

## Challenges to Self-Regulation

### Fair Registration Practices in the Regulated Professions Act

The APEGM has been effectively integrating foreign-trained professionals into Manitoba for many years. Engineers and geoscientists from India, China, UK and other countries have settled in Manitoba and gained their professional registration through our Association.

Legislation addressing the issue of internationally-educated professionals getting fair treatment first originated in Ontario in 2006. The McGuinty government created the "*Fair Access to the Regulated Professions Act*" to break down barriers and help internationally trained professionals gain acceptance in their field of expertise. About one year later, the Doer government introduced Bill 19 in the Manitoba legislature to achieve the same purpose. "*The Fair Registration Practices in the Regulated Professions Act*" came into law in Manitoba in November 2007. Bill 126 "*Fair Access to Regulated Professions Act*" was introduced in the Nova Scotia legislature April 24, 2008.

APEGM generally supports *The Fair Registration Practices in Regulated Professions Act*, since we have been actively involved in certifying foreign-trained professionals for decades. We have been speaking with Minister Nancy Allan and have offered our expertise in drafting the regulations that will be put in place to guide all professions.

Realizing that the new Act has the authority to tell regulators how to conduct certain aspects of registration, we will be watching closely the following parts of the law as it moves its way through the legislative process:

1. Section 6(a) "make registration decisions within a reasonable time;"
2. Section 9(b) "training in any special considerations..."
3. Part 3 "Fair Registration Practices Commissioner"
4. Section 12(g) "...to perform any other functions provided for in the regulations."
5. Section 15(1) "...undertake a review of its registration practices at times specified by the fairness commissioner..."
6. Section 15(2)(e) "...any other matters specified in the regulations."
7. Section 16(2) "...the minister must consult with the affected regulated professions and interested persons."
8. Section 19 "Conflict with other Acts and Regulations"

I encourage all members to view this new legislation online:

<http://web2.gov.mb.ca/laws/statutes/2007/c02107e.php>

At the time of printing this document, the government posted a job advertisement seeking a suitable candidate to fill the position of Fairness Commissioner.

## Agreement on Internal Trade

The Agreement on Internal trade (or "AIT" as it is being called), has the potential to change the landscape for professional regulation all across Canada. In a letter to all regulators in Manitoba, the government described the trade agreement:

"The overall objective of the AIT, which came into effect on July 1, 1995, is to reduce and eliminate, to the extent possible, barriers to free movement of persons, goods, services and investments within Canada to establish an open, efficient and stable domestic market. Through this agreement, all provinces and territories recognize and agree that enhancing trade and labour mobility contribute to the attainment of this goal.

Chapter 7 (Labour Mobility) of the AIT includes provisions intended to enable any worker qualified for an occupation in one province or territory to be granted access to employment opportunities within that occupation in any other province or territory. A key element of the Chapter is that any measures relating to licensing, certification or registration of workers relates principally to competence, recognizing that competencies and abilities can be gained through different combinations of training and experience. Accordingly, credential-related differences should not be used as a means to restrict labour mobility.

Through this Chapter, provinces and territories agreed to undertake an analysis of regulated professions and compare their respective occupational standards. Where a high degree of commonality is found to exist in scopes of practice and occupational standards of jurisdictions, the provisions of the Chapter call for the occupational standards to be considered mutually acceptable, 'without further examination for the licensing, certification or registration of workers who meet those standards.' "

In reply to the government, President Tim Corkery, P.Geo. stated the following:

"Professional engineers and professional geoscientists in Canada enjoy unrestricted mobility through inter-association mobility agreements (IAMA) currently in place. In the case of engineering, the first IAMA was signed in 1995 and has been renewed several times. In 2007, the transfer of an engineer's license from one province to another occurred 2,559 times and with most applicants was confirmed in 72 hours or less. This process has been optimized over the past decade and proves our profession's commitment to fulfilling unrestricted labour mobility.

It concerns me to read in your letter that our professions are viewed as 'non-compliant with AIT' - surely this is a mistake. The national data for movement of engineers and geoscientists indicates that mobility is unrestricted for 99.5% of transfer applicants. For the few applicants comprising 0.5%, their transfers are delayed because of serious regulatory questions associated with their professional practice. As a regulator with the mandate of protecting the public, the APEGM cannot ignore serious concerns that arise in the course of confirming a transfer into our province."

I encourage all members to view the AIT web site:

<http://www.ic.gc.ca/epic/site/ait-aci.nsf/en/home>

The full document is online:

<http://www.ait-aci.ca/en/ait/AIT%20Original%20with%20signatures.pdf>

Chapter 7 is on Labour Mobility:

See Article 707 page 91 "Licensing, Certification and Registration of Workers."

See Article 709 page 92 "Legitimate Objectives."

See the Definitions section Article 713 page 95 where "legitimate objective" is defined.

See Annex 703.1 page 98 "Non-Governmental Bodies that Exercise Authority Delegated by Law." This section refers directly to regulators such as APEGM.

At the time of printing, President Tim Corkery, Vice-President Don Himbeault and Executive Director Grant Koropatnick have attended two meetings with the Manitoba Mobility Coordinator to give input to the government. So far, the indication from the government representative is there is no concern over our current mobility practices. In the meantime, APEGM continues to monitor the information, press releases and news reports about the AIT and will respond as necessary.