

OSPG Guidance: Regulated and Reserved Practice

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Version Control History

Version #	Date (YYY-MM-DD)	Modification	Approved by
1.0	2022-11-01	Initial version	Paul Craven, Superintendent
1.1	2023-01-26	Clarifications - Reserved titles - Directive on descriptive materials - S. 55 and paramountcy	Kate Haines, Superintendent
1.2	2023-07-28	Change in terminology	Kate Haines, Superintendent



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OSPG Guidance: Regulated and Reserved Practice

Regulated Practice

Regulated Practice: All regulatory bodies under the Professional Governance Act (PGA) have a regulated practice. The PGA defines regulated practice as “the carrying on of a profession by a registrant of a regulatory body.” For each regulatory body, a regulation further defines the particular body of knowledge or list of disciplines that the advice and services of that profession must be based upon. In many cases, the regulation further defines the applications that the body of knowledge or list of disciplines must relate to.

Example: [Applied Biologists Regulation](#)

“practice of applied biology”, subject to subsection (2), means the provision of

(a) advice or services that

(i) are based on biological sciences [defined as botany, zoology, ecology, biochemistry and microbiology], and

(ii) relate to aquatic or terrestrial ecosystems or the living organisms, habitats or processes of those ecosystems, or

(b) advice or services that are ancillary to those described in paragraph (a).

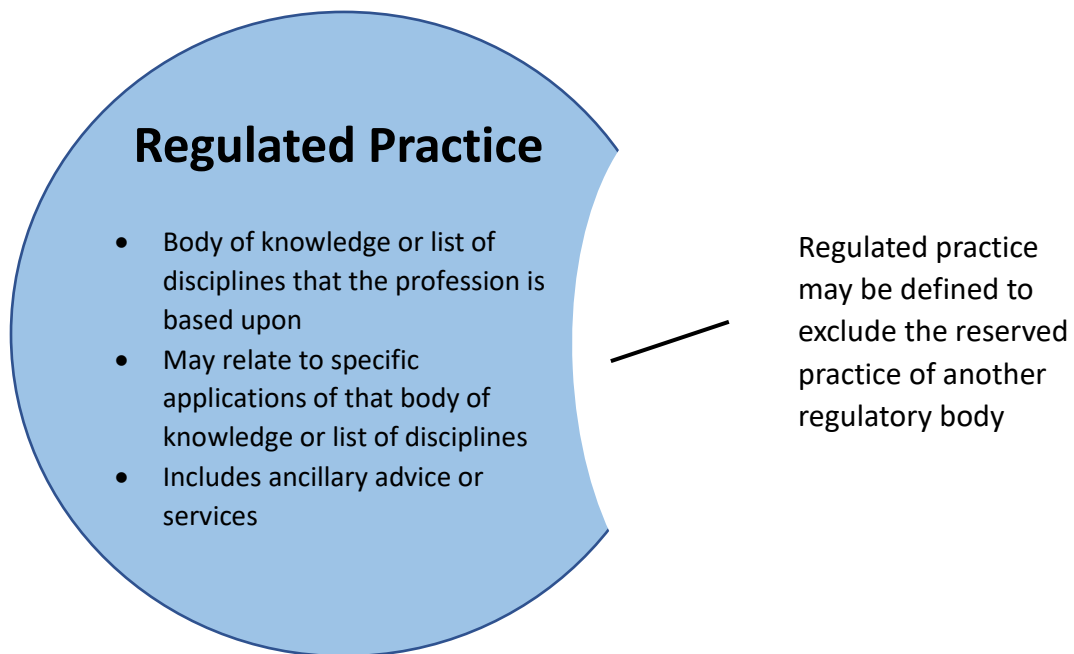
Regulated practice may include advice or services that are not strictly part of the body of knowledge or list of disciplines that makes up the profession, but that are ancillary to the practice of the profession. “Ancillary” means those advice or services are those that directly support or enable the practitioner to carry out the practice of their profession (e.g. bookkeeping or records management); there is a risk that unprofessional or incompetent provision of such advice or services would undermine public confidence in the profession generally.

Where a person is carrying out work in the regulated practice but not the reserved practice, registration with the regulatory body is not required. However, a non-registrant would be prohibited from using any reserved titles.



The regulated practice may specify limits, such as ‘does not include areas of practice that are reserved for registrants of another regulatory body’. In some circumstances (for example, within the context of “conduct unbecoming a registrant” as defined in the PGA), regulatory bodies may regulate registrants outside of the scope of the regulated practice.

Figure 1: Model illustrating regulated practice



Reserved Titles

Regulated Practice: All regulatory bodies under the PGA have reserved titles, meaning that only registered professionals may use those titles. Reserved titles delineate registered practitioners (who are subject to regulatory body oversight) from unregistered practitioners (who are not subject to that oversight), assisting consumers to identify qualified, competent practitioners who are held accountable for their practice.

Reserved titles are set out in regulations pursuant to section 51 [Exclusivity of reserved titles and right of practice of reserved practice]. The prohibitions and limitations on use of reserved title detailed in section 52(1) and 52(3) are broad. A person other than a registrant of the regulatory body must not:



- Use the title, an abbreviation of the title or an equivalent of the title or abbreviation in another language to describe the person's work, in association with or as part of another title describing the person's work, or in association with a description of the person's work; or,
- Use a reserved title or other name, title, description or abbreviation of a name or title, or an equivalent of a reserved title or other name or title in another language, in any manner that expresses or implies that the person is a registrant or associated with the regulatory body or is authorized to practice in a profession that is subject to a reserved title.

Reserved Practice

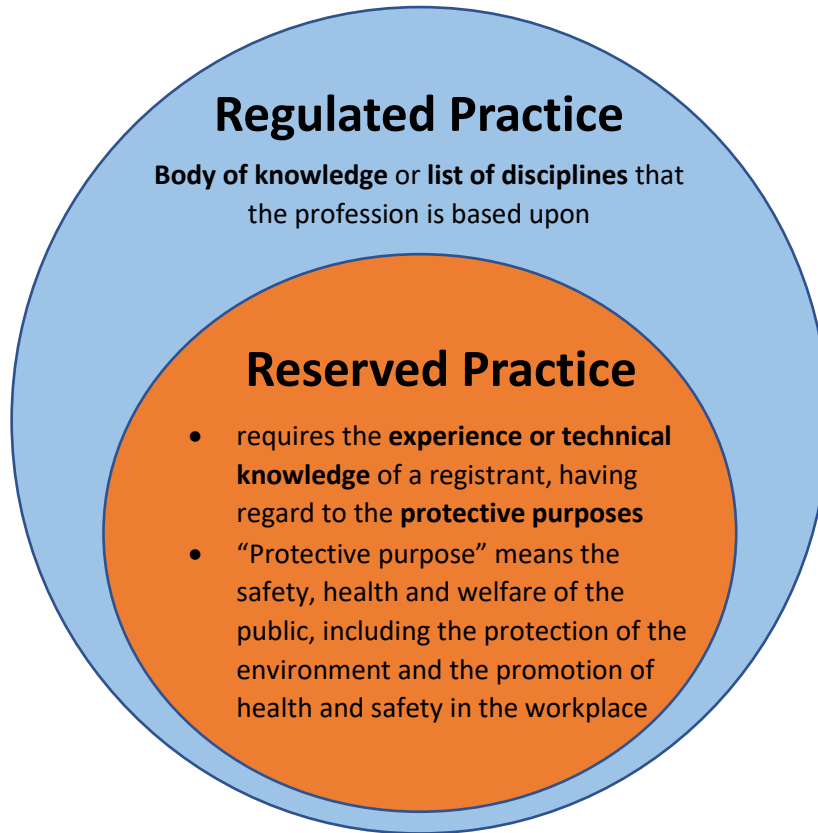
Reserved Practice: Reserved practices are set out in regulations pursuant to section 51 [Exclusivity of reserved titles and right of practice of reserved practice] that describe the scope of practice within the regulated practice of a profession that may only be performed by registrants.

To date, the definition for each reserved practice under the PGA is first described in relation to a common “protective purpose,” meaning the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace. The reserved practice is the advice and services requiring the knowledge and experience of the professional (connected to the body of knowledge or list of disciplines set out in the regulated practice) having regard to the protective purposes.

The definitions for reserved practices may also include elements such as references to definitions in former statutes (such as for engineering, geoscience and forestry) or limiting/clarifying statements (such as for agrology and applied biology). The reserved practice is always a subset of the regulated practice, and may be a broader or narrower subset depending on those limiting/clarifying statements.



Figure 2: Model illustrating regulated and reserved practice

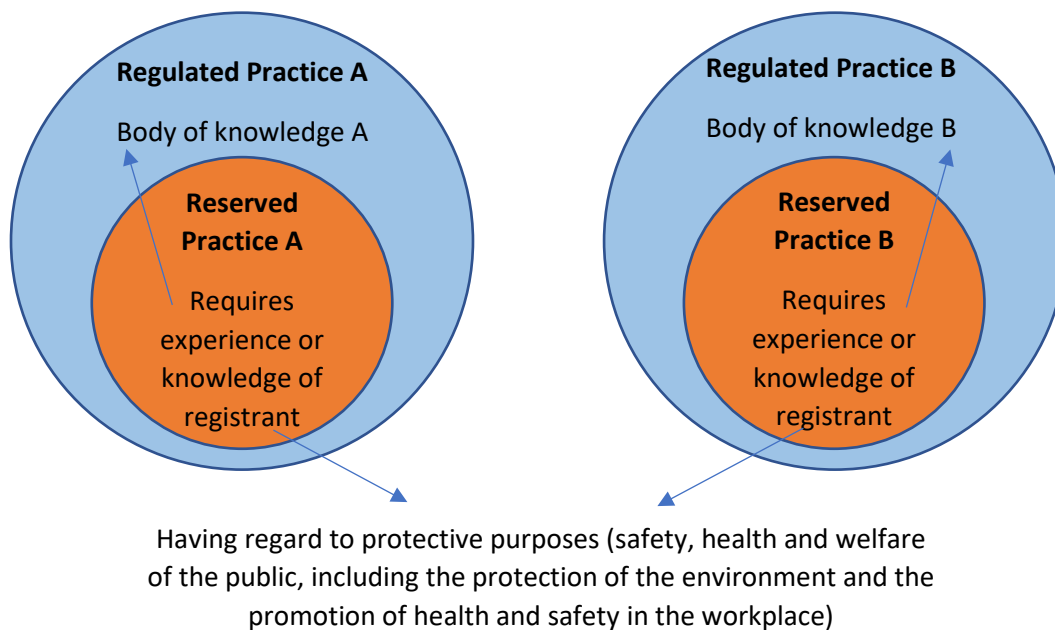




The technical knowledge and experience required to engage in reserved practice is further clarified through material published by the OSPG and regulatory bodies. On February 22, 2022, the Superintendent issued [directive DIR-2022-01](#) to regulatory bodies requiring them to develop and publish materials that describe their regulated practice and, where applicable, the scope of the reserved practice. Descriptive materials developed in compliance with that directive are published on regulatory body websites.

Regulatory bodies under the PGA each contribute to upholding the common protective purposes (safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace) based on the different bodies of knowledge or lists of disciplines that each of their professions are based upon.

Figure 3: Illustration of multiple regulated/reserved practices in relation to protective purposes



Where a person is carrying out work in the reserved practice, registration with the regulatory body is mandatory unless an exception under section 54 [Prohibitions regarding reserved practice] or 55 [Exceptions to prohibitions] applies. Regulatory bodies who are eligible to be granted reserved practice under the PGA are listed in Schedule 3 [Regulatory Bodies with Right to Practice in Reserved Practice]. To date, reserved practices have been prescribed for engineering, geoscience, forestry, applied biology, and agrology.



Exception to exclusivity of reserved practice under section 54 – supervision by a registrant

To date, all reserved practices prescribed under the PGA are drafted in accordance with section 54(2), identifying reserved practices that may only be **provided by or under the supervision of a registrant** of a particular regulatory body. “Under supervision” means that a supervising registrant must take full professional accountability for work done under their supervision by another individual (but does not necessarily require that the supervising registrant to always be physically present with the other individual). In this context, supervision relates to professional work done within the regulated practice; the individual doing professional work under supervision of a registrant may report to a different manager in the organizational chart for human resources matters.

Exception to exclusivity of reserved practice under section 55 – within the PGA:

The PGA contemplates that on occasion, there may be overlaps of reserved practice granted to regulatory bodies under the PGA. Section 55 supports a model where regulations under the PGA allow for registrants of more than one regulatory body to practice interchangeably in the same reserved practice.

A practical example of this scenario exists in the professions of engineering and forestry – the regulated and reserved practices for these professions contemplate that either type of practitioner (with required competence) can be retained interchangeably in relation to many aspects of forest roads and crossings (“forest transportation systems” in the practice of forestry and “forest engineering” in the practice of engineering). There are aspects of the reserved practices of professional geoscience and professional engineering that also overlap in this way.

Where such overlaps are identified, regulatory bodies may develop mechanisms such as (but not limited to) joint practice standards and joint practice boards with the objective of ensuring that registrants of each profession are held to the same standards of practice.

Exception to exclusivity of reserved practice under section 55 - other enactments:

Section 55 also provides that specific practitioners may continue to practice a profession, discipline or other occupation in accordance with other provincial enactments or regulations¹ despite the prohibitions set out in the PGA. This includes pre-existing exceptions as well as exceptions created after the coming into force of the PGA, recognizing the subject matter expertise of program areas in making decisions about which professionals are qualified to do work under their regulatory schemes. An example of this exception to exclusivity would be contaminated site practitioners identified under the *Contaminated Sites Regulation* and the *Environmental Management Act*.

¹ the *Interpretation Act* defines “[regulation](#)” broadly to include a variety of statutory instruments, including bylaws and orders.



Exception to exclusivity of reserved practice – paramourncy:

The doctrine of federal legislative paramourncy² is also relevant to provincially prescribed reserved practices. It is possible that a portion of a provincial law regarding reserved practice can be found inoperative due to paramourncy considerations³. Potential inconsistencies between provincial and federal law would be evaluated on a case-by-case basis according to tests established by the courts.

Third party legislation:

Regulators or authorities having jurisdiction (such as municipal governments) may impose additional instances where registered professionals are required through their own instruments, in addition to those practices reserved for registrants through the PGA.

Multidisciplinary Work

Work in the natural resources sector and built environment work often requires the competence, skills or knowledge of multiple professionals on a single project. In these situations, registrants of different regulated professions work in collaboration, or alongside each other, each bringing their own skills and expertise based on their profession. Registered professionals under the PGA have an ethical obligation to work in their area of competence, which is grounded in the body of knowledge or list of disciplines set out in the regulated practice.

Multidisciplinary work can result in overlap of practice, alignment of practice or intersection of practice as defined below. Regulatory bodies have been directed by the superintendent to engage in full and frank discussions with each other with a view to resolving perceived alignment or intersection between each profession’s regulated and reserved practice areas⁴. If any additional true reserved practice overlaps are confirmed and fully described, OSPG will identify whether any adjustments to the regulatory framework are required to support the practical situation.

² Rothmans, Benson, & Hedges Inc v Saskatchewan, 2005 SCC 13 at para 11-12.

<https://www.canlii.org/en/ca/scc/doc/2005/2005scc13/2005scc13.html>

³ Law Society of British Columbia v Mangat, 2001 SCC 67.

<https://www.canlii.org/en/ca/scc/doc/2001/2001scc67/2001scc67.html>

⁴ Section 5.2.1 of directive [DIR-2022-01](#)



Potential interactions between professions:

1. **Overlap of practice:** interchangeable ability to take on specific identical tasks within a broader project context, same competence (knowledge, skills, ability) to perform the task, different regulated professions

Example: Engineers and foresters working on aspects of forest roads and crossings – either practitioner has the appropriate competence and regulatory oversight to interchangeably undertake some identical tasks within a broader project context.

2. **Alignment of practice:** different specific tasks within broader project contexts (or entirely different tasks/projects), similar technical knowledge, different regulated professions

Example: an applied biologist specializing in botany and a forester have similar technical knowledge related to vegetation; the forester applies that knowledge to forest management and timber harvest, while the applied biologist applies that knowledge to wild aquatic or terrestrial species in the context of ecosystem function. The forester and applied biologist do not undertake any identical tasks interchangeably.

3. **Intersection of practice:** different specific tasks within a broader project context, different competence (knowledge, skills, ability), different regulated professions

Example: in the design of a wastewater treatment plant, multiple registered professionals work collaboratively in a broader project context. Each registrant contributes technical knowledge and competence that is unique to their profession; tasks requiring unique professional expertise cannot be performed interchangeably by registrants from different professions. For example, an applied biologist would have expertise related to impacts of effluent on the receiving environment, while an engineer would have expertise related to the design and treatment process of the plant. In this context, multiple registrants from different professions would likely work together in an iterative process to result in a final plant design that meets performance specifications for the receiving environment.



Table 1: Overlapping, aligning and intersecting practices

	Competence	Profession	Role in respect to task/project
Overlap	Identical technical knowledge and competence	Different regulated professions (may be supported by joint practice boards or practice standards)	Specific tasks within a broader project context can be performed interchangeably by either professional.
Alignment	Similar technical knowledge and competence	Different regulated professions	Similar knowledge is applied to different tasks within a project context (or to different projects entirely). Specific tasks cannot be performed interchangeably by either professional.
Intersection	Different technical knowledge and competence	Different regulated professions	Different knowledge is applied to different tasks within a broader project context. Specific tasks cannot be performed interchangeably by either professional. Often a collaborative, iterative process where unique expertise from multiple professions is required to reach the final product.

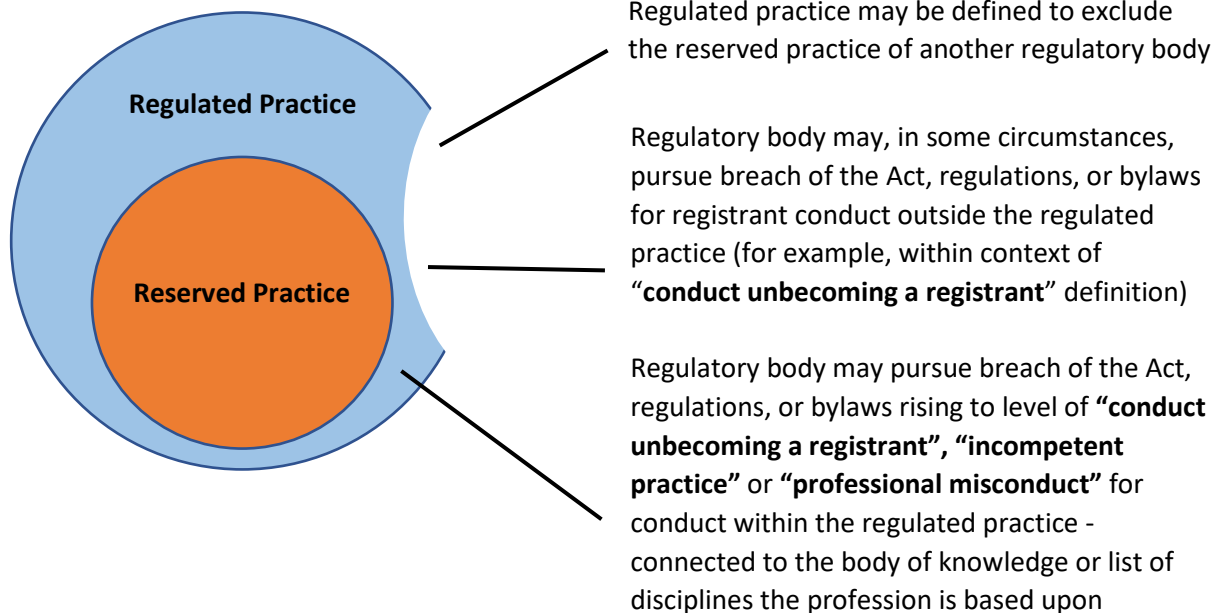


Oversight of Registrant Practice by Regulatory Bodies

Section 65(1) [Complaints] of the PGA sets out that: “A person may make a complaint to the regulatory body, the board or an officer about a registrant of the regulatory body who may be (a)engaged in the registrant’s regulated practice in an **incompetent manner**, or (b)guilty of **professional misconduct**, **conduct unbecoming a registrant** or a **breach of this Act or the bylaws**.”

Each of these terms are defined slightly differently in relation to the regulated practice (see next page). Given this nuance, it is possible that in some circumstances (for example, within the context of “conduct unbecoming a registrant” definition which does not tie to regulated practice), regulatory bodies may regulate registrants for conduct outside of the scope of the regulated practice.

Figure 4: Illustration of authority to regulate registrants in relation to regulated practice





PGA [section 1](#) definitions:

"**conduct unbecoming a registrant**" means conduct of a registrant that

- (a) brings the regulatory body or its registrants into disrepute,
- (b) undermines the standards, methods or principles that are the foundation of the profession, or
- (c) undermines the principle of holding paramount the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace in the manner that reflects the stewardship of a given profession by each regulatory body;

"**incompetent**", in relation to the performance of duties undertaken while engaged in a regulated practice, includes

- (a) a lack of competence or fitness to **engage in the regulated practice**, or
- (b) an incapacity or impairment that prevents a registrant from **engaging in the regulated practice** with reasonable skill, competence and safety to the public;

"**professional misconduct**" means misconduct by a registrant as a professional, **relating to the performance of duties while engaged in a regulated practice**, including a failure to comply with, or a breach of, this Act, the regulations or the bylaws;