

Ethics and Code of Conduct

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Overview of Presentation:

College's Ethics/Duties	Key concepts of professionalism	"Due Diligence"	"Duty of Care" or "reasonable care"
"Law of Professional Negligence"	Professional Authentication (sign-off) & Accountability	Current Restricted Activities resting with PROs	Relation to Ethics
	College History of Complaints	Take away messages - Q/A	

Ethics for RPFs:

RPF's AIM

Retain the productivity of forestlands

Provide competent forestry services

Foster public safety, health and welfare

Show professional and personal integrity

Avoid conflicts of interest

Improve the practice of forestry

Maintain confidentiality

RPFT Ethics:

Of Members

(e.g., maintain integrity of forested lands; provide competent services, commitment to continuing competence, etc)

To the Public

(e.g., uphold safety, health and welfare; public understanding and education, sign-off accountability, etc)

To an Employer or Client
(act in best interests of, confidentiality, avoid conflicts of interest, etc)

Due Diligence and Reasonable Care

Professional members are legally, ethically, and morally bound to safeguard the public, their employees, and the environment.



Professional members must ensure that they have fulfilled these obligations through due diligence and reasonableness: “the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.”



Reasonable care is “a test of liability for negligence - the degree of care that a prudent and competent person engaged in, in the provision of professional services”

Do you have a 'due diligence' defense?

Law of Professional Negligence:

- ▶ The usual rules rely on establishing that a **duty of care** is owed by the defendant (investigated person) to the claimant (complainant), and that the defendant is in breach of that duty
- ▶ The standard test of breach is whether the defendant has matched the abilities of a **reasonable person**. By virtue of the services they offer and supply, **regulated professionals hold themselves out as having more than average abilities**
- ▶ If such a duty is found to be breached, a **legal liability** is imposed upon the professional to **compensate the victim for any losses they incur**
- ▶ A regulated professional may owe a **'duty of care'** to another, to ensure that they do not suffer any **unreasonable harm or loss**
- ▶ ...harm which occurred must be a **reasonable and foreseeable** result of the defendant's conduct
- ▶ Regulated Professional **held to a higher standard** in a court of law
- ▶ A sufficient **relationship of proximity** or neighbourhood exists between the alleged wrongdoer and the person who has suffered damage
- ▶ It is fair, just and reasonable to **impose liability**

Due diligence defense:

- ▶ A **due diligence defense** to claims against a professional member may be available through the use of a comprehensive and documented QA/QC plan which operates effectively under a quality management system

Professional sign-off & accountability:

In authenticating professional documents, professional members are advised to:

prepare documentation themselves or under direct supervision, or completed a thorough arms-length review and accept professional responsibility for the work therein

have the relevant training, experience and working knowledge of legislation, regulation and guidelines relevant to the topic

have knowledge of relevant information sources

are functioning under the standards and terms (ethics) of their profession

assure regulators, other professional members, and the public that they can rely upon the work.



Restricted Activities and professional signoffs:

Alberta Forest Management Planning Standard

**Alberta Sustainable Resource Development
Public Lands and Forests Division
Forest Management Branch
Version 4.1 - April 2006**

RFP accountability under Planning Standard:

- ▶ GoA relies on professional integrity to enhance effectiveness of forest resource management planning, implementation and harvest activity...
- ▶ Requires submission and validation by an RFP (Regulated Forestry Professional) of specific components for approval purposes
- ▶ Validation assures work accuracy and prepared with due diligence...
- ▶ Documentation is significant source to validate accuracy
- ▶ GoA monitors and reviews submissions and could take action on College complaint resolution front if documentation is inadequate



Professional Responsibilities in Completion and Assurance of Reclamation and Remediation Work in Alberta



Joint Practice Standard



v1.1
July 2012



Professional Regulatory Organizations

Alberta Institute of Agrologists (AIA)
Alberta Society of Professional Biologists (ASPB)
Association of the Chemical Profession of Alberta (ACPA)
*Association of Professional Engineers and Geoscientists of
Alberta (APEGA)*
*Association of Science and Engineering Technology
Professionals of Alberta (ASET)*
College of Alberta Professional Foresters (CAPF)
College of Alberta Professional Forest Technologists (CAPFT)

Reclamation/Remediation PS (7 PROS):

- ▶ ...practice standard does not replace existing legislation, regulations, policies or guidelines, or preclude the need for appropriate education, training and experience
- ▶ ...outlines the professional and ethical issues involved in providing professional services in reclamation, remediation, and related project management
- ▶ ...Professional members shall ensure that they possess a combination of formal education, skill, experience and training as required...to do the work
- ▶ as per any code of ethics, must only undertake work in his or her profession for which he or she is competent and qualified to do.
- ▶ ...defines the professional and ethical responsibilities of professional members in the completion and assurance of reclamation and remediation work in Alberta.

REC/REM PS cont:

- ▶ Professionals must ensure their skills are consistent with the requirements of the industry and that these skills are constantly improved and enhanced through training and knowledge sharing.
- ▶ ...identifies what the public should expect from any professional member and a level of performance.
- ▶ ...expectation that a professional member has supervised and/or reviewed such work...
- ▶ ...basically, what is deemed to be an acceptable standard.
- ▶ ...(Appendix B) defines the:
 - general competencies, context, core knowledge and abilities,
 - quality assurance (QA) and quality control (QC) required for this work,
 - and describes the general tasks for remediation and reclamation.
- ▶ services are often multi-disciplinary in nature...recognizes that any one individual may not have the entire skill set (qualifications and/or experience) necessary to address and complete all the work - hence, coordinating and individual contribution roles inherent in teamwork environments.

Rec/Rem signoff:

- ▶ Regulated member in good standing
- ▶ 5 years of relevant experience required/documented
- ▶ Professional Liability Insurance coverage required (addresses long-term liability)
- ▶ Primary and Secondary insurance needed

PROFESSIONAL PRACTICE STANDARD

MAY 1, 2017

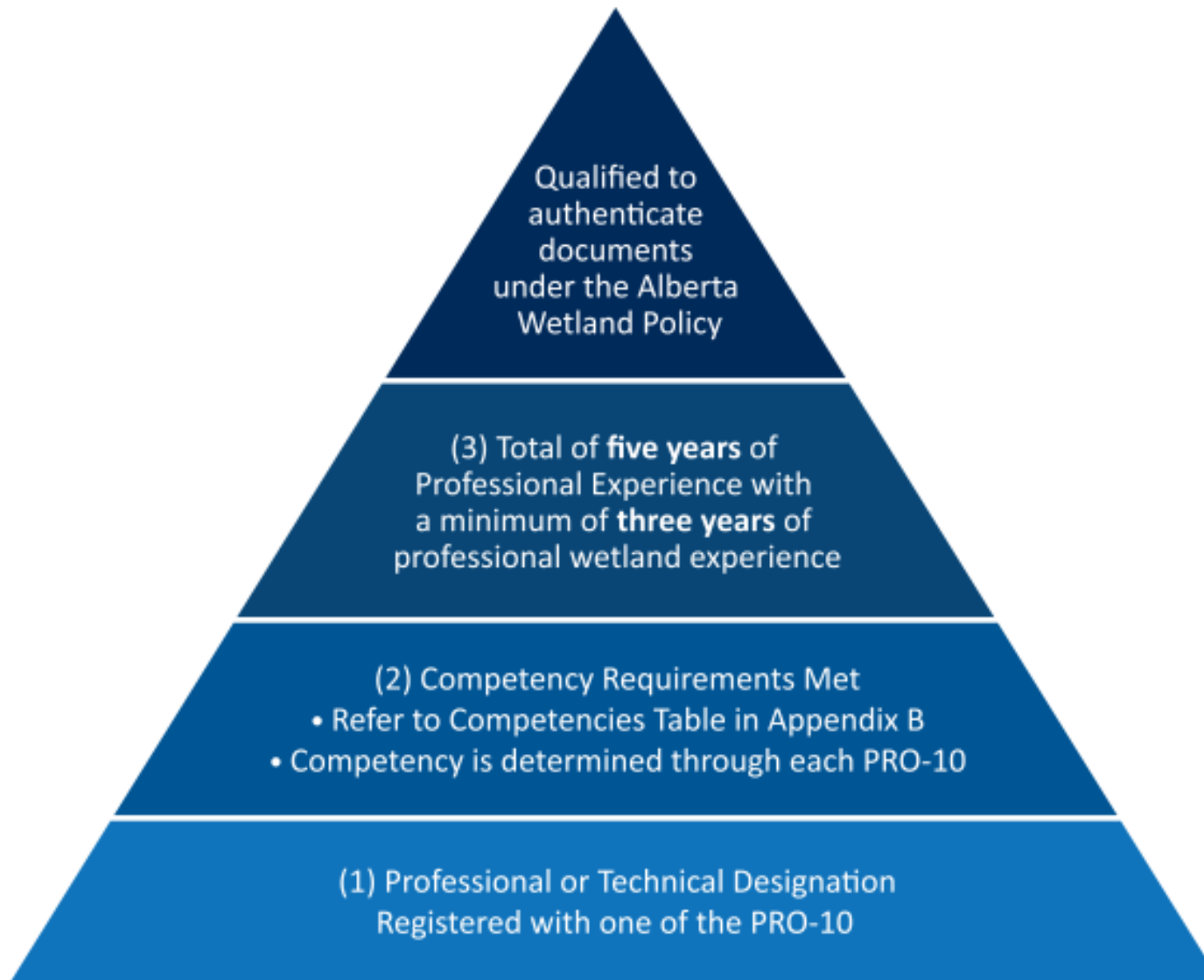
Professional Responsibilities in Completion and Assurance of Wetland Science, Design and Engineering Work in Alberta

Prepared by the Professional-10:



Alberta
Government

Figure 1. Diagram of Education, Competency, Skills, and Experience Requirements for Authentication of Regulatory Documents under the Alberta Wetland Policy



7.3 Responsibilities of Professional Members

It is the responsibility of the *professional members* to:

- Provide assurance to the public, safeguard the environment and public, and *practice* with due diligence
- Conduct his or her work to an appropriate standard of care
- Maintain a current knowledge of all acts, policies, procedures, and guidance documents of the *regulators* and other agencies
- Document the work thoroughly
- Ensure that data have been collected in a manner consistent with professional practice and that no systematic or intentional bias exists in the data
- Remain aware of any poor or prohibited *practice* and bring this to the attention of the appropriate *Professional Regulatory Organization(s)* and/or the *regulators*
- Only take responsibility for work and conduct work within his or her area of *expertise*

Self Assessment - am I competent?

- ▶ Educational background
- ▶ Post-graduate work experience
- ▶ Continuing Competence - upgrading to keep current and hone skills/knowledge
- ▶ Ethics - only work in areas within your competence level and be mindful of oversight role
- ▶ Implement processes on QC and QA
- ▶ Other expertise brought in when needed - team approach
- ▶ Knowledge/familiarity with Acts, Regs, Plans and Policies required
- ▶ Document everything and good record keeping
- ▶ Professional liability insurance coverage (recommended and sometimes required)

CAPFT (2002 to present) under **Regulated Forestry Profession Act**

<10 inquiries

- ▶ Only one written, eventually resolved and withdrawn; Member against member dispute relating to provincial Crown Land matter
- ▶ Zero Hearing Tribunals

History of
Complaint
Resolution
matters -
Formal
Complaints and
Hearing
Tribunals:

CAPF:

(1985 - 2002) under **Forestry Profession Act**

<20 inquiries

- ▶ Three written; after investigation, one dismissed as trivial/vexatious; two went to HT (conditions placed on practice for one member and other member acquitted - both private land jurisdiction issues - expert report for civil case and business plan).

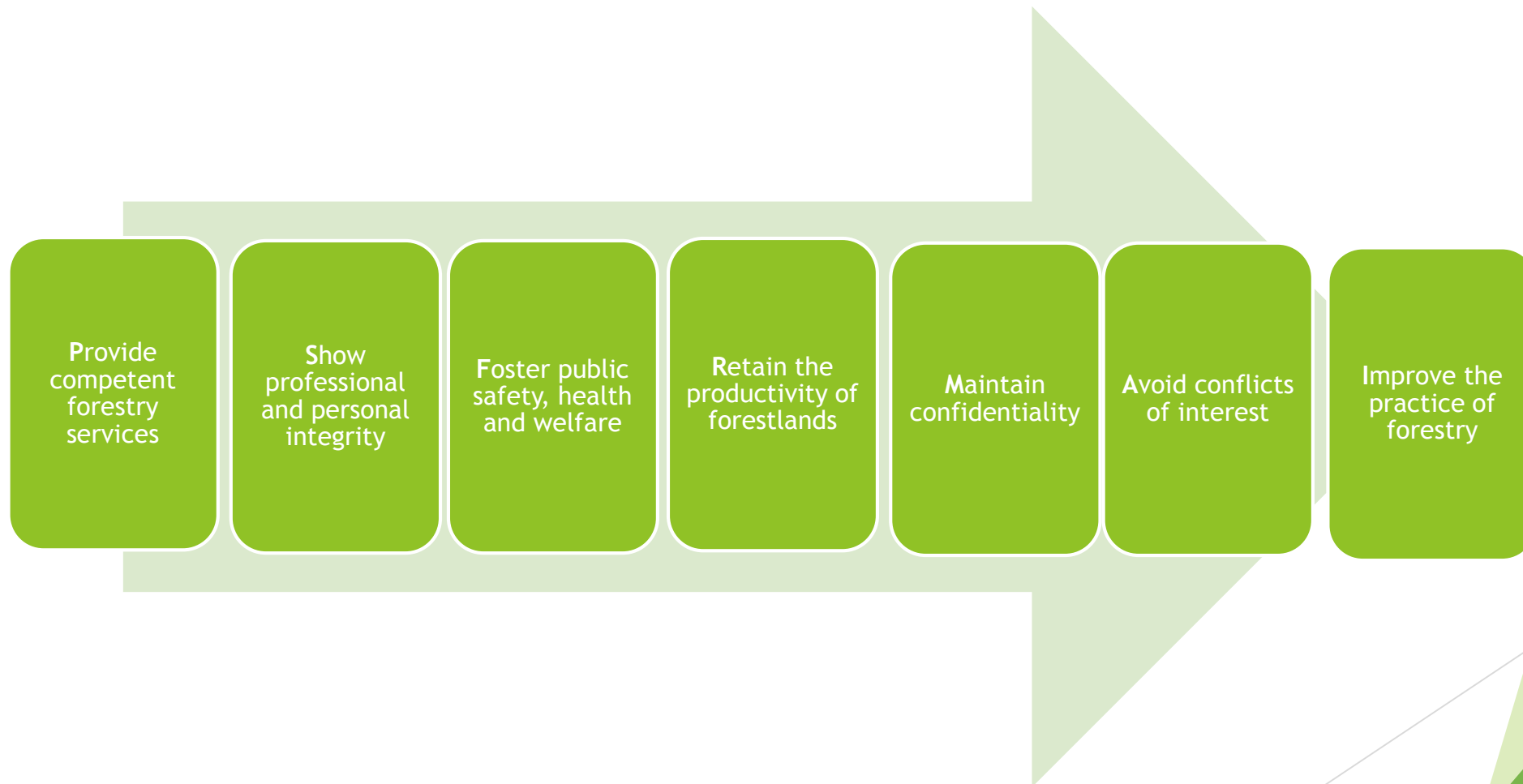
(2002 - 2017) under **RFPA**

<10 inquiries

- ▶ Three written; after investigation; one dismissed as T/V, one member admitted guilt and was suspended/fined, one HT - with member acquitted (private land issue and invoice dispute)
- ▶ Some complaint inquiries chose other routes to resolve - union grievance process or human rights hearing (harassment).

History of
Complaint
Resolution
matters -
Formal
Complaints and
Hearing
Tribunals:

Most common ethic breach accusations:



Thank you...Q/A?

Review Part 4 of
Act

Review your Code
of Ethics

Maintain your
competency -
Mandatory CCP
requirements

Accountability - do
you have a solid
due diligence
defense?

Seek legal counsel
if subject to a
Hearing Tribunal