



Authority of Practice Reviewers Conducting Practice Reviews

*Improved Public Interest
Improved Regulatory Effectiveness and Efficiency*

To improve regulatory effectiveness and protect the public interest, practice reviewers must have the appropriate authority to conduct practice reviews to assess the health of professional practice against established standards.

Background

- Proposed changes to the existing Practice Review Board are described in a set of briefing notes related to the Practice Review Committee, which were presented in the winter 2016 legislative review consultations.
- The [briefing note](#) on the *Practice Review Committee Authority of Reviewers to Make Recommendations* captured the guiding principles related to the authority of practice reviewers. One of the recommendations in that briefing note was to “authorize practice reviewers to have the same authority in conducting practice reviews as investigators have in conducting investigations; practice reviewers will conduct practice reviews as prescribed in the regulations.”
- Under the *Engineering and Geoscience Professions Act*, *The Association of Science and Engineering Technology Professionals of Alberta (ASET) Regulation and Professional Technologist Regulation* have specific provisions describing the authority of ASET practice reviewers and Joint Practice Review Board practice reviewers to conduct practice reviews.
- The current *EGP Act* and General Regulation are silent on the authority of APEGA practice reviewers to conduct practice reviews for Professional Engineers and Geoscientists.

Why is this important?

- Practice reviewers must have the appropriate authority to effectively and efficiently exercise their mandate. This requires having the ability to obtain relevant information from appropriate sources.

Proposed
legislative
change

It is recommended that the legislation be amended to explicitly give APEGA practice reviewers the authority to conduct practice reviews similar to the authority contained in the *ASET Regulation the Professional Technologists Regulation*, or the *Chartered Professional Accountants Act, Alberta*.

Examples of
Possible Wording

Section 24 of the *ASET Regulation and Section 16 of the Professional Technologist Regulation*:

- Subject to subsection (6), at any reasonable time and on having given notice, conduct a practice visit by entering and inspecting any place where the regulated member works in the profession of applied science, information technology or engineering technology;
- Interview a regulated member about the member's work in the profession of applied science, information technology or engineering technology;
- Observe the regulated member working in the profession of applied science, information technology or engineering technology;
- Interview or survey clients, co-workers, the regulated member's employer or the regulated member about the regulated member's work in the profession of applied science, information technology or engineering technology;
- Review documents and examine substances and things that
 - (i) are owned by or under the control of the regulated member, and
 - (ii) are related to the work in the profession of applied science, information technology or engineering technology by the regulated member;
- Assess the safety and condition of equipment and technology used by the regulated member.
- (6) No member of the ASET Practice Review Board may enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except with the consent of the occupant of the dwelling place.

Section 61 of the *Chartered Professional Accountants Act*:

Conduct of practice review

61(1) Section 78 applies to the conduct of a practice review.

(2) For the purpose of conducting a practice review, a practice reviewer appointed by the CPAA has the powers of an investigator under section 78(1), (3), (7) and (10) as those powers relate to registrants.

Investigation powers

78(1) For the purpose of conducting an investigation, an investigator:

- (a) may, at any reasonable time, require a registrant or former registrant
 - (i) to attend meetings with the investigator or others,
 - (ii) to answer any questions the investigator may have relating to the investigation and to answer the questions under oath, and
 - (iii) to give to the investigator any records, information or things that, in the opinion of the investigator, are or may be relevant to the investigation that the registrant or former registrant possesses or that are under the control of the registrant or former registrant, including any records, information or things that a registrant or former registrant obtained or prepared in order to perform any engagement,and
- (b) may require a registrant or former registrant to give up possession of any records, information or things described in clause (a) to allow the investigator to take them away to copy, examine or perform tests on them, in which case the investigator must return them within a reasonable time of being given them and must return them after a hearing is completed and any right to an appeal is expired, and the registrant or former registrant must comply.

(2) For the purposes of conducting an investigation, an investigator:

- (a) may, at any reasonable time, request a person, other than a registrant or former registrant,
 - (i) to attend meetings with the investigator or others,
 - (ii) to answer any questions the investigator may have relating to the investigation and to answer the questions under oath, and
 - (iii) to give to the investigator any records, information or things that, in the opinion of the investigator, are or may be relevant to the investigation that the person possesses or that are under the control of the person, including any records, information or things that a registrant or former registrant obtained or prepared in order to perform any engagements,and
- (b) may request a person to give up possession of any records, information or things described in clause (a) to allow the investigator to take them away to copy, examine or perform tests on them, in which case the investigator must return them within a reasonable time of being given them and must return them after a hearing is completed and any right to an appeal is expired.

(3) The investigator may copy and keep copies of any records, information or things given under subsection (1) or (2).

(4) All records, information or things received by an investigator under subsection (1)(a)(iii) or (2)(a)(iii) are confidential and may not be used or disclosed except in accordance with this Part or Part 7 without

- (a) the written consent of all persons whose interests might reasonably be expected to be affected by the disclosure, or
- (b) a court order authorizing the disclosure.

(5) No investigator, CIC member or member of a discipline or appeal tribunal and no officer, employee, board member, agent or representative of the CPAA shall be required in any proceeding, other than a proceeding under this Act, to

give testimony or produce any document with respect to records, information or things provided under subsection (1)(a)(iii) or (2)(a)(iii).

(6) Disclosure of records, information or things under subsection (1)(a)(iii) or (2)(a)(iii) does not negate or constitute a waiver of any privilege, and the privilege continues for all other purposes.

(7) The CPAA, on the request of an investigator or the CIC chair, may apply to the Court of Queen's Bench for:

(a) an order directing a registrant or former registrant to comply with all or part of subsection (1),

(b) an order directing any other person

(i) to attend meetings with the investigator to answer any questions the investigator may have relating to the investigation and to answer those questions under oath, if the investigator requires, and

(ii) to give to the investigator any records, information or things that, in the opinion of the investigator, are or may be relevant to the investigation that the person possesses or that are under the control of the person, and

(c) an order directing any person to give up possession of any records, information or things described in clause (b) to allow the investigator to take them away to copy, examine or perform tests on them and return them within a reasonable time of being given them.

(8) Notice of an application for an order under subsection (7) must be given to all affected parties unless the Court is satisfied that it is proper to dispense with notice in the circumstances.

(9) A person may comply with a request or an order to give records, information or things by giving copies of the records, information or things.

(10) If a person gives copies under subsection (9), the person must on the request of the investigator allow the investigator to compare the copies with the original records, information or things at the person's place of business during regular business hours.

(11) A person who gives records, information or things under subsection (1), (2) or (7) or copies of records, information or things under subsection (9) is not entitled to any indemnification for the expense of producing the records, information or things, except for the reasonable costs of copying them.