

Review of the Professional Reliance Model

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Provincial Government Review of Professional Reliance

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. This provincial review will make recommendations on whether:

1. *professional associations that oversee qualified professionals (QPs) employ best practices to protect the public interest;*
2. *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.*

This paper has been developed in response to these Terms. Issues have been identified and innovations offered with the expectation that professional reliance will be enhanced and sustained as a world class model and enjoy the full trust of the public, governments and regulatory bodies, other stakeholders and professionals. The suggestions are for discussion and consideration as the BC Government completes its review of the current professional reliance model.

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### **Background on ASTTBC**

Formed in 1958 under the Society Act, ASTTBC was incorporated as a self-governing professional association under the *Applied Science Technologists and Technicians Act (ASTT Act)* in 1985.

The objects of the Association:

*“to maintain, improve and increase the knowledge, ability and competence of the members of the association”*

*“to regulate standards of training and practice of and for its members and to protect the interests of the public”*

*“to establish, maintain and develop standards of ethics among its members”*

*“to do all lawful things that are incidental and conducive to the accomplishments of these objects”*

ASTTBC registers engineering and applied science technologists, technicians and technical specialists and holds the professionals accountable. Professional designations include Applied Science Technologist (AScT), Certified Technician (CTech) and Professional Technologist (PTech) and a number of designations granted for 'technical specialist' certification in fields such as construction safety, fire protection, onsite wastewater and underground utilities location.

ASTTBC members practice within a team and independently in areas in which ASTTBC professionals have been designated as Qualified Professionals. A definition of scope of practice is included in the *ASTTBC Regulations* pursuant to the *ASTT Act*. The scope of independent practice in the broad field of engineering has been a lingering issue for ASTTBC professionals.

There are 10,500 professionals registered with ASTTBC. The Association has a solid foundation for the regulation of its mandate with an annual budget of about \$3.5M, a FTE staff of 22 and total assets of about \$4M. The resources available to ASTTBC are adequate to achieve its legislated mandate but more could be accomplished working collaboratively with other professional associations, Government and other stakeholders.

Full details of the Association's mandate and key operations can be found on the ASTTBC web site, [asttbc.org](http://asttbc.org).

### **Is Government Providing Sufficient Oversight of the Professional Associations?**

Self-regulating professional associations are incorporated by provincial statute and serve at the pleasure of the BC Government. Professional legislation includes a statement as to the purpose / mandate of the association and then, for the most part, Government leaves it to the association to decide how it will best meet the mandate. Oversight of the professional associations by Government varies. A greater level of engagement and oversight by Government would serve to enhance professional reliance.

Public Representatives appointed to the professional association's governing board by Government, or in the case of ASTTBC appointed by the governing Council, help provide a perspective other than the professional members on the board.

ASTTBC voluntarily reports on its mandate and the measures taken to achieve Government's intent with the legislation. ASTTBC reports to the Minister Responsible for the *ASTT Act* and copies are sent to MLAs and BC MPs and other community stakeholders. A copy is posted to the ASTTBC web site.

#### **SUGGESTIONS:**

*1. Government to establish a Natural Resource Practices Board to provide broad oversight of industry and government. The mandate of the current Forest Practices Board could be re-configured to align with a broader mandate.*

*2. Government to establish an 'Office of the Natural Resource Professions' within Government for the purpose of providing broad oversight, engaging with the professions on best practice, working through Qualified Professional recognition and addressing all manner of issues faced within a professional reliance model.*

3. Professional associations to report through ONE Ministry rather than the current model where the five professions formally fall under the mandate of, and report to, FOUR Ministries. This simple change will result in closer ties between Government and the associations, help to formalize the links between and amongst the professions and provide better Government oversight. The Associations will continue to interact with various Ministries and other agencies appropriate to fulfilling their mandate and field(s) of practice governed by the association.

4. Government to establish a 'Natural Resource Sector Professions Council' with membership from the public, Government, professions and other stakeholders. Chaired by a public representative appointed by Government, the Terms of Reference would address matters relating to Government oversight, the ongoing role of the professions, best practices, and QP recognition, with a goal of building a world class professional reliance model.

5. Government to enter into a "Service Agreement" with the professional associations that will spell out expectations and provide for formal reporting by the associations.

6. Government, together with professional associations, to establish a Natural Resource Professions Centre to help frame best practice for professional reliance and assist and support professional associations as they fulfill their mandates. Given the varying stages of development and resources, professional associations will benefit collectively when working together.

7. Professional associations to be fully and formally audited once every 5 years against professional regulatory best practices. This will serve to enhance practices and generally hold the professions to account.

8. Professional associations to file an annual report to Government on critical elements required for a self-regulating profession. A standard for such reports to be developed and the report to be available to the public, Government, members and other stakeholders.

### **Is our Professional Regulation Functionality World Class?**

The professional regulatory responsibilities and accountabilities of professional associations are generally the same, in particular as they apply to granting certification and registration and holding the registered professionals to account.

ASTTBC has a contemporary foundation of professional certification and professional accountability with special features including:

- competency-based certification, thus empowering the applicant
- state-of-the-art application and processing software, all in a paperless environment
- full portability of professional certification with all other provinces
- engaging file reviewers from professional associations in other provinces, to enhance trust, ensuring a solid foundation for professional mobility
- Placing responsibility for developing the national competencies for education accreditation in the hands of an independent corporation, Technology Accreditation Canada (TAC), thus placing responsibility at-arms-length from the professional association.
- TAC engages under contract the Canadian Standards Association in developing the national competencies, thus engaging the public in a much more significant manner and putting responsibility for this critical function at greater arms length.

- Outsourcing education accreditation to Technology Accreditation Canada, ensuring a national approach to educational evaluation
- ‘provisional’ certification for professionals from other countries, allowing registration prior to entering Canada, opening the door to the workforce
- ASTTBC has a policy of mandatory reporting of Continuing Professional Development (CPD) by professionals. ASTTBC has recently commenced a program of auditing CPD. With an investment of \$400k in a new association management software to be fully operational in 2018, ASTTBC will be able to audit all 10,500 registrants and track their progress as they work to meet policy requirements.
- ASTTBC has made modest inroads in auditing practice through Practice Assessment Reviews.
- Practice Guides, available in some fields, help to inform registrants on their usual scope of practice based on general competencies.
- Formal complaints are well managed, with all complaints and findings posted to the ASTTBC web site.
- ASTTBC has partnered with the provincial and federal governments in delivering programming and services to assist internationally trained technology professionals secure ASTTBC certification and move into the BC workforce. This financial support has proven of great benefit producing positive outcomes.

In the process of framing ASTTBC policies there has been consultation with other professional associations and this has informed and benefitted ASTTBC operations. While most helpful, this informal connectivity could be enhanced through a different legislative model and a more formal operational linkage between professional associations.

For the most part the professional associations function independently as they formulate policies and practices associated with professional regulation. While there is some consultation and sharing, there could be a greater effort to formalize certain elements such that they become uniform and define best practice for all professions.

SUGGESTIONS:

*9. Government and the Professions to collaborate in framing and adopting best practice in various professional regulatory functionality:*

- *Certification standards and requirements – competency-based*
- *Access to certification for internationally qualified applicants*
- *‘Provisional’ certification for professionals in other countries seeking to come to BC*
- *Code of Ethics*
- *Professional practice learning resources and examination*
- *Portability of certification/ registration*
- *Portability of practice rights*
- *Complaint filing process*
- *Complaint handling*
- *Complaint reporting / posting to assure full access*
- *Practice Audits (pro-active)*
- *Reporting and auditing of CPD*
- *Mandatory re-certification*

### ***Is the current professional legislation framework the best model?***

The five pieces of Government legislation governing the five 'lettered professionals' that are part of this Review represents a 'mixed bag' spanning the spectrum of professional title protection for all to varying degrees of practice definition and restriction. Working coincidentally with the professional legislation is 'third party' legislation / regulation that grants Qualified Professional (QP) standing where a professional(s) is designated to carry out certain work. QP recognition further defines Government and others' expectations in terms of practice scopes. QP recognition helps inform practice rights.

The current legislative framework for professional regulation requires modernization. Practice restrictions established many decades ago do not reflect the needs in 2017 where we have different skills available and where out-dated practice restrictions limit rather than enable our work force. BC should be utilizing all skills available to the economy. Change is needed.

This is a decades-old issue that, to a large extent, remains unresolved, such that highly qualified technology professionals who are competent to carry out certain work are oftentimes barred from delivering their expertise within the professional reliance system. Over the years ASTTBC has explored a number of avenues to address the issue, at a significant cost. Details of the approaches have been shared with Government. The majority of this effort has targeted the broad field of 'engineering'.

Currently ASTTBC is exploring ways to find a middle ground such as embedding in the *Engineers and Geoscientists Act* licensing provisions for ASTTBC-registered Professional Technologists (PTech) and framing in legislation a clear scope of independent practice for an ASTTBC-registered professional. This new approach enables licensing of all engineering work, whether it is 'engineering technology' or 'professional engineering', within one statute. The proposal being advanced by ASTTBC would include PTech in the *ASTT Act* and the PTech would be regulated jointly through 50:50 P.Eng. / PTech boards. PTechs would be members of, and regulated by, ASTTBC.

#### **SUGGESTIONS:**

*10. The Applied Science Technologists and Technicians Act (ASTT Act) to be modernized. The ASTT Act dates back to 1985 with little change, in particular as it applies to rights to independent practice. A clear scope of practice is needed to ensure full utilization of skills and to provide clarity as to what services an ASTTBC member might provide. ASTTBC also proposes changes to the ASTT Act that are more administrative in nature.*

*11. The work restricted to a P.Eng. needs to be clarified in law. Not all 'engineering' is restricted in law as 'professional engineering'. Current legislation lacks clarity insofar as the practice of 'engineering technology' vs the practice of 'professional engineering'. ASTTBC can cite third party legislation where ASTTBC members have been excluded because there seems to be a 'go to position' that the work should be restricted to a P.Eng. when in law the work may not be restricted to a P.Eng. This is not to limit the practice of the P.Eng. but to fully enable ASTTBC professionals who are competent to carry out certain engineering work.*

*12. The Engineers and Geoscientists Act to be amended to include recognition of a scope of practice and clearly framed rights to independent practice for the PTech in a manner similar to that in Alberta. Further, and as required for certainty, a scope of work generally for ASTTBC-registered professionals be framed within legislation.*

*13. Licensing of companies needs thoughtful consideration. In the absence of clear practice rights for ASTTBC professionals and the possible impact licensing of companies will have on other professionals and private businesses' and their rights to practice, Government should exercise caution in granting authority to license companies. Alberta is again cited where the PTech is able to license their firm to practice within the scope of the PTech's license. If licensing of companies is to be applied in one of the professions should it not also be part of the framework for all professions?*

### **Should BC consider a formal linkage of the professions through 'umbrella' legislation?**

Do we need five separate professional statutes governing the natural resource professions or could the system be more effective if the professions were brought under one statute, as with the Health Professions Act? Should BC look at an *Applied Science Professions Act*? Over the years ASTTBC has considered various forms of umbrella legislation, from a fairly small umbrella of all practitioners in engineering under one statute to a much bigger and all-inclusive form of umbrella legislation embracing all applied science professionals.

#### SUGGESTIONS:

*14. Consider one statute governing all applied science professionals similar in form to the Health Professions Act. This model has particular interest as most key operating elements of professional legislation are captured under one statute and details particular to each profession within 'Regulation' which are more readily amended.*

*15. One possible model, if a broader form of umbrella legislation is not considered, is to change current professional legislation to make it high level and enabling and then capture all professional regulatory and business operations within Regulation.*

### **Does the Professional Reliance Model designate appropriate QP recognition / practice?**

It has become clear that the current approach to designating QPs does not adequately enable and engage all competencies available across the spectrum of professionals. One example cited during the briefing for the five Lettered Professions was that of a Registered Professional Forester who might be recognized within the forestry regulatory framework but may not be considered within other governmental regulatory environments. Assessing and determining QP recognition should be more consistent and applied in an inclusive manner.

ASTTBC has had difficulty securing appropriate consideration and QP recognition for ASTTBC-registered technology professionals. There are many examples we can cite; here are three:

- Contaminated Site Approved Professional (CSAP) – ASTTBC notes that a number of Lettered Professionals plus Chemists have been recognized and in spite of considerable effort over years ASTTBC qualified professionals are not recognized.
- Forestry Crossings – Bridges and Culverts – Recognition is given to P.Eng., RPF and RFT, however recognition of ASTTBC professionals has not been forthcoming.
- Water Sustainability Act – ASTTBC members are competent to carry out work currently restricted to a P.Eng., Limited Licensee or Well Driller but ASTTBC members are not included as a QP.

### SUGGESTIONS:

16. *Scopes of, and rights to, independent practice as a QP to be re-assessed to ensure appropriate and full utilization of all professional skills. We have much to learn from the health professions on this key element of professional reliance.*

17. *Government to engage with all Professional Associations on best practices and specifically Practice Guides. The Guides help frame best practice and address public health, safety and the environment. The Guides bring greater confidence in the Professional Reliance Model. Guides should recognize all appropriate professionals. Government has provided funding support for Guides in the past and should continue to provide support into the future, with all professional associations at the table.*

18. *Government and the Professions to frame a risk assessment and management model that will be considered as decisions are made regarding QP recognition.*

### **How are we doing with mobility of professionals and their practice?**

The Canada Free Trade Agreement requires portability of regulated occupations, which works to a large extent when transferring a professional credential, but has not fully addressed the rights to work / practice. The variances across the country insofar as ASTTBC and similar professionals are concerned are significant and need to be addressed.

### SUGGESTIONS:

19. *Ensure full portability within Canada of professional registration and practice rights.*

### **Does the Current model for the election / appointment of governing boards serve the public interest?**

In reviewing various approaches for populating public boards we find a variety of models. Some boards are appointed by the BC Government; some are elected by the membership / constituency; and, some are a combination of elected and appointed. Issues arise from time to time and questions of 'self-interest' versus the 'public interest' emerge. Single-issue candidates are not uncommon and one has to ask how this serves the public interest. There are some who advocate that all members of the boards of professional associations should be appointed by Government.

### SUGGESTIONS:

20. *The composition of professional association boards to be reviewed, including the ratio of professionals and public members appointed by Government.*

### **Does the 'Self-funding' Model Provide the Resources Needed for Public Protection?**

Self-regulating professional associations are expected to self-fund, ie, carry out their mandate to serve the public interest through funds generated by the association, most notably from member dues and fees. The professionals carry the full load whereas the services are provided to the public / consumer. In the 'pure' college model the association has no direct role or involvement with non-professional regulatory activities and rely solely on annual dues and fees. For ASTTBC there is an ability to offer programming and services that brings in 'non-dues

revenue'. These added funds help the profession meet its mandate of serving the public interest, promoting the profession and careers and delivering services and benefits for the members.

An additional challenge among professional associations generally is the varying size of membership and level of dues, which translates into varying levels of resources available to carry out what is, to a large extent, a mandate common to all professional associations regardless of their size.

Association boards are consistently challenged in setting the level of annual dues given the sensitivity among professional members when it comes time to raise annual dues. One has to ask 'what is an appropriate and needed level of financial resources to meet the legislated mandate?'

Do professional associations need added funding to be more pro-active in meeting the highest level / best practices in serving the public interest? If so, what might be done to provide a greater level of funding to enable a more pro-active approach to serving the public interest? It may be helpful to look at a model used by industry in dealing with worker and public safety. Safety programs are delivered by various stakeholders (often not-for-profit industry / trade associations) with foundational funding provided by an arrangement in which WorkSafe BC charges a nominal fee per employee work hour and paid by the employer to WorkSafe BC who in turn advances funding to the agency delivering the safety training. Is there something here that might inform an exploration of funding to enhance professional reliance?

**SUGGESTIONS:**

*21. The BC Government to review with the professions the financial resources needed to achieve the legislated mandate and consider direct funding to professional associations to assist these regulatory bodies meet world-class standards in service to the public.*

**Other Considerations**

ASTTBC anticipates an opportunity to reflect on the role of Government and other stakeholders within professional reliance. The following warrant consideration as the review of the Professional Reliance Model continues:

- the form and size of Government staffing to ensure sustainability of the professional reliance model
- the question of whether Government professionals should be registered with one of the resource professions
- the role of industry and the relationship of the professional and employer
- risk management, compliance and enforcement

ASTTBC looks forward to engaging in these and other matters affecting the overall success of professional reliance.