the profession: for example, instructing courses, speaking at conferences or meetings, publishing, conducting research funded by a recognized agency, acting as expert witness; and
- iv. Service to the College: for example, holding elected office, serving on committees, attending College-sponsored events, mentoring other members.

The College has established criteria for eligible activities and how points are earned, with annual limits established for some categories. The *professional practice* category recognizes ongoing learning and skills development in the workplace, allowing members to earn up to 10 points annually for day to day work duties in the field of applied biology; all other professional development activities must occur outside of the expectations and routine work duties associated with one's position of employment. Point limits ensure that all CPD requirements cannot be met in one category, with the exception of *formal applied biology learning* where there are no limits. Conversely, there is no requirement that points be earned in all categories, which may allow members to achieve their points without doing any applied biology learning to maintain or enhance their areas of expertise.

The College website hosts a series of videos that support professional development on topics such as due diligence, independence, formal decision-making, and guidance for expanding one's scope of practice to name a few.

#### **4.3. Audit Program**

To ensure members adhere to the letter and spirit of requirements that govern their practice, including continuing professional development, the *Act* enables the College to establish an Audit and Practice Review Committee (APRC) and rules in relation to an audit program to *routinely or randomly assess the conduct and competence of members of the College*.

The APRC must consist of at least one non-member and at least 3 registered members, all who are appointed by council to serve for a minimum of 2 years. Auditors must have a minimum 10 years of professional practice, and have been a member of the College for 7. None are professional auditors, but they do receive some training and are required to have been through an audit themselves to ensure they have firsthand knowledge of the challenges faced both by the auditors and the subject members. Auditors are volunteers who receive no remuneration. The College reports that they have no difficulty attracting qualified individuals into these positions.

In the Audit Program Guide provided to members, the College describes its audit program as

*“an educational, professional development, and accountability assurance process that monitors and promotes excellence in members’ practice of applied biology”.*

According to the guide, the audit process examines how members generate and administer their work products, adhere to the College's Code of Ethics, and track and document professional development activities.

The College reports that approximately 40-50 members are audited per year and approximately 20% of members have been audited in total since inception of the program in 2010. Auditees are usually selected through a simple random selection process. Once audited, a member's name is removed from the random draw list for five years.

The audit process requires auditees to submit information in an excel document that includes a list of their current field(s) of practice, the legislation and other legal documents that guide their work, and information relating to their management of records and use of professional title. The form includes a 'self-assessment' section with questions relating to due diligence and quality assurance (described as the process used to create a product) and declarations of when they last reviewed their Code of Ethics, the *Act*, College Rules and the website. Auditees are asked to provide four examples of recent projects or work activities and the name of a supervisor who can be contacted at the Auditor's discretion. Finally, auditees must submit a list of their CPD activities in an approved format.

The audit process does not target any specific areas of practice but auditors will examine whether a member's CPD is within their declared area of expertise. After a preliminary review by College staff, the records are forwarded to an auditor who reviews and makes recommendations to the APRC concerning the outcome of the audit. According to the audit program guide, auditors will consider the extent to which the member has demonstrated compliance with the standards and guidelines published in the *Act*, the College Rules, the Code of Ethics, the Practice Guidelines for Members, and other College publications. The audit is described as a cursory review in the audit program guide. The random selection process provides no guarantee that all members will be audited at some point in time although the College is confident that this unpredictability incents members to comply with program requirements and to practice good record-keeping.

The consequences for failing to comply with member requirements are prescribed in the rules including re-audit, mandatory remedial actions, removal from the College register due to non-compliance with program requirements, or referral to the disciplinary process for serious breaches of ethical or professional conduct. The decision to impart consequences is at the discretion of the Council, at recommendation from the APRC; other than in exceptional cases, the committee reportedly prefers to use remedial rather than punitive actions to make the audit process less intimidating and to encourage auditees to take corrective action.

Further, with no legislative or rule-based requirement for the number or percentage of audits to be completed – the APRC decides this annually, along with the selection process – the number of audits conducted each year depends on the number and capacity of volunteer auditors and support staff. According to annual reports, the number of audits conducted in 2017 was 50% fewer than in 2016, due to staff shortages (College Audit and Practice Review Committee Report, 2016).

The College rules require the APRC to make an annual report to council setting out the generalized results of the audits. The names of auditees and specific results are kept confidential. The College posts annual reports from the APRC that summarize audits results at a high level. The 2016 report cites:

- 45 R.P.Bios and 3 R.B.Techs were audited

- All audits were deemed successfully completed
- No remedial actions were required.

#### **4.4. Professional Practice Reviews**

In addition to prescribing a proactive audit program, the *Act* enables council to make rules establishing practice reviews to respond to suspected incompetent or unethical practice. Although the College has created the Audit and Practice Review Committee for this purpose it has not yet implemented practice reviews due primarily to a lack of staff capacity. The College reports however, that the policy work is complete and testing and subsequent implementation of practice reviews is a top priority for 2018/19.

Presumably this program would be designed to delve deeper into a member's practice than what might occur during an audit (which relies heavily on member self-assessments) and in accordance with section 21(3) of the *Act*, could be ordered by council rather than occur on a random basis. Practice reviews would provide an important quality assurance mechanism, confirming whether the subject member is working only within the scope of their expertise and adhering to the professional and ethical standards established in their code of ethics. The College see practice reviews as one potential avenue for dealing with cases of reported marginal or substandard practice that do not meet the criteria to initiate a formal complaint.

### **5. Protecting the Public Interest**

Government and the public share an expectation that a key role of regulatory bodies such as the College is to ensure the competency and integrity of professionals, in order to protect the public interest.

The *Act* does not explicitly define the *public interest*; rather, it prescribes what the College must do to uphold and protect it. The College believes the definition is implicit in its principles of stewardship and Code of Ethics (see section 6).

The College sees its role in upholding the public interest as supporting its members to advise, recommend and make decisions within a regulatory or legislative framework using best science. The College advises members not to make judgements about the laws in place, but to work professionally within those laws. The College's Code of Ethics is used to evaluate professional actions vis a vis the public interest, particularly when complaints are received. Further, the Code requires members to address poor conduct and/or practice of other members in order to protect the public interest (as well as the profession and reputation of the College). To comply with the code, members are advised to discuss the matter privately with the subject member first; where that is not possible or fails to resolve the matter, the member must report the allegations by filing a complaint with the College.

### **6. Code of Ethics**

The *Act* enables the council to make rules establishing standards of professional conduct; to this end the College has established a Code of Ethics for its members. The College takes steps to ensure that members are aware of the code and are familiar with its contents. Prospective members must complete a mandatory online ethics course within 12 months of acceptance and pass with 100%, and current

members must certify annually that they have read the code within the last 12 months. The College is considering a mandatory ethics 'refresher' exam for all members every 3-5 years to continue to foster professionalism and accountability; course development and testing is planned for 2018. Members who undergo an audit are asked to declare when they last read their code.

The *Act* enables council to establish a program to assist members in dealing with professional or ethical issues. To date, the College has not established such a program, but believes it has met the intent of this section by providing guidance to members with explanatory notes for the code, Q&As and a document called 'Ethicsology 101' that serves as specific guidance on Principle 9 of the code, all of which are available on the College website. Members are also invited to contact the Registrar to discuss issues or concerns as they arise. Violations of the Code of Ethics can result in disciplinary proceedings if a complaint is lodged (see section 7).

### **6.1. Conflict of Interest**

Conflicts of interest are situations in which the actions, aims, or goals of parties seem incompatible. The *Act* does not explicitly mention conflicts of interest, only that the council can make rules pertaining to the ethical conduct of members. Conflicts of interest are addressed in the Code of Ethics. Principle 4 states that members must provide a professional standard of service to clients and employers by avoiding situations and circumstances where there is a real or perceived conflict of interest, but does not include a definition or examples to ensure members understand what constitutes a conflict of interest. The Code of Ethics provides only general guidance, describing conflict of interest as "where a member's interests conflict or appear to conflict with the member's professional responsibilities". The College agreed during the audit interview that a definition would be helpful to clarify expectations in relation to conflicts of interest. The College is developing a guide for members on conflict of interest, with plans to publish in 2018.

The Code of Ethics specifies that "members must take measures necessary to ensure a conflicting interest does not bias decisions or recommendations that the member may be called upon to make; in extreme situations this might require the member to withdraw from a project". There is no explicit requirement that members disclose real or potential conflicts so that there is transparency in their assessment of whether it will bias their decision-making or recommendations.

The consequences for a member who fails to disclose a conflict is a disciplinary review if a complaint is filed against them. The College can lodge their own complaint to the registrar in the absence of a formal complaint. According to the College website, there has been one suspension in relation to conflict of interest since the College was created in 2003, and a handful of complaints that were investigated and dismissed.

### **6.2. Employer and Proponent Relationships**

The *Act* does not mention transparency in financial and employment relationships nor has the College created any explicit rules pertaining to compensation for professionals working within a regulatory regime. This issue is addressed within the Code of Ethics where members are advised they must "refuse to enter into agreements where compensation is contingent upon conclusions or recommendations" or



“where the terms of employment restrict the member from applying due diligence and/or intellectual honesty”. Members are required by the Code of Ethics to disclose the nature of the professional relationship where the member “acts or presents on behalf of a client or employer or other entity” (e.g. whether they are acting in an employment, contractual, or volunteer capacity). The Code also states that respecting confidentiality does not hold where client/employer actions are unlawful, and imposes a duty to “report the activity to the appropriate authority.”

The Code of Ethics Q&A document on the College’s website provides guidance to members in dealing with employer or client disagreements and clients who do not accept their recommendations.

### **6.3. Professional Conduct**

The College’s Code of Ethics sets the expectations for member conduct. It states “members are required to conduct themselves in a manner consistent with these precepts as outlined in the nine principles herein, and to uphold the principles of stewardship of aquatic and terrestrial ecosystems and biological resources as required under the College of Applied Biology Act.”

Within its nine principles, the Code makes several direct references to professionalism. For example, it requires members to:

*Provide a professional standard of service to clients and employers by conducting business practices fairly, avoiding conflict of interest and respect client/ employer confidentiality (Principle 4).*

*Uphold professional obligations to the College while they are in the workplace (Principle 6).*

*Maintain a standard of personal and professional conduct that does not reflect adversely on the College or its members (Principle 7).*

*Recognize the duty to address poor conduct and/or practice of another member in order to protect the public interest, the profession, and the reputation of the College (Principle 9).*

To support its members to understand and adhere to these principles, the College provides supplementary general guidance on the meaning of professionalism and an interpretive guide for the code. Two examples are *Professional & Personal Conduct: Charting a Course for a New Professionalism* that lays out criteria for being a professional, and *Expanding Your Practice* that reinforces the importance of being competent in ones areas of practice and provides information on the steps a member should take to expand their sphere of expertise (literature reviews; formal training; mentorship).

The College stated that capacity has been an issue with respect to developing practice guidelines to set professional standards for specific areas of applied biology. In conjunction with the EGBC and the ABCFP, the College has produced one guidance document, in relation to the Riparian Areas Regulation, in response to a recommendation from the Office of the Ombudsman on the use of professional reliance in relation to riparian area assessments. As the first professional practice standards guideline it has published, the College indicated that they have been proactively hosting workshops in an effort to educate members on the importance of expert guidance generally, and in particular on using this

guidance document to meet an appropriate professional standard when carrying out riparian assessments. Despite this successful collaboration, the College expressed concern that it is not always invited to work with other professional associations where the role of professional biologists is not readily apparent.

Government priorities are likely to dictate the College's future work on practice standards and guidelines; forthcoming Species at Risk legislation being one example. The College suggests that this guidance would be most effectively developed in partnership between the College and government.

## **7. Complaints and Discipline**

The *Act* enables council to establish a discipline committee and to make rules governing how complaints are handled. In response to this authority, the College has established a Discipline Committee and enacted Rule 15 pertaining to investigations and disciplinary actions. This rule provides detailed procedural requirements that the College believes are common law principles of procedural fairness, and outlines disciplinary consequences which range from a reprimand to rescinding membership.

The Discipline Committee relies primarily on volunteer members, supported by College staff. The committee brings in special investigators and legal counsel on an as-needed basis. The College stated that committee members must have a requisite amount of professional experience as well as experience with administrative justice. The current committee consists of five R.P.Bios and non-members who are members of other professional associations, intended to bring an informed but unbiased perspective to the process. The College advises that it recruits carefully for these positions.

As capacity of the committee has been a recent issue (an unusually high number of complaints were received in 2017), the College has amended its rules to increase committee membership to 7 biologists and 3 lay members. Despite the challenge of capacity, the College advises it investigates all complaints that are within its jurisdiction and deemed to have merit. One of the twelve complaints submitted in 2017 was dismissed for lack of merit (the individual in question was not a member of the college at the time of the incident).

Any person can make a complaint to the College regarding professional misconduct, conduct unbecoming of a practicing member, or for a breach of the *Act* or the Rules. Principle 9 of the Code of Ethics states that members have a duty to "address" poor conduct or practice demonstrated by other members in order to protect the public interest, the profession, and the reputation of the College.

The Code requires members to adhere to this principle while balancing the rights and reputation of the other member, recommending that complainants first speak to the subject member of the complaint directly to try to resolve the issue. If this is not possible or not appropriate, or doing so does not resolve the situation satisfactorily, the complainant must proceed with a formal complaint. At any time before the conclusion of a discipline hearing, the subject member may offer a conditional admission which would be provided to the Discipline Committee for consideration. Where the admission is accepted by the committee, the College must publish the facts of the admission and the penalty agreed to.

The College noted that, because some complainants prefer to remain anonymous, it can be difficult to identify the subject member of the complaint. The College cited examples of members calling in a complaint to the College, but due to external pressure not to make a complaint, not to reveal the name of the subject member, or concerns about being identified as the complainant, the information provided was insufficient to proceed with an investigation.

Discipline hearings are held by panels appointed the Chair of the Discipline Committee . In the event of an adverse disciplinary determination, s.27(5) of the *Act* requires the panel to impose a sanction, which could include a reprimand, penalty, condition, remedial program, or suspension or rescission of membership. Rule 15.45 states that the discipline panel “may” impose a sanction, but the College acknowledges this as an error and intends to amend this rule to read “must.” Even where no explicit wrongdoing is found, the discipline process can result in a letter of advice to inform better practices in the future. There are several examples of advice to members published on the College’s website.

The *Act* requires members to cooperate with disciplinary investigations by answering questions, producing relevant information, providing explanations where called upon and appearing before the council or disciplinary committee as directed. Penalties can be imposed on members for failure to do so.

Rule 15.44 allows the council to publish disciplinary decisions in a manner of its choosing. The College posts short summaries of all complaints and the final disposition of investigations in a *Discipline Digest* on its website; since 2003, between one and five summaries have been posted annually. The names of subject members are only included when a formal citation is issued – that is, when a complaint goes through a disciplinary hearing and results in an adverse determination against the member. Of the 47 files on record, an adverse determination against a member of the College has been made in two cases – in one, a citation was issued; in the second, the member in question left the country before disciplinary action was taken.

In cases of marginal performance, defined as behaviour that does not constitute an outright violation of the *Act*, Rules, or Code of Ethics but is considered questionable, the College will put a letter of notice on a subject member’s file in the event a formal citation is not issued. This letter advises the subject member that the actions they have taken are approaching a violation, and describes what actions could have been taken to improve outcomes. College staff being interviewed had no recollection of letters being placed on member files in recent years. While the College did receive two calls about poor performance during this period, both originated from government and College staff advised that not enough detail was provided to proceed with an investigation. In the future, reports of marginal performance may trigger a practice review, once the College has implemented this mechanism.

## **8. Liability and Negligence**

Professional liability refers to the legal responsibility of a professional to be held accountable for the outcomes of his or her professional work, specifically any errors and omissions. Professional negligence is where a professional fails to provide duty of care to their client, meaning that harm to people or property has occurred as a result of improper advice and precautions by the professional. The expected

standard for professional practice is defined as what another reasonable person in that profession would do.

Assurance statements or certifications are often used in this context, but are not common practice in the field of applied biology. Currently they are used in the new Riparian Area Regulation guidelines. The College has expressed willingness to explore how assurance statements could be used more broadly, in the context of assuring adherence to ethical guidelines and scientific principles rather than in relation to outcomes (which the College suggests are difficult to guarantee in the field of biology).

Professional liability insurance is not a requirement for professional biologists, and the College believes that making it mandatory would likely create a barrier, particularly for new members or small contactors.

The *Act* does not address professional certification but Rule 13.2 recommends members sign and seal all documents that contain professional opinion or work products. The College has prepared guidance for members on signing documents and using their professional seal, and maintains that professional biologists are held to the same professional standard regardless of whether or not they use their seal.

The College noted that it does not currently regulate consulting firms (who may submit work on behalf of the professionals they employ) and does not have the capacity to do so. There is no current plan for the College to undertake this work in the future. Where reports are submitted by a company on behalf of its professionals, by virtue of their code of ethics, each individual professional is still accountable for their work.

## **9. Scope of Practice**

As the *Act* grants *right to title*, not *right to practice*, the College cannot restrict areas of practice for biologists who are not members. A person who is not a member of the College cannot claim to be a professional biologist but can still practice biology in BC. The *Act* does authorize the council to make rules about restricted areas of practice for its members, and the qualifications required to be specialists in some areas, however, the College has not done this to date due to the administrative burden and costs.

The College does request that members self-declare their areas of specialization, and these are posted publically on the website. These declarations are not audited, and declaring areas of specialization is not mandatory for members. Members have reported difficulty updating information as they gain or lose expertise. In the course of a professional development audit, auditors will examine whether a member's CPD aligns with their declared areas of specialization. The College reports that while audits have uncovered some cases of "scope creep," for example a self-declared fish biologist giving advice on grizzly bear management, they have not seen this arise as a pervasive problem during member audits.

For the reasons noted above, the College stated that posted self-declarations of members' expertise cannot be considered a reliable source for information for prospective employers, clients or government

regulators to confirm the qualifications of members of the College. The exception to this is R.B. Techs, whose scope of practice is limited by their membership category.

The Code of Ethics directs members to only undertake assignments and offer opinions in areas in which they are competent, and to maintain that competence. The College website provides supplementary guidance for members on expanding their practice, including steps such as literature reviews, formal training, and mentorship, to gain competence in another area of practice.

The College has noted that developing scope of practice for member categories is a priority for 2018 as it recognizes this will enhance the ability of the College to hold members accountable in their practice areas.

## **10. Discussion and Conclusions**

This limited scope audit is one part of a broader review of professional reliance. Specifically this audit considered whether the College of Biology is fulfilling the legal obligations addressed in this report as the body that regulates professional biologists in BC.

The *Act* is enabling legislation – it authorizes the College to make rules to set the standards for entry into the profession of applied biology, to hold its members accountable for their conduct and practice and to protect the public interest. Although very little in the *Act* is mandatory (i.e. rule-making authority is “permissive”), this audit found that with one exception the College has implemented all of the key legislative requirements. Although it has not yet established practice reviews, the College has indicated that work is underway on this important accountability mechanism and has committed that it will be implemented by 2019. Practice reviews will be an additional tool the College can use to verify whether professional biologists are practicing ethically, and within the scope of their training and experience.

It should be noted that at the time of the audit interviews, staff speaking on behalf of the College had been in their positions for two years or less. Generally speaking, these representatives believe that the *Act* grants sufficient authority to fulfil its regulatory role and it is on a track of continuous improvement.

The College has indicated they feel the current processes for credentialing members and auditing their ongoing professional development is working well - one indication being the recent adoption of the audit process by the UK Biologists Association.

The College has put in place a Code of Ethics, interpretive guidance, and some mechanisms to keep the code ‘front and centre’ in the minds of its members, reminding them of their obligation to adhere to professional standards and report improper conduct. The College has indicated they intend to develop and test a mandatory ethics refresher course in 2018. The College has established rules to enable it to receive complaints, investigate and impose consequences for member breaches of the *Act* or rules. In spite of capacity challenges, the College reports that it investigates all complaints of improper conduct within its jurisdiction and where sufficient information has been provided by the complainant to do so.

The College has suggested that barriers may exist that discourage or prevent members from making complaints. The College reported that on at least two recent occasions a potential complainant was an employee of government who was discouraged by their employer from making a formal complaint. Verifying this perception is outside of the scope of this audit but worthy of further investigation: in order for the College to fulfil its regulatory obligations all members must be encouraged and supported to bring legitimate complaints forward as they are in the best position to recognize unsatisfactory work or unethical conduct.

In a submission to government as part of this audit, the College asserted its commitment to safeguarding the public interest, maintaining that strengthening the professional reliance model in BC requires a partnership between government, professional associations, professionals and the employers who hire them. Professional biologists do their work within a complex regulatory regime where the 'rules' are not always clear, nor backed up by the appropriate government oversight at the back end that is a key pillar of the professional reliance model. Responsible resource management and public confidence in the professional reliance model depends on the meaningful engagement of all parties. In support of this assertion the College provided recommendations for government, industry/employers and other partners in resource management.

Specifically the College identified four main legislative issues that if addressed they feel could improve its efficacy and the outcomes of the professional reliance model in BC with regards to profession of applied biology. First, the *Act* does not currently restrict right to practice, only right to title, preventing the College from holding unregulated biologists accountable and adequately protecting the public interest. The College would like to examine the implications of right to practice and the appetite of its members to pursue it.

Second, the *Act* restricts the College's ability to establish new member categories to cover individuals practicing biology without a professional designation (e.g. environmental biologist), who would like to be a registered member but whose primary degree does not align with the College's credentialing rules. By creating new member categories, the College would be able to hold these individuals to standards of practice and conduct.

Third, the *Act* currently requires a member referendum to pass fee increases. The ability to more easily increase fees when necessary would support the College in increasing its capacity to do its important regulatory work, continuing to expand and fine-tune the checks and balances that are required to meet government and public expectations in relation to professional oversight.

Finally, the College has asked government to address what it sees as an unintended consequence of the New West Provincial Trade Agreement, requiring the College to grant membership to out of province biologists who do not meet BC requirements.

This limited scope audit is one part of a broader review of professional reliance.