

APPENDIX 2

Notes from In-Person Consultations



Appendix 2 – Notes from In-Person Consultations

The following feedback is from the more than 30 in-person consultations held with Members and Permit Holders in the fall of 2015. Comments, as recorded, have not been edited, but they are not necessarily direct quotations.

Informing the public of the existence of an ongoing investigation or practice review

- Clarification as to whether this is already clear in the Act?
- Retired member wondering why public is missing from this when we are doing this for them, and we are trying to be transparent... why don't we publish everything?
- One member is concerned that not publishing names can expose the public to danger. Rebutted by 2 members that an investigation can lead to lost business even though the member has not been found at fault. The process takes too long, there can be long time elapses before investigation concludes.
- A note, some other professions do list investigations.
- Definition of public. Is a professional member considered a member of the public? All individuals affected by the action of a member can be considered.
- How can information on the mental state of an individual member be obtained, tracked and processed?
- Did the government clarify the problem with privacy laws in asking for more transparency? It's in the public interest that the public knows more on member activities.
- The presentation creates a presumption of guilt.
- Health issue – If it is already determined that an individual is incompetent from a court, does APEGA accept external findings?
- Does APEGA use criminal convictions from other provinces lead to a cancellation or suspension of member license?
- What are the risks to members that are under investigation? What are risks to the association to release information to the public? This has the possibility of prejudicing the results of investigations.
- Do you publish the information of members or permit holders? Opinion - should be both.
- Participant against publishing information when affected has not been found guilty. Creates prejudice against involved parties in the eyes of the public.
- What advantage is there to publishing names of investigated parties?
- Published information should explicitly inform the public on specifics of actual incident. Reason for defect might be outside of member control.
- The member gets affected more by publication than a permit holder who has monetary backing.
- Have the legislation/review been compared to other associations around Canada? Research covers other associations and professions.
- Today's world is too connected. Informing the public about an investigation can severely damage the individual's career.
- It may be more logical to inform the general public after the review is complete.
- The public should be advised about the investigation but not thorough details of the professional involved.
- Information available to general public does not have to be as detailed as information known to members and people in the industry.
- Is APEGA liable for the disclosure of someone's personal information?
- Why don't we do this already?
- Seems to be largely a policy issue; do we need to put this in the act or can we simply put a policy in place? Reason to move this into the legislation is because it would give APEGA the express authority to do this, because otherwise privacy laws prevent it in many cases. That is, intent is to give APEGA the right to inform the public, they recognize it needs to be seriously considered "how" this would be done in each case.
- Asked if there are any examples of where this was helpful from other jurisdictions? Yes, parkade collapse.
- Something that bothers a member is the immediate naming of potential parties involved, when in fact it

may be found they did not contribute to the incident (gave an example of a teacher accused of impropriety, even if cleared there is a “blemish” on their name that makes it nearly impossible for them to practice their profession moving forward).

- Will Members or Permit Holders have any opportunity for retribution if they are erroneously “accused”? Does this open APEGA up to some liability?
- How do you deal with malicious intent?
- Need to balance between public interest and reputation?
- Mistakes in evaluation / error would be prone to legal challenge / damages. Who pays for these outcomes?
- Would the same process be applied to investigating a permit holder and a member for the same incident?
- Who came up with the issues being considered?
- Criteria (regulations and policies) have not been set for this change to the Act.
- This change would need to be communicated to members and permit holders so that folks can change their work practices (habits).
- How are these changes enforced in other jurisdictions?
- Will council as a whole determine when the public will be informed? What are the criteria?
- Does the Act really need to be changed given this is already implied in the Act?
- Members’ reputations are damaged when an investigation is underway if explicitly made public. If a Member is cleared from an investigation how will this be expressly communicated to the public?
- Is APEGA going to delineate between a specific firm and/or member being investigated or a particular incident?
- Will the identity of an individual/firm who makes a complaint also be made public?
- Exercise caution, make criteria for council to inform public clear and considerate.
- Keep names from public announcements.
- What is the expected frequency of occurrence of this?
- Somewhat disagree. Informing the public of an ongoing investigation before a final decision has been made involves the risk of tarnishing the reputation of the individual or company under investigation who may be later proven to be not guilty. It is usually impossible to recover the damaged reputation after the matter is publicized and it is suggested to inform the APEGGA members only during the course of investigation and only let the public know once a decision has been made.
- Agree. Unfortunate situations in Ontario (parking lot roof collapse in the mall) and Quebec (bridge) are reason enough to advocate this legislative change. There are several cases in the past where enforcing this legislation could have prevented the occurrence of tragedies. It is in public’s interest for APEGA to have the authority to tell the public about an ongoing investigation to ensure such disasters will not happen in the future.
- Somewhat disagree. Other public safety regulators usually do not reveal to public more than what has already been made public by the media during investigation. They confirm or deny what public already knows. It is suggested that APEGA should adopt a similar approach rather than revealing the investigation before a final decision is made.
- Concern. We should be cognizant of the possibility that there might be a legal liability involved for APEGA to publicize investigations before a decision has been made.
- Why don’t we do this already?
- It has been a policy issue. Can it be added to the legislation?
- In case that is added to the legislation, it will not always be done but it allows APEGA to do it (currently it is not allowed, APEGA does not have the right because APEGA can end up in a lawsuit).
- Any policy changes are approved by votes? Who approves them?
- Elected Council makes final decision. However public can show their opinion. Members can contribute to the policies that are being proposed to the Council, and the findings are shared with the Council.
- Is there an example when this action was useful for other jurisdictions?
- The issue with the roof of the mall falling down, in a similar case we could inform the public that we are not ignoring it and as the regulator organization we are doing our duty.
- A person could be painted forever for some investigation, even if the person is found with no guilt, and will affect the person’s career.
- If the person is falsely accused, what is the liability of APEGA? Will there be compensation?
- It’s part of transparency that needs to happen. I definitely agree. There needs to be certain caveats, such as those dealing with when the public is informed when APEGA is conducting an investigation.

Need clarity about when things happen.

- Put in checks and balances so there is not a vendetta.
- What happens if a member is investigated for harassment? Need more information on the types of investigations the public will be informed about.
- How much information can be held back? How much are we allowed to share before proceeding?
- What would it take for APEGA to do this? What filters would be in policy?
- I want to know the criteria and process before I can support this. Close attention needs to be paid to the detail of the process.
- The concept is good, but implementation will be difficult.
- How do you safeguard the public need to know with the member's right to privacy?
- Concerned about APEGA's exposure to possible litigation by only selectively publishing some of the incidents – not all of them. It should be all or none.
- If no evidence is found, there must be clear about publishing the results to the same degree as the fact that APEGA was conducting an investigation.
- Public attention may affect your business negatively regardless of the outcome of the disciplinary decision.
- Their names are now public, but the reason why is not revealed.
- Recommendation: private/smaller hearing before names are told to the public.
- Damaging names regardless of the outcome of the disciplinary decisions that will last the rest of the Member's life. Could be used as a screening mechanism.
- Recommendation: name the company name first (an individual at company XYZ), then if the investigation results in disciplinary action, then give the individual's name.
- Recommendation: instead say "XXX incident is being investigated", but do not give any company or Member names.
- Any suspension, can release names to the public? Suspension occurs before the investigation has been completed; may or may not include names in special circumstances. No decision rendered but we can tell the public APEGA is looking into something.
- Do we share that APEGA is looking into it, or the names of the people involved? Will be addressed in policy, but is there understanding or support first among membership to support?
- Before we could decide what would be published, need support from Members on idea of policy.
- Concerned for the Member's well being.
- Want to know what informing the public entails before being in support or not.
- Concern is about the details, can't support or be against without the details of what a policy like this would look like.
- Understand the intent is to inform the public we're investigating if there's a very public incident, what about when there's a malpractice investigation going on – do we inform the customer of the member? Previous customers of the member? Public AND clients would be informed.
- There's two types of public, it sounds like we're talking the general public. It would include both, but mostly we're considering the general public and their interest.
- If there is publishing of someone's name and it turns out they're innocent, what is done? If APEGA made a decision to announce an investigation was going on and the investigation eventually concluded in innocence, would make another statement to say otherwise?
- In Quebec parking lot case, were names released? Eventually.
- APEGA involvement with Criminal-related cases concern – our place in this.
- Will criteria for the vision of the specifics on this policy be made available to the membership and public? Yes.
- Who comes up with the specific policy behind this?
- How much info of the involved Member (details of the suspicious acts, name, institution) is allowed to be publicized?
- How long does the investigation take (the timing of the public announcement) usually?
- Continue Q2, timing of the public announcement (in mid of the investigation, or near the end of the investigation).
- Is it good to release involved member's name?
- Agree to release the involved member's name. Necessary to let the public be aware of the identity of the involved member.
- How to release info to concerned individuals?
- What is the motivation behind the proposed change?

- Concern over damage to the reputation of APEGA by releasing the involved member's name too early considering the possibility of no discipline ruling at last. Should wait until the final investigation is close to finish.
- How to inform the public? Letting them being proactive? Which media type?
- Policy will stipulate all types, media is an option. How to avoid misperception? Or a biased report? It should be detailed oriented, not twisted to be adulterated, but accurate.
- There should be manage the danger not to making it widespread. Clean and tide to determine under which circumstances to make it public.
- Why not wait? Because with this new law we have legal permission to say we are looking into this.
- Is it intended to publicize the incident? Do you give names at this point?
- Examples of where publicity is required - collapsing of mall roof in Ontario; bribery in Quebec.
- Should name be published before actual establishing the offence?
- What is the motivation of doing change?
- Seek legal- council advice.
- It may be abused.
- What else other than public interest?
- Current legislation is 35 to 40 years old. Govt. advised to look-into the legislation for improvement.
- It may impact negatively on the career of an individual whose name is published.
- How the public interest will be served by informing them APEGA is working on the issue?
- What is the most informed and informed?
- It is not only the public interest.
- Really it is not required. Example; If building collapse, people will know automatically.
- Agreed with idea as currently it is hide and seek situation.
- Timeliness of investigations/reviews are of the essence.
- Is the intent to inform the public that APEGA is investigating the incident or the persons involved?
- Opening for lawsuits w/presumption of innocence.
- Public perception/loss of confidence in members.
- What depth will the investigation go into? Public will expect what extent of investigation?
- Will the names of members involved with previous investigations be released?
- Presumption of innocence – rather release that we are investigating rather than the Member's name. Similar to police statements.
- Makes sense.
- As long as there are some guidelines and as long as it is a serious event: life threatened/death.
- Important for professional association to take leadership in this area.
- To make sure that it is clear that the policy is public.
- This translates down to the membership directory – having a list of discipline hearings against them (goes to next point).
- Important - don't need a formal complaint to go forward.
- Careful with this - potential liability to APEGA. Seeking legal counsel?
- Motivation for the changes, need to think of specific approach for this change. This amendment could be abused. This has to be used with extreme caution.
- What is the main drive for changing this - 81 years of practice?
- How will people be served with this change?
- Informed and misinformed generation, it could be public theft of information - may have no real reason behind that.
- This seems to be big step to hammer Members. There are other acts that make the professional for good practice - why aren't they highlighted?
- Don't we have already something like that in place? The current authority is implied, and it may generate miscommunication. We have been requested to look into that.
- With today's social media and publicity, I think every time there is an issue that happened involving an Engineer, somebody will raise the question: what is the regulatory body doing about this? How much APEGA should reveal to the public? Good comment! I believe that what you trying to say is that when this policy comes into effect, it is better that we have some clear criteria.
- Or better to have 20 people on the phone to answer questions when they call. When do you say NO? How do you say it? Good question and comment.
- What would be the trigger when you completely review the information to the public? Good Comment.

- Review should be done in a timely manner.
- What about presumption of innocence?
- A member's position may be harmed if they are innocent, but if has been announced that they are under suspicion.
- To what extent is the investigation going to go to?
- How far back will the discipline information go back?
- Saying that we're investigating a "roof collapse" for instance, is much different than saying we are investigating "John Doe" for malpractice.
- What is an emergent situation?
- Currently only about half of names are released to the public, why change?
- How does this compare to doctors and lawyers?
- Please provide an example of emergent situation.
- Concern for the innocent on record.
- Need to have more transparency.
- Seems guilty until proven innocent.
- Maybe should always be made public.
- General public should be involved now.
- Why not publish everything without names?
- Example Elliot Lake applicable - doesn't seem to be helpful after the fact - the mall collapsed.
- Don't believe that names should be published until a finding has been made.
- Believe that names should be published to proactively protect public.
- High profile cases will be picked up by media. Court actions may require secrecy.
- Concern on publishing early when an investigation lasts for years.
- What do the doctors do?
- General public should be involved now.
- Why not publish everything without names?
- Example Elliot Lake applicable - doesn't seem to be helpful after the fact - the mall collapsed.
- Don't believe that names should be published until a finding has been made.
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- Concern on publishing early when an investigation lasts for years.
- What do the doctors do?
- Who decides whether a member is at fault? Is it council? Has to be clarified first.
- What is the criteria for council to consider a member in default?
- Is this related to criminal offense against member?
- How related is the Privacy Act to this?
- The body has a responsibility to respond to the public in critical cases and can respond in the interim.
- This is in relation to the mention of individuals named publically.
- Care to be taken to prevent tarnishing members name and reputation while investigation is ongoing.
- High profile cases are always normally in the court as well. Be careful.
- Canadian law presumes innocent until proven guilty - if public found some are guilty who prove to be innocent later - a case of false complaint: will this be consistent with Canadian law?
- Do we not already have the power to do this?
- Criteria to judge that is under the legislation - or it is limited under APEGA?
- How to communicate, how to publish?
- Is it according to Canadian law calling guilty before proven?
- Guilty by association - too much room for interpretation and there is no correction.
- Permit Holder - concern that one project might be small, but the reputational impact could be huge.
- Bidding - this could come up, would never go in your favour.
- Very competitive market place - the contract administrators would make this disclosure mandatory and this would stigmatize the accused forever.
- Does releasing a name really protect the public?
- Large multi-use organizations would be impacted if only one small portion of the organization was implicated (structural engineer accused, but civil engineers would feel impact).
- Are the parties to be investigated going to be named?
- What are the checks and balances that will ensure that it is used judiciously?

- There should be a watch dog to monitor this process. There should be an independent way to have check and balance.
- It would be nice to know what policy is going to endorse it.
- Informing the public is good, but publishing the name is not good.
- What does “inform the public” mean? Just on the website where people have to look for it? In Sask there is very little on the internet and someone has to phone in and ask questions about a member.
- Just because someone named in an investigation, does not mean they are guilty.
- Once information gets on the internet, can be misused by third parties. For consulting engineers, especially sole proprietors, this can put them out of business.
- Concerned with push v.s. pull about investigations. Prefer more of this shifted towards public learning if they ask, rather than pushed out.
- Any way to limit what parts of the public get notified depending on the seriousness?
- We are behind other professions in transparency. We need to get going on this.
- Need just as strong, if not stronger, communication when a Member or Permit Holder is cleared, in order to help restore reputation and business.
- Can there be a parallel criminal investigation with an APEGA investigation?
- Public disclosure can affect consulting professional members.
- Better to state “investigating incident” vs. investigating an individual.
- Currently disappointed in lack of transparency in Alberta – helps everyone improve their practice.
- Concern that names only, but not addresses, be published.
- Concern reputation of member damaged if published before assessment of guilt.
- No indication now of how many complaints etc. published regularly in the PEGG
- General impression – proposed changes for suspension etc. implies presumption of guilt v.s. presumption of innocence.
- Does APEGA take on liability by publishing?
- What do the other provinces do?
- What do other professions do?
- With care – this could be an embarrassment.
- How is an emergent situation defined?
- How to compete with privacy laws? Clarify – APEGA doesn’t name the people/parties involved. Only ability to say “we are looking at it”.
- What do other provinces do?
- What about APEGA’s liability?
- How do we mitigate having spurious accusations of lack of capacity arising.
- Presumption of guilt rather than innocence.
- Total presumption of guilt – once the fact is out there is an investigation, it is out in the public.
- What are the criteria proposed for determining what gets published?
- The authority would need to be clear when they do the release.
- Keep it internal to APEGA until a guilty verdict is leveled.
- This is really about communicating to the public.
- Need to have policy to decide before people are willing to assent to this.
- Frivolous actions or anonymous complaints - Don’t think it is appropriate both from a protection of the public standpoint as well as protection of the Members.
- Controls will be put in place regarding frivolous or anonymous complaints? Would be significant complaint only?
- Response to written complaint? Questions from within APEGA (internal complaints)?
- How does this affect individual’s permanent record?
- What about the actions of MIT? MIT’s record.
- Why hasn’t this been done already?
- Largely a policy issue.
- Will putting into legislation make it still be discretionary?
- How will the registrar impose?
- Who determines the changes in policy?
- Any examples from other jurisdictions?
- When we are initiating the investigations against or in the name of Members or Permit Holders, are we naming the individual member or the associating company?

- When we are talking about Members or Permit Holders? Is this limited to the private companies or ministry corporations as well? Because engineers are working there too.
- Is there any timeline when these policies and criteria will be developed?
- How much is the value of APEGA stating that we are investigating a case v.s. the problem? Because APEGA is doing it, is that the value, instead somebody calling to ask if you are doing it? You want to protect the public but I think is important to protect the Members to make sure they go through an ethics training and do their job properly.
- Regarding the transparency comment. What is the cause? Is just across the boards or is this just among engineers?
- Is it for all of the professions that are governed by an Act that are going through this process?
- Will an investigation, enquiry or practice review be considered part of a discipline record?

Informing the public of discipline decisions and interim suspensions

- Registrar should not be “authorized” but should be “mandated” to inform the public.
- Comment that if a large company name is published, it should be clear which section of the company is impacted so the entire company is not tarnished.
- Accepted as good idea.
- Is there option to include corrective action taken in the directory, so as not to create a permanent black mark on member reputation?
- Can corrective action be provided to other associations?
- Will member’s private information be published?
- If member is found innocent, will his/her name be published?
- APEGA needs to consult with the Member being investigated. If the member is proven innocent, his decision takes priority.
- Note that the government is very in favour of this (“shall” vs. “may”).
- How does this compare to other jurisdictions? Example: CPAs, they’re language is “shall”, i.e. they are compelled to share names.
- Concern about naming people in an investigation that has not been concluded; clarify that the information is “interim”; clarify: more concern over naming individual members or companies? Both.
- Currently sometimes APEGA publishes names, sometimes not. This legislation would remove that flexibility (out of the policy area and into the legislation); What the government would prefer is a system that includes the name, and perhaps by exception does not include it, rather than a scenario where the name is only included by exception (i.e. a preference towards clarity and transparency rather than privacy)
- How do we make this information public? Two publics: general public, and Members/Permit Holders; How we inform the public will be different depending on which “public” we are referring to.
- Why do you want to go here? Suggest changing the practice / regulation?
- Should the membership public be informed before the general public?
- How does this impact the appeal process?
- Key issue is when the information is released. Do not harm members.
- What are other jurisdictions doing?
- How can this fairly be administered with Members from other jurisdictions?
- Will there be another announcement if a Member/Permit Holder is found innocent?
- Will this be for all disciplinary findings?
- For emerging situations, there should be strict criteria to suspend a member/permit holder prior to a final hearing/finding.
- Is there a time limit/moratorium for investigative findings made public on the registrar/website?
- The negative public announcement against a Member/Permit Holder will always be remembered v.s. an announcement that a member/permit holder has been cleared.
- The permanent record of a Member/Permit Holder should be available to see if someone has been cleared or if their infraction was significantly in the past.
- Do we publish the matter if the person was found not guilty?
- Disagree. We are essentially revealing materials that are intended to be kept private. This is in violation of the privacy act.
- Agree. The case has undergone due disciplinary actions and the individual/company has been given the opportunity to appeal the decision. Therefore the matter can and should be published since a final

decision has been reached.

- Agree. It is now a public matter. As such we are compelled to publish.
- APEGA should make public such cases if the person was found guilty. If the person was not guilty we should give the Member/Permit holder the choice whether they he/she prefers the case and the decision to be published.
- We already do that, however right now we don't include names. The idea is to include names.
- How is this compared to other jurisdictions? How is this compared to other professions?
- It is on the latest CPEA act direction? Doctors post on an investigation. Everything is posted. Discussion briefing has more details about this.
- It creates a concern for releasing information about investigations with partial information.
- What are the criteria so far to determine if the names are published?
- The statutory board has some criteria for doing it. This topic is a request from the government. The government was to make sure that with this change we move ourselves to a more transparent envelope. The idea is make it mandatory from now on.
- How to inform the public?
- There are two publics: general public, and other Members. The making public depends. PEG helps to inform other members. For general public there is necessary another way.
- The idea is to make it more transparent. We don't have issues with transparency, and it's more about being finished and conclusive instead of partial.
- If the decision has been made based on fact, it is beneficial to publish. Lots of learning can occur. It is different from the first point because it happens after the appeal process.
- Would it show up in the registry next to the member's name?
- When would the investigative committee suspend a member? If there is a suspension, I'm concerned about informing the public without having a full process.
- Would APEGA publish the step-by-step of the process?
- Gut feeling: no. Do not give any names.
- How does it benefit the public if names are published?
- Repercussions to current projects if that company or individual is listed publically. It could throw current projects into a chaotic, undecided state.
- How long does record of these disciplinary actions last?
- If a member has a record of violations, should the public have access to that history?
- Feedback: not sure either way.
- Possibility at forming a double standard for engineers: are Members who are found in violation treated more harshly/publically shamed/etc., while criminal charges for 'regular' people do not have repercussions like this?
- If it was a big enough violation, the Member's name will become public at some point anyway.
- Is there an aspect of scale of the severity of violation that should affect this decision?
- This one is about publishing names.
- We may publish names v.s. we shall publish names.
- Does that include people who did nothing wrong? When an investigation is ongoing, we wouldn't share except in exceptional circumstances. If it's dismissed, there would be nothing published because there would be no record of the issue.
- How long would this name stay on record? Has come up in other sessions?
- Any discretion on name publishing based on the severity of the issue? Government wants full transparency and consistency. Suggesting we shouldn't be able to have this discretion.
- Was there a prompting issue that is causing this to be a suggested policy? No, it's a general push in government for several professions. CPA legislation includes this, now there is a precedent.
- I need to know what you're looking for as an organization. It's not a directive, but the policies of other professions have yielded precedence. Engineering profession incidents in other jurisdictions also prompt consideration of this.
- Anyone else besides CPA's done this? Most recent act becomes the model, we strive to see consistency among the professions in legislation.
- Is this after the disciplinary process? Is the discipline publishing names? Is all the discipline that is required? Going forward would list the name of the Permit Holder.
- How to be cleared from the discipline history/how long should the record be kept?
- Suggestion: open records to allow general public to subscribe yearly/quarterly/monthly to discipline announcements.

- What is registrar selected to inform? Discipline decisions: orders and/or decisions? Do we give names? Are the decisions related to the names/nature of issues, remorse v.s. very simple mistakes? I would question whether the name of the mistakes.
- Recommend what is the name to publish? People who repeated bad actions? But what about people who make just little mistakes?
- Where? Directory, newspaper? All across Canada? Alberta?
- The Government will determine what magnitude i.e., email to all members, we need to work through a policy.
- Should it be to general public? In the Members directory and EPEG?
- Make public names and discipline decisions.
- Discipline committee has no clear guideline about if names should be published.
- What is interim decision?
- No interim suspension names published.
- If Company's name published that will impact individual who worked in that company.
- Decide degree of severity.
- Timing is important.
- What is an emergent situation? Define better.
- Why the change since we aren't releasing names right now?
- How does this align with the medical and other professions?
- Ongoing argument in APEGA. Some people thought that publicizing the name is a sanction in itself. I think this is good even though it is controversial.
- Those that are listed should be only those who are involved in the incident: list the company, Member responsible.
- Don't want a situation where everyone is named if not involved – not just named because they have a designation and work for a company.
- Only published if there is a discipline hearing decision – don't want to end up with situation of vexatious actions.
- Be very clear/careful with the policy that is created. The Director (Investigation) should have discretion that anything should be published.
- How long will the discipline decision sit on the register?
- Perhaps 10 years on the record – like a driver's abstract.
- Again need guidelines as to what is on the record.
- This is definite improvement.
- Like statute of limitations – 10 years.
- If there is criminal intent indicated through Board review and criminal court – how long do we keep on the record – maybe in perpetuity?
- In support of changes as it is consistent with other professional associations.
- Agree, but a lot of things need to be done.
- Concern: if a new person gets into a project team that has been under investigation, why would the new person have to bear liability? Would his name be published?
- Depends on severity.
- Is there any consideration for permanent record?
- As soon as the complaint is done in writing that name goes on the website. This happens for doctors and dentists before anything is heard.
- The problem that I see out there is the social media. Rumor spreads 10 times faster than anything else which can create lots of damage. Yes, social media has changed the world. And once the information is out there it is hard to retract that too.
- How does APEGA intend to share this information? For now the proposal is for the information to be on the directory.
- What about keeping records? Like if I have few speeding tickets, at some point in time, my records will be clean again. Will APEGA have anything similar to that? Good comment. Maybe, depending on the severity, also depending on the story. For example if somebody was suspended, they are not allowed to practice until they fulfill the requirements and they could possibly apply for reinstatement and practice after that.
- I also recommend APEGA to keep a record of details in case this application needs to be revisited again. For example: coming back to the speed ticket example - instead of just saying speeding ticket over the acceptable limit, saying speeding ticket because speed was five times the acceptable limit.

- What is the history on the names that have been published? What is the benefit of not publishing somebody's name after some violation? Currently, based on what I know, for example if there is a complaint about a person, the investigated person takes a look at this complaint, and "say" to APEGA: yes, APEGA, I am guilty I would like to negotiate a settlement with you. I do not want to go through the whole process with you, it will be too costly ... and I know that I made a mistake over here. Most of the time, when this kind of situation happens, the request to keep the name confidential is part of that negotiation settlement.
- The proposal is even under those settlement agreements, the names would also be published, therefore would not be part of the negotiation.
- What would be the relationship between investigation and discipline?
- Recommended Discipline Order is the same as discipline order and it is just that it is negotiated in a different level.
- Are there any ways to expunge or purge record?
- Consistency in publication of names important.
- Need to know mistakes from future employees.
- Optics are important for APEGA to be transparent.
- Best interests of profession for discipline/suspensions be made public.
- Names should be published in order to serve the public.
- There is a benefit to making names public (compared to using Better Business Bureau as a comparable example).
- Believe that wording needs to be clear such that no discretion would be involved in publishing of names.
- Believe that names should be made public to the general public. There is a concern about what names are published – individual/corporate - need to limit the publishing of names to the issue for which findings are made. A company may have a broad scope of practice.
- What does emergent situations mean?
- What is done in cases where a member is returned innocent? How is the history handled?
- No problem if it is after investigation.
- What are the criteria for disclosing names?
- If the fines are so severe they'd destroy someone's career - is there some way to mitigate?
- Emergent situations need to be clearly defined such that the public is protected.
- If a career should be destroyed, can we have some kind of vehicle to allow for some kind of professional redemption?
- How long do we maintain disciplinary history? Does it depend on the actions?
- Job could be done perfectly; however, how the job was secured may be unprofessional.
- There should be developed more metrics to judge the action to be disciplined.
- It could be systematic abuse of things.
- General broadcasting doesn't really serve the public interest. Only critical things could be broadcasted.
- Too much information; discrimination before may not be good.
- How much more are details about the investigation of action important than privacy of people? Level of severity should also be taken into account.
- Asking for authority to act but not providing the criteria for action. Where is that? This will come from Council.
- Need different categories of discipline defined.
- How long does the disciplinary action stay on file? How many years? Don't want to condemn an entire career from a mistake made earlier in career.
- Could take three to five years for this legislation to get through. Anything APEGA alone or with government can do in the interim?
- May publish names vs. must/shall publish name – contradictory to privacy laws? Individual rights? Don't publish before.
- Would you publish exonerations?
- How would they be published? Website? Magazine?
- Perfect
- How long is "permanent"? Should a time frame be place on the record?
- Repeat offenders?
- How long is the record kept on the guilty member?

- PEG published an article on how great a member was while they were under investigation.
- If the public isn't impacted, do we need to publish?
- What if they have multiple discipline orders? How long does a pattern or behavior linger on the record?
- How does it compose to legislation information?
- Releasing inconclusive information – effects on records?
- What is criteria for publishing some names and not others?
- PEG is not read widely by general public – how to inform the general public?
- What is the definition of public? Regarding informing the public, is just until the end of an investigation that you really know the consequences of some actions or not and in many cases, somebody's name is actually there. Later on, everything is forgotten and no one has the intention to clarify the individual's reputation. This is serious especially when someone is providing consulting services. I would be very careful to use names in very extreme cases.

Mobility of discipline decisions

- Comment that members want the ability to practice in other jurisdictions, if we want this then we should also share information with other jurisdictions.
- Concern that not all jurisdictions have the same standards. This could cause conflicts if the standards vary significantly. Make sure the registrar exhibits due diligence.
- Accepting decisions of other associations is recommended.
- How can a situation where two associations investigating the same infraction and come up to the same results be resolved by APEGA?
- Is criminal intent weighted more than a code infraction and will there be a difference between the discipline decisions?
- Will APEGA investigate the nature of fault by Permit Holder to use in determining discipline?
- How does this affect Permit Holders and Members?
- A Member suspended in another province moves to Alberta, hence suspended in Alberta. Will he/she have to clear his/her case in the original province to start practice in Alberta?
- A Member suspended in one province should definitely not be allowed to practice in other provinces. This applies to other professions as well.
- Mobility of discipline decisions is also beneficial to speed up the process.
- How will APEGA initiate the process?
- General comment for all topics today: it seems as though the underlying theme of most of these discussions is the government's request for greater transparency, relative to the member's requirement for adequate privacy and personal protection.
- We need to make sure that the rules are not different from one provincial body to another (so the information flows equally both ways).
- Is there not a vehicle to communicate between Engineering and Geoscience Act in different jurisdictions? This would be the preferred way to share information.
- Better for APEGA to communicate (agreements) with other jurisdictions.
- A concern about timing of these decisions and potential damage to Members and Permit Holder reputations was highlighted.
- This capacity is needed to deal with bad actors.
- How would we deal with a restricted employee that changes companies and/or jurisdiction?
- Cooperation should be international in context.
- Is it only when another jurisdiction is completed an investigation and made a decision?
- If it was a preliminary investigation, prior to a complete process, that preliminary order should not apply in Alberta.
- It sounds like we need clear criteria if APEGA would accept or reject a decision from another jurisdiction.
- Will an engineer who has lost their license in another jurisdiction be able to get a new license in Alberta?
- Does this apply to Permit Holders as well?
- Does a Member have an onus to inform APEGA that there was a decision made against them in another jurisdiction?
- What is meant by jurisdiction?
- Agree. It is in public's interest.

- Agree. However, there remains one question: If the individual would like to clarify and remedy the matter (cancellation, restriction, suspension), which one of the two provinces should he consult and initiate his request with?
- Agree. This is in alignment with the CFR program which serves as a Canadian framework for regulation. The suggested legislative change is in compliance with the noted intensive program.
- We need to make sure that the rules are not different among jurisdictions.
- This is potentially messy at several points. For example, reinstatement.
- Very concerned about the process.
- A decision in one jurisdiction could result in three jurisdictions (if registered in three jurisdictions). Noted that action in one jurisdiction would be considered completed until the appeal process is completed in the first jurisdiction.
- Do any other jurisdictions have a similar process?
- If someone is disciplined in one jurisdiction, then comes back practice, what is the duration of the action?
- Are you going to go into historical data? Will this be retroactive?
- Feedback: across the country, engineering governing bodies should be able to share this information.
- A lot of care would need to be taken in comparing the laws, etc. between provinces and doing the due-diligence.
- APEGA would have to be forthcoming with investigations in other provinces (it would have to be reciprocated).
- This should be 'interprovincial recognition' (shared amongst provinces).
- Recommendation: there should be an 'expiry date' on how long the interprovincial findings are shared. Everyone deserves a second chance.
- Right now we can't do this.
Is this only Canadian? Yes. And we will require members to self declare their status annually with any other regulatory bodies.
- How do we hold members accountable to self declare? Complaint based system. We rely on members to work within their scope today.
- Is there any tie here with the national organization? Mobility of decisions across provinces will be improved, we can receive or share with this policy but other jurisdictions will have to pass similar policies to be effective.
- Which jurisdictions may already have these policies in place? There are two or three other provinces that already provide status info for us when we want it. Not sure which.
- National organization doesn't license, but does accredit schools. Is APEGA linking with Engineers Canada to make this happen? They share policies, issues, etc., regardless of legislation – admissions, CEAB, discipline and enforcement, etc.
- These comments are important. I will be asked these questions by the Minister and Cabinet. What is going on elsewhere is a big question. Last thing we want is a Balkanized approach- we want consistency. Want symmetry.
- Good change.
- Completely agree.
- Is it a 'may' or a must?
- It is a 'may' - we have an opportunity to understand the decision before implementing it.
- We want the opportunity to be able to review it first.
- Is there a big difference between provinces?
- The rules are slightly the same. National workforce efficiency. We have to make sure we have the opportunity to understand the case.
- I am hesitant to review and accept other board decisions before processing it. It is just whole ethical practice, because there is a possibility to any mistake.
- The Registrar would go back to the committee. I can only share with you, there would be a group engaged to review the case before deciding the steps to follow. The Registrar is the single body and is different from the boards. There is a formal person reviewing before making all decisions.
- Suspension decisions from other provisions should be considered.
- What is inter- country about?
- We may not have full knowledge of other countries.
- Share information between provinces.
- Ensure Due process was followed in other jurisdictions.

- Reviewed by APEGA to ensure it is also wrong in Alberta or that it was a fair decision.
- Fines on top of another jurisdiction's fines are a concern.
- How will you enforce that members tell APEGA about disciplinary action in other provinces?
- Database to be formed?
- How would they know if they are a member of APEGA?
- It doesn't prevent someone from lying, but it does allow for the situation that a person must report.
- Is there a database that provinces can share this information – would be a good idea to harmonize.
- Would be very helpful to track things down – bonus to have this recorded.
- Need to use the legal name – be careful to have the right person to put on the record or report on.
- Would it be the same discipline imposed as in the other province? Do we have to follow the same order exactly? Could they temporarily suspend until reviewed?
- Would it make sense to identify the ruling jurisdiction when we go to publish (in record of the Registrar make note of jurisdiction)?
- How does this pertain to E.I.T.s?
- Agreed - this is really good.
- Perfect for public protection.
- What about other countries? Why don't we move towards that as it fits for public interest as well.
- Good step, but it may encounter new problems.
- Do we have any legal procedures that allow us to check the background of Members in other jurisdictions?
- How will APEGA have a uniform understanding about what a member of good standing means? Not all the provinces have the same definition of what a member of good standing is. That is another debate that is happening nationally.
- We need to have the capability to monitor what is happening out there too.
- Thumbs up!
- How will we force somebody to report that they have been suspended in another situation?
- Consensus that this is needed if APEGA is satisfied other jurisdictions processes are equivalent.
- Generally this is a reasonable approach, since as a group of professionals we are able to practice in other jurisdictions.
- Can the jurisdiction provide information since requiring a member to report?
- Nervous about carte blanche application since not certain about other jurisdictions' requirements.
- Need to be clear on wording - unprofessional conduct and unskilled practice could be many things not all of which should trigger mobility of decisions.
- Need to highlight that due diligence needs to be vetted.
- Wasting money? Why another review?
- Could this be related to historical information on a member from other province or jurisdiction?
- Could there be a screen of such information?
- How about issues related to other jurisdictions or other countries - say an issue in Texas?
- If process followed in the other province is good - it is ok then.
- If there is a criminal charge in another jurisdiction, there would be criminal case and APEGA discipline. How APEGA rules align with ongoing criminal investigation?
- If a person is registered in APEGA as well as in Ontario, we should be able to look at Ontario rules - we should be able to judge.
- It is clear cut for Members but could be harsh for company. Is there policy developed for that?
- Is it decision of investigation in (???)
- Clarification - just inter provincial?
- Needs to be consistent. We have homework to ensure that whatever their disciplinary system that isn't comparable.
- More clarification on what is shared between provinces.
- How can you guarantee accuracy of information being shared?
- If a member is punished in BC, their regulations might be different here.
- There has to be a balance. If they are restricted in MB, they should be restricted here. If it's lifted there, it should be lifted here.
- Good idea but how to handle this internationally.
- How would you check the criteria on the jurisdiction as consistent with APEGA's criteria?
- Saskatchewan doesn't share their internal investigations to sister organization.

- How might this apply to foreign licensees?
- Incumbent on APEGA to review other jurisdictions' procedures before accepting.
- Need to inform other associations of actions pending in case member resigns and moves to another jurisdiction.
- Good – don't want bad actors jumping between jurisdiction.
- Is there a discrepancy in how other associations do discipline?
- Can an employer ask this question?
- Can we request to not be listed (i.e. on website)?
- As long as the regulation for discipline is similar in the other province.
- Could be difficult if applying to outside Canada.
- Wouldn't the Registrar need to know all the relevant legislation?
- Is APEGA going to set up a new statutory board to make this go?
- Was the Act violated? Was there report to other association?
- There should be an opportunity for a DC hearing here for stuff that happens elsewhere.
- Does this mobility apply within provinces only? What about the neighbors (US)? Does this apply to them?

Capacity to Practice

- What are the criteria for requiring this evidence? Member concern that this could be abused by competitors, issuing complaints against other Members.
- General consensus that this is good in intent, however, the application of this is difficult. Concern that Registrar will have the sole ability to force an evaluation but there must be other mechanisms for these sensitive matters.
- How will APEGA investigate an accusation of incompetence?
- How will reporting of risks by Member be gathered?
- How does a Member determined incompetent get recertified?
- Is there an age requirement for investigation to practice?
- How does APEGA approach a member/process and inform them that they are deemed incompetent?
- Are there other law violations/restrictions in accomplishing this objective, e.g human rights legislation and privacy laws?
- Will APEGA publish names of members deemed incompetent?
- Does this come as a reaction to a written complaint? It could, but could also be other sources, including self initiation within council (i.e. not arbitrary).
- Is this a huge can of worms from a legal perspective? Maybe, but regulations for other professions (ex. medical) has this legislation and is preferred by government.
- A parallel: is APEGA concerned about Permit Holders or members involved in other business activities (fraud, corruption, etc.)? No, not immediately transferrable, but APEGA could initiate their own investigation.
- Perhaps not necessary to notify the public in cases of capacity, but should have a mechanism to at least inform the company such that they can take action to protect the public (such as preventing the member from practicing without supervision until the investigation is concluded).
- Expand the scope to include criminal conduct and other stuff.
- Is this action contemplated for cause / complaint only?
- The devil is in the details.
- This provides a lot of authority to the Registrar.
- What is the standard for other jurisdictions and Acts?
- How does this impact an old / retired member who has retained APEGA status?
- Are we crossing the line with respect to employer rights to control work?
- Have we exposed APEGA to legal action for acting or not acting in response to a particular Member's circumstance?
- How would the matter be kept confidential if a Member may be suspended or restricted in practice and their status is a matter of public record?
- Will a posting of a restriction due to 'capacity' to practice be communicated on the website/general public as in the previous instances?
- As an employer, are they expected to communicate to APEGA that a Member has a disability or issue where their capacity to practice may be impaired. Are employers compelled to inform APEGA? What

about confidentiality of the employee?

- How will this type of investigation/decision based on capacity to practice be initiated?
- How does the Registrar get the information to act?
- We don't want to discourage people with physical disabilities from joining the professions.
- How do we protect against discriminating against disabled people practicing engineering in Alberta?
- How do we establish what the criteria are? What are criteria for establishing incapacity, what is their capacity? Is it all areas of practice or one?
- Will the government expect that APEGA will impose a physical/mental review of each member regularly?
- How many people would be affected by this?
- The rationale for this is to follow other professions and jurisdictions.
- How are permit holders reviewed regarding their capacity? Will a company who has a responsible Member that does not have the capacity to practice still maintain their permit if they have engineers on staff who can practice?
- Concerned. It is understood that the suggested change can help expedite the process. However, the participant asked whether this responsibility/authority should remain with the panel/committee. It was clarified and agreed that APEGA is proposing more express and explicit authority for the Registrar to expedite the process given that it could be time consuming to assemble a panel.
- Disagree. This change is redundant since APEGA already has the authority and effective tools to take actions (cancellation, suspensions, etc.) if a member fails to perform competently for any reason. The proposed change and the authorization to conduct medical assessment may be interpreted in the public opinion as overreaching. There is also the concern that an unreliable external or internal source may advise APEGA that a member is incapacitated which may become the basis of an unnecessary investigation.
- What would be the source of this? It could come from a written complaint or an investigation.
- Make sure that there are some criteria to make it clear.
- Is it something that we can define? It sounds frightening.
- Is APEGA concerned that Permit Holders are involved in other criminal issues committed in other jurisdictions? Is there anything for APEGA to protect the public?
- This is the trend that the government wants to take. About mobility of decisions, not unless one of our sister associations has an investigation and we can take their findings, we can open an investigation (there is a difference between Professional Practice investigations v.s. Personal investigations).
- If there is something so high risk, even before the investigation (they take long time), is there a way of informing somebody that there is a check occurring? It's a high risk item to protect public interest about a non-safe condition.
- I agree in principal, but it will be very difficult to implement. If I get better, what does it look like on my record?
- It could affect my ability to get a job or contract.
- How do we handle it in a humane/sensitive way?
- We don't need it. It would be caught by the Registrar/discipline process.
- Who pays for the assessment? Who is truly a third party?
- We need checks and balances. It could be used against someone by a vindictive person.
- I have concern about the Registrar having unbridled authority. There needs to be oversight for the Registrar and ability to appeal.
- I don't like how it's written now. This is a bit abusive rather than the others that are more about transparency.
- Must depend on the recommendations of an independent third party.
- Recommendation: there must be a time limit. Lasting only until the health condition is remedied.
- Concern: someone asked to undergo a third party mental/physical medical test would likely not be inclined to agree to that appointment ("I'll call my lawyer! Etc.).
- Concern: will the suspension status be published?
- This may not be consistent with existing human rights legislation? This question was echoed by other people in the group.
- People will want reasons why the suspensions happened, but we can't publish that the reason was a mental issue.
- If you're relying on self-reporting, why do we need this and how could we use it? Formal complaint system, or something observed in a practice review or hearing. Need physical evidence before this

goes ahead. Formal process.

- If in disciplinary review, there's already something wrong that has been done though.
- Regarding third party, would that include an individual's personal physician? Level of impact. It may.
- Would we be provided with enough time to go see a doctor for example before actions are imposed? It's the details that matter.
- How have other professions dealt with the stigma, etc. in policy like this? There's been FOIP concerns. This is a sensitive area. Chartered Professional Accountants act precedence. Sensitivity, when these things can be applied.
- Why does it apply to former Members?
- Question around capacity, understand you have a lot of data to make a decision, but even so, how do you have the capacity or expertise to make a decision that has everything to do with a medical condition? How do you digest this info?
- What's the trigger to have this policy?
- How to determine when it is necessary to have this assessment?
- Concern over member's medical history/conditions being disclosed to the public as a result of the membership suspense/restriction, etc.
- Please never make it mandatory to have newly registered members to go through physical/mental examination.
- What is the criteria to investigate? There are two vehicles: character/ethics, or capacity (disciplinary).
- Actually we are unable to assess capacity. As other professions, we should add this piece to the legislation.
- There should be big attention to establish whether an individual was accused or guilty, for the Registrar to determine when to discipline. The medical conditions of the individual should be accounted for. There should be continuous medication, consultation. That is interesting because it pops up within society. It is character but not ethic.
- What if a member of the public called the office to complain about a Member? Could a random member of the public initiate an investigation?
- Is it in terms of membership as a whole? The actual day to day behavior. Is it a kind of closing the boundaries? If you are going on a process of substance dealing and a public member initiates another action? What about privacy issues? Medial professionalism? Because it could not be open to public or lead to false accusations.
- Mental health or physical conditions? I would be very careful how to proceed.
- Other professions have more strict regulation. We have to protect the public if they are not able to work.
- What if they are getting older and can't practice anymore?
- Employees have to deal with disabilities.
- Companies should be more responsible to deal with substance abuse employees.
- Due to health conditions of member restricted.
- If member is restricted due to health, his name should not be published.
- Age Issue- if somebody is slowing down.
- It is sensitive. If some Members are disabled.
- Important to do this.
- Is there a place for APEGA once people have withdrawn themselves?
- Define fitness to practice. Spectrum of disordered and abilities to practice. What disorder would be suspended? Are drugs and alcohol included? Recreational users may not be under the influence while working.
- How can we expect a doctor to decide competency to practice?
- Slippery slope defining physical and mental capacity to practice.
- Ability to suspend practice without investigating or proving the licensee is under the influence or impaired is disturbing.
- Does this come from a complaint that comes in? Where do the complaints come from?
- How is this identified and how much of a priority has this been given? Concerned that this could be a slippery slope.
- After a certain age you are required to give a clean bill of health for example – is that where we are going? Have a concern – how would you find out if someone is incapacitated?
- If someone is incapacitated for whatever reason it would be a discipline situation.
- Was thinking this was correlated with the mandatory drug testing that is done (Zero policy set up).

- Concern when a person is going through diminishing capacity – crossing serious legal line. Diminishing capacity – would think that APEGA would want to develop methods of helping and protecting the individual
- Need more serious reflection on this – some downsides.
- Could it come from a request from a medical person/another profession – ie Dr. contacts APEGA and advises that a certain person needs to have some serious checking here – they are a professional Member and they might not be able to practice.
- Do other professional engineering associations have this?
- Don't proceed with this – too many concerns.
- Should also have a means of appeal for the individual.
- If goes well with previous amendments. It may not be necessary.
- How do I know public and employer know that I am suspended for medical reasons?
- Is there any age limit?
- Needs a lot of thought; confidentiality of individual member is impacted.
- How will you keep confidential, if you will suspend the license? Earlier we were talking about publishing the names? This will not be published.
- In other legislation that I have seen, if something like this takes place, they assign another Member to take over the practice for a period of time without affecting the clients, for example.
- What needs to happen if order to discipline someone really happened? For example, maybe they should have an assessment period, where the person should not be able to practice.
- This is a very good idea.
- What if somebody has withdrawn their own practice – will a voluntary withdrawal show up on the record?
- How long to restrict? If takes a long time to get medical reassessment , can affect making a living.
- Medical vs. mental or physical.
- Reasons should be confidential.
- Question ability of health professionals to assess “engineering competence”.
- To what degree are we discussing?
- Could be an area of abuse.
- What credentials does APEGA have to ascertain capacity to practice?
- The intent is good. Look at the end result. Is the job being done competently? Performance or lack thereof must be measured.
- APEGA is not involved in employer programs (drug testing, etc. to enhance competency).
- This should not be debated. There are other mechanisms to deal with this with relatively high levels of sensitivity.
- Members should not be suspended until a medical report returns negative. This should not be based on suspicion but real evidence (medical).
- Council/Registrar to give reasons.
- Should this be related to certain population that could be impaired due to alcohol?
- Should this be a fresh medical exam or will a recently done medical exam (say within a month) suffice?
- How can you do that without complaint?
- Putting physical disability into the mix could be a prejudice.
- Who is responsible: APEGA or company? Because company is involved with it.
- DUI drug addiction - are these capacity?
- Conviction related to mental or physical state needs to be addressed.
- Will I be able to appeal?
- Should look at the list of disability?
- Will it fall under discipline before appeal?
- Has this been reviewed by our lawyers?
- What is the trigger? Is it a complaint? Is there a process?
- Concern about privacy. How are we going to protect privacy?
- What is the privacy policy?
- What happens if a disclosure is leaked? APEGA needs to be very careful this could get us sued badly.
- This is a violation of privacy laws.
- Cost of this could be very high if we farm this out.
- This should be dealt with by the organization.

- Professional Member could simply restrict underlings until they are sorted out.
- Very, very dangerous - there is a real potential for this to be misused and misinterpreted.
- There will be far more damage done than the damage it will protect.
- After the investigation, person found not incapable would be reinstated.
- How does it impact as the time goes by?
- This party can abuse the law. There should be at least three independent assessors to have this assessment.
- How you are going to forget it and how will you manage it? How to follow up?
- How do you handle this for people who live outside the jurisdiction?
- Stressed the high risk of damaging someone's reputation over allegations of mental competency, which gets published as an ongoing investigation.
- Concerned about impact to consulting engineer's relationship with clients and management issues. Could have eleven clients with ten satisfied with the way engineer is.
- Mitigating issues, with one dissatisfied. Could poison other ten, or new clients.
- Personal health information is protected in the categories of collect, use, disclose.
- As we create our legislation, we need to be clear which has primacy or priority – the new Act or PIPA? Where there is no specific legislation, PIPA applies. Where the new Act specifies, it has priority.
- An investigation or complaint is likely over a single incident, while a capacity to practice question may put years of work in question. Need to be handled carefully.
- How are complaints from the public vetted prior to determining to publish suspension?
- How long and what about privacy issue?
- APEGA process v.s. company process.
- Example - additions can be conflicting.
- Should not be published.
- Should not jeopardize practice.
- Where is the line? What triggers this? Evidence not just complaints.
- Who determines fitness to practice?
- Is APEGA considering redirecting fees to cover doctor costs? Not an annual thing – case by case.
- How to keep confidential?
- Also is this permanently on their record?
- Why physical examination? Shouldn't be there as it contradicts human, disability law etc.
- Rely on medical to make decision.
- Clarity on how to get suspension/record cleared as part of re-instatement.
- What is the grounds/basis?
- Consider a leave of absence.
- How to help the clients/public when a professional member is "pulled"?
- If harm occurs to reputation, how to protect APEGA from defamation lawsuit?
- Support services from APEGA?
- How do we deal with false accusations?
- Who pays for the assessment?
- What happens if incapacitation has passed?
- What kind of physical or mental issues are we talking about?
- What would trigger this? How would it be reported without violating privacy laws?
- How many opinions are we going to use?
- Criteria that would trigger this?
- Would this all be confidential?
- How to initiate a complaint?
- What are the criteria?
- Huge can of worms – how to determine? Sounds frightening.
- Is APEGA concerned about investigations and records in other jurisdictions?
- About impaired health conditions: should it be under an ethic and code instead of giving a special punishment?
- The individual member: should it be left not to work under this specific situation? Should it be informing? Instead of banning the person from work.
- The other point is the time frame - when is it going to start? Is the person going to be charged? Convicted? When does the suspension start? What is the time limit?

- When we legislate that we take away a lot from consulting engineers and take away a lot of their ability to communicate with their clients and give them comfort. As some example, someone has 10 clients and they are happy to work with them and an 11th says, "for some reason, I don't think this guy got it". Could that hint (??) the other 10 clients?

Registrar's investigation or complaint

- What is an 'emergent situation' - where this is applicable? How many cases annually? Currently there are only 100 cases outstanding.
- There is concern that there is a general trend for all these items to be placed at the discretion of the Registrar who is appointed by CEO and not elected. Are we doing this because of a lack of volunteer committees or is this a move to centralize power at the Registrar? Why don't we make the committees more efficient instead?
- Question as to why we need the Registrar to initiate a complaint on an anonymous complainant's behalf? There can be a very high potential for abuse. Careful procedure must be in place. Should make sure that Members investigate peer conduct and assess the complaints, otherwise the staff can just do everything.
- Does APEGA know the cost of new process?
- Does Registrar have the ability to look into a situation that has not been recommended to investigative committee or without a complaint being made?
- What criterion gives the Registrar the ability to start an investigation and bypass the investigative committee process?
- Will the investigative committee be involved in the investigation of the registrar?
- Will APEGA be able to take action on cases not recommended to it such as in cases of criminal negligence or civil suit?
- Will the new power to investigate by a Registrar make the investigative committee redundant?
- Registrar is appropriate for this role.
- Registrar functions as the case manager.
- Is the registrar's office a person or a group of people?
- This is an administrative change.
- The term 'administrative review' can also be used.
- Courts would generally like to use APEGA's decision to assist their case.
- In some cases APEGA would wait for court's decision to start their process.
- Don't have a problem with this concept at this time, but would want to read the final wording to come to a final conclusion.
- When is the Member or Permit Holder advised of when they are the subject of an investigation? Do they have the right to know who their accuser is? Wants to ensure everyone's rights are respected and maintained. Yes, every Member has the right to understand when a complaint is made and by whom before investigation is launched (this is current practice, and would continue under new recommendations as well, if adopted).
- This seems to put an awful lot of work for the Registrar. Has anyone considered the implications and practicality of this? Investigative committee will still do the lion's share of the work involved. Giving the Registrar express authority is intended to allow them to act quickly when warranted, but they can still use other resources as appropriate. APEGA expectation is that this will not create unmanageable workload. Currently have four full time investigation staff, three with former police background – have been building horsepower to handle the load generated by these legislative recommendations.
- Don't have any objection, but suggest not overselling the concept that multiple facets could be involved in investigations (may raise questions about who handles what complaints). Suggests emphasis on the efficiency of action, rather than the case-by-case mechanism.
- Why are we giving the Registrar so much authority? This is a general comment for the entire Plenary (Group) and the overall workshop.
- Is the Registrar a single person? This is a general comment for this Plenary (Group).
- Is this consistent with other jurisdictions and other Acts? This is a general comment for this Plenary (Group).
- Who has authority over the Registrar? This is a general comment for this Plenary (Group).
- Is this duplication between investigators getting other investigators?
- Generally in support of Registrar getting more comments; however, should be cautioned about anonymous complaints.

- If APEGA pursues an anonymous complaint that is unfounded, will APEGA be liable for pursuing it?
- Agree. It is a very beneficial administrative change which increases efficiency. However it is imperative for APEGA to take a hard look and carefully consider all facts when making decisions to initiate investigations.
- Does APEGA receive anonymous complaints? No, the complaint needs to be registered. In case that there is enough proof to create concern, one of the Members must fill out the complaint in order to take an action.
- Does that mean 'anonymous' will be extended to the general public? So anyone can complain? Yes, there must be a careful way of approaching this.
- What is the difference between general regulation and policy? General regulation associated with the act, and policy is through the Council.
- No complaints, but needs to be read in more detail.
- Under this recommendation, when will the investigated Member be notified? Doesn't the investigated Member have the right to know the name of the complainer?
- It looks like a lot of extra effort on the Registrar, what does it mean for extra resources/budget? Right now the Registrar, giving the right to act in situations in highly public issues allows a faster response. It is not something that happens on a regular fashion, it looks right now like it won't require a lot of additional resources (most of them are volunteers). Right now there are four full-time investigators, and we have been building up the team and going forward we will in general require more people. Yes, the investigated person has the right to be informed and know the person accusing (in case of Registrar being the complainer, it will also be informed).
- Now Registrar will be doing investigation, negotiation and other things. The speed to handle this needs to be kept.
- Anonymous complaints concern me. It could ruin someone's reputation.
- Beginning to have lots of reservations about the way in which the document is written. "APEGA must"
- Have difficulty with the authority of the Registrar and the Registrar not making recommendations to Council, and Council making the decision.
- Is this a power grab by the Registrar? The tone of this disturbs me.
- Whose judgment do we rely on – the Registrar? Concerned about the freedom, power and authority of the Registrar? Is this the right area for making decisions and initiating behaviours? Who can say someone is unskilled practice and unprofessional?
- Have placed lots of responsibility on the Registrar. Haven't given them the authority to act. We have to trust our Members and the Register.
- Every law is restrictive in nature. Need to protect members from potential abuse of power. Need a better definition of when this happens. Who defines anonymous? Who makes the decision? Define emergent conditions.
- Did they have this ability before?
- Can an example be given of when this ability would be used?
- Is there a concern that APEGA would get more complaints if this was in place?
- We could be wasting time on slanderous, bogus complaints. Can set aside these complaints even now. But at least with this could take some action – whistleblower issue. Helps whistleblowers.
- This change with others proposed, (i.e.: hiring external investigators, removing committee reviews) I am concerned that we are losing concept of self governance.
- More questions raised on authenticity of the registrar, it's a lot of power to put in the hands of one person, the Registrar. May be biased, may form a biased committee, where is the authenticity of the entire question? If we're going to give the Registrar more authority, what would be the oversight on them?
- Is there a neutral third party someone accused could go to? An ombudsperson? Any regulatory decisions can be appealed to the Appeal Board. If not satisfied, can take issue to Court of Appeal.
- Isn't that still a conflict of interest? Committees include different professional members.
- Recourse back to Minister responsible is a concern, and internally in government, looking at the powers of the ombudsman. Problem in professional legislation is the ombudsman isn't referenced in the professions Acts like APEGA's.
- Who is the Minister looking after the professions? Laurie.
- Are we going outside of our scope?
- This is a good thing to do. Reason: good to act quickly.
- Why is it necessary to have Registrar initiate the investigation?

- What's a complaint? How is it decided to be initiated? How does it work?
- What kinds of complaints are being submitted to APEGA now? Any specific scenarios?
- Did all complaints get investigated? When the Registrar initiated a complaint what would happen next?
- Registrar office can initiate an investigation, but does outcome need to route to other authorization body?
- To initiate the event, could it be an anonymous complaint?
- We currently get anonymous but it needs to be formal in order to initiate a complaint. Changes being proposed to address anonymous complaints.
- That is new but there is not legitimate ability. We want the ability.
- In the past, Registrar would decide who investigated, but would it be a special committee v.s. regular bodies?
- For consistency, or just maybe for special cases, but would it be operational/practical consistency to determine who address the investigations?
- Registrar will have the ability to do it.
- Challenges the Registrar because it would become the complainant.
- What is the burden of proving somebody has done sloppy work?
- What is currently stopping from quickly coming to result?
- Register has no authority to express the complaint.
- There should be context.
- What is the drive for change?
- This will impact small and individual engineers.
- How the public will be benefited?
- Anonymous complaint issue cannot be handled through proposed change.
- Who can issue a complaint?
- What is objective? The objective is streamlining and improving efficiency.
- Could there be criteria that define when an investigation is initiated?
- Is this power retroactive for previous anonymous complaints that may not have been investigated because it wasn't a formal written complaint?
- Registrar has the ability to make the assumption that there is malpractice, what is driving this and shouldn't other investigations be able to take place prior to this happening?
- Time is of the essence.
- If the Registrar investigates, they shouldn't be the ones deciding if the complaint goes forward.
- Results of investigation should go to the disciplinary committee/investigative committee.
- Concern that anonymous complaints could be a complex slippery slope. Rights of the accused need to be considered as well.
- Good idea.
- It makes sense - sort of streamlining kind of approach.
- What is the burden of proof?
- What is the basis of all this? There would be 200 complaints a year and what is currently stopping effective turn around to address these complaints?
- There should be context to apply these rules. What is the demonstrated need? Caution about impact of changes. How would impact individual Member, Permit Holder or how would public benefit by this?
- Anonymous complaints may create issue.
- We may feel sometimes that we need to bring other specialists who may give broader authority to do the right thing.
- In regards to investigations of former Members, how far back do you consider former Members? Right now, our legislation states two years from the day of the cancellation. So, if you cancelled two years ago, there is a window of two years that APEGA can receive a complaint on the work that you did when you were an APEGA Member.
- Those two years will be the same, or is there any recommendation to be changed? That two years is recommended to change and it will be discussed in our next session.
- How can a doctor make a judgement call regarding engineering competence? This is a slippery slope. Eg. If somebody's depressed.
- Mental examination makes sense, but where does physical health come into affecting a decision?
- Concern regarding the ability to suspend a license because of drug use (e.g. a bender).
- A person who has passed out won't be stamping and authenticating documents.

- Makes sense.
- Everything we want to shift and move seems to be giving power to the Registrar.
- Registrar is a staff position, lot of power being vested here.
- Should limit use of power for a limited time – reconsider.
- Is there enough demand for this transference of power?
- Registrar can already initiate a complaint.
- Priority IC issues - prioritize within the Investigative Committee rather than have the Registrar initiate an investigation.
- The concept of self regulation is not supported by having staff too heavily involved in the Discipline process. This seems to be moving away from Members assessing Members.
- I fail to see how the Registrar acting on anonymous tip is improving APEGA's efficiency.
- Surprised this is not explicit in the legislation.
- Legislative Review is tending to go down the road of being very prescriptive in nature and leaving out discretion.
- Well, if we know the details we can define it/recommendations could be made.
- Who is an investigator? Volunteer? Paid employee? etc.
- Investigation must be timely and appropriate and volunteer might not be adequate.
- There are some trained investigators on staff but there could be the flexibility of allowing experts when an investigation is initiated?
- The gravity of the issue must be well considered to know where and when to initiate an investigation.
- How about whistle blowers? Are they related to this at all? How will the Registrar handle complaints through whistle blowers? How will whistle blowers be protected?
- Agreement.
- Does the Registrar have the ability to explain as an executive Member? Or a professional Member?
- Does APEGA have to investigate all the complaints?
- Doesn't this overload the individual?
- Too much authority in one individual.
- Isn't this an efficiency?
- APEGA is not the Registrar alone.
- Need clear definition on what would trigger this.
- How many anonymous complaints are we getting?
- Objectivity of APEGA is under question if you give Registrar that authority.
- When there is not a formal complaint - it may not be a serious issue.
- What about the international complaint that is not in APEGA territory?
- If the violation is significant enough, it could be in Court too.
- An investigation or complaint is likely over a single incident, while a capacity to practice question may put years of work in question. Need to be handled carefully.
- Complaints should always be in writing.
- Balance interest of timing v.s. a just resolution.
- Investigative committee should have proper expertise to evaluate the complaint.
- What prompted all these changes – what are the statistics?
- Increase pool of experts resulting in multiple investigative committees meeting more frequently.
- How does one individual Registrar guarantee consistency?
- Making system more complicated v.s. simplification.
- How to protect against anonymous (frivolous) complaints?
- What activates the investigation?
- What about complaining about your own company – currently no action taken unless sufficient evidence is provided – tied to whistleblower protection?
- When will a member be informed?
- How much is this going to cost?
- If a member makes a complaint would Registrar quash an investigation?
- All complaints will suddenly flow towards Registrar then and bypass the process.
- We are giving too much power to one office.
- Ok if in emergent situation.
- Should be a significant situation.
- Would this be for Registrar and Registrar's designates?

- Does APEGA investigate anonymous complaints now?
- Will anonymous complaints be open to general public in uncontrolled manner?
- If it happens now, what will be the change?
- Difference between general regulation and policy?
- How to identify accused?
- Extra work for Registrar – what are resources and costs?
- Right to know who is accusing.
- Concerns about consistency, speed and accuracy, and effectiveness.
- With this change, the Members are doing less of the work for hiring more of the administration to do the work. It feels to me like making a shift to hiring staff to get this solved.
- I see a bit of a conflict because on one hand you are saying all the decisions are still with Members but that is not what I am seeing on the text here, when I read that the Registrar reviews and approves all proposed RDOs, for example. How much decision making can be given to the registrar before it doesn't look like self regulation anymore? And the flip side of that, how does the model still look different from the Government the planer (??) regulator? It does appear to me that it does progress. It can make it easier to the Government to say, "it does look like a job that we can take on, we can appoint on the Registrar", in same sense as the US model. I understand the practical reasons why we want to do this that but there might be a strategic reason that we need to capture clearly and communicate to the Government that we still want to be self regulated and what does that look like.

Authority to suspend or impose conditions on an interim basis

- This item is more accepted by the Members. Registrar's decisions should be interim and reversible, otherwise the power is too concentrated in an appointed body.
- How will APEGA define emerging circumstance to require interim application of discipline?
- Will there be a limit to the disciplinary powers given to the investigative committee?
- Suggestion to provide preliminary findings to discipline committee to give out the interim discipline.
- How long does the interim discipline apply? Is there an applicable limit?
- How does new power differ for Members and Permit Holders?
- Question regarding regulations vs. policy - Government manages the regulations, but within those Council is given the authority to make regulations (written into the Act), therefore members can influence regulations.
- Don't think it goes far enough. If there is an imminent danger, suspension does not address the immediate danger. Need to inform the affected (or potentially affected) parties.
- Question regarding regulations vs. policy - Government manages the regulations, but within those Council is given the authority to make regulations (written into the Act), therefore members can influence regulations.
- Don't think it goes far enough. If there is an imminent danger, suspension does not address the immediate danger. Need to inform the affected (or potentially affected) parties.
- How long would interim suspension be in effect for? Decision should be limited only until a committee (property authority) can address.
- Would Registrar (interim) decisions become public notices? Two people suggested that interim decisions should not be reported publically - innocent until proven guilty.
- What are the criteria used to impose these conditions on a Member?
- If the investigative committee can be assembled immediately, can a decision be implemented immediately?
- If the Registrar is able to immediately act on an interim suspension, then is APEGA expected to immediately act on an investigation to come to a final decision in a timely manner?
- What is the cost impact to APEGA by using association resources more than volunteers?
- Agree. This resolves any conflict between aggressive members who would like to take immediate action and conservative ones who question whether they have enough authority to take action.
- Agree with a suggestion. The word "emergent" is a critical part of this change and should be thoroughly defined and particularized to avoid any ambiguities.
- How is a regulation different than policy?
- This involves the public. Policy only involves Members. Members have a say in the regulation.
- Not sure this is right (the previous differentiation).
- Council can make regulation about specific topics.
- If there is an imminent danger, suspending the Member does not seem enough to protect the public.

We should take a step further about informing others of the potential danger.

- Same comments about concerns about the Registrar and level of authority.
- Some comfort in having a way to act quickly because there is an appeal process and it is temporary.
- If this is about safety, safety has already been jeopardized because it has already happened. How does this help safety? It is reactive, not proactive. Could crucify a whole firm, when only one or two Members are actually responsible.
- This could be more of an optic thing about reacting quickly.
- Not saying it's wrong to put these ideas forward. What are the mechanics? Are we publishing names
- What rules should we use for suspensions?
- Initial thoughts: it is fair, better for emergencies?
- Would there be financial compensation if the Member is proven to be innocent of the violation?
- If someone's livelihood depends on this, is there an appeal process?
- Based on the criteria, can see what an emergency situation is. Not every complaint fits these criteria. The word emergent is not necessary.
- Justification for this was presented that it is hard to get committees together. Have you looked at options for remote meetings in this information age? This isn't an attempt to replace investigative committee's responsibilities. This is just for flexibility so we don't have to rely on that in special circumstances.
- I am concerned about putting immediate restrictions on someone that would reflect their livelihood. If a restriction is going to be put on someone, every effort should be made to engage the investigative committee.
- If we can suspend their licenses in the meantime, that seems to take care of the public. Why do we have to go further and publish names? If we are already imposing a restriction or modification of duties, is publishing names not being punitive?
- What's an emergency situation?
- How long does it take to conduct/finish investigation meanwhile when the involved member/permit holder is temporarily restricted from performing engineering activities?
- Concern over too much authority from APEGA over restricting the Member's/Permit Holder's rights. Basically from initiating an investigation without a complaint/solid criteria, placing interim suspension against the Permit Holders/Members during the investigation, as well as releasing public announcement of the ongoing (not fully completed) investigation to the eventual disciplinary decision making, too much authority seems to be given to APEGA. Does it have any third party monitoring?
- The efficiency of the investigation v.s. the potential time or business loss due to the temporary discipline/how to balance the goal of maintaining the fairness and consistency of the investigation and the interests of the suspended Members/Permit Holders because they may face the negative consequences from an extended process (such as a more than six months long investigation)?
- Are we talking about obnoxious circumstances? Negotiating interim conditions? Individual firm negotiation? What about employee meantime? Intrusive?
- What is emerging? What is not? What is significant? Where to draw the line? What is really in public or moral level?
- There is setting up the conditions. Needs to be well thought.
- Large impact cases? Size of the contract? Corporate level? Whole company? Dollar project stock prices?
- In general agreed by all that making sure that have solid base.
- Should not apply to whole work.
- Reservations on giving one person (Registrar) that power rather than a group of peers. Maybe impose a time limit until it has to be reviewed by investigative committee. Makes more sense to have investigative committee make that call.
- Time is of the essence.
- Is there a situation where this is as relevant as other professions? For example, a doctor sees many patients a day, but engineers can spend years on a project.
- Better define public safety criteria needing to be met for this to be enacted.
- Can they act on an anonymous complaint now – has to be written complaint now?
- How to deal with unprofessional conduct complaint?
- Like that process.
- Is a good idea for extreme circumstances.
- What is the definition of emergent?

- Speaking against this – should be given to the investigative committee as the ability to meet immediately via conference call and not wait until the monthly meeting. Giving Registrar power they don't need.
- Putting too much in one position – could create a bottle neck.
- Will that suspension be published publically – what happens after investigation and the person is proven guilty?
- Different issue depending on whether you are in a small firm, sole practitioner or working in a larger firm – how to deal with each situation?
- How often have we been in this situation?
- Does the Registrar initiate then goes to the investigative committee? Is this stipulated in the Act?
- Good.
- Has solid basis.
- There should be clear criteria - there has to be judgement.
- What happened to projects on the go that can be affected by those emergency situations? I believe that APEGA should have some process in place that minimizes the impact on ongoing projects that the person or Company may have.
- This would be an addition or a replacement? This is an addition to; the investigative committee still has this authority.
- Is there any limitation on what would be the maximum length of time that the company and/or person can be suspended until decided if the person and/or company is concluded to be guilty? I believe that it should have a time frame that the investigation should last in order to make sure that the investigation does not carry on forever! Good point.
- What is the advantage of giving that to the Registrar? Just two ways to go through (Registrar and investigative committee)? It's about the time.
- Could there be a written criteria which would outline what situations could initiate a complaint?
- Since the Registrar is initiating a complaint, wouldn't they also be a witness?
- Why can't another group within APEGA initiate a complaint (i.e. the "X Board" initiates a complaint)?
- Need to clearly define emergent situations.
- Is there an acceptable timeline for delivery of services? Contract issue – not applicable if there is no public safety concern.
- When would this be applicable?
- Anonymous tip for whistleblowers – good.
- How do you investigate an anonymous complaint? Right of the accused to know their accuser.
- Guidelines are required to know the steps in a process.
- Too much power to the Registrar – could have short-term ability to initiate an investigation, but would need to be sustained by the investigative committee.
- Investigative committee should initiate the process.
- Doesn't seem likely that there will be emergent engineering situations.
- Registrar getting more authority; are there staff to review and recommend to Registrar?
- Has APEGA reviewed practices of other professional associations?
- Generally agreed as ok.
- There is always going to be negative effect on member whether positive or negative result.
- Time frames must be defined if interim suspension is to be put on a Member, and they must be well defined regarding Member's involvement.
- Will not apply this although APEGA had power before?
- Agree with Registrar to have this authority, but no need to (??) powers and meetings.
- Emergent needs to be defined.
- How do you make an investigated decision without all the data?
- This is a very complex situation (or could be).
- Highly severe should have authority.
- Uncomfortable making a decision without seeing all the supporting policy to back up these paths.
- Registrar is going to have to be able to walk on water.
- Why a Permit Holder? Should be just Members.
- It shouldn't be published.
- You can't even suspend any one.
- Investigative committee should be more reactive.

- Feasibility should be explained more.
- Definition of emergent should be clearly done.
- Lines for Appeal need to be clear. Registrar to Committee, to Court?
- Need to watch that investigators for the Registrar are not in a conflict-of-interest with the Members.
- The relationship and power balance between Registrar and Council or its Committees.
- Needs to be clear. Will this be like the agronomists?
- Assumption of guilty until proven innocent.
- Should not be made public until after decision.
- Need to purge or delete suspension if judged not guilty by committee or court.
- What is the trigger? Conditions imposed on someone not yet guilty.
- Be made public?
- Fitness to practice – confidentiality issues?
- Who is the Registrar/office?
- Do the qualifications of a Registrar change to reflect the new power?
- Can't be done improperly, without just cause.
- Tremendous amount of power for Registrar.
- Interim suspension - is that public?
- Investigative committee can do this now.
- Previous (existing) takes time to issue suspension, proposed subject to “snap” (incorrect decision).
- Ability to take action before the media spotlight.
- Is APEGA liable by not acting?
- Council needs to decide on criteria before they are open to hearing about this – lots is based on policy that simply hasn't been written yet.
- Does this get published?
- PLI the insurance companies would definitely want to know and that would have an immediate impact.
- A whole company could be ground to a halt from this.
- Council would need to vet the decision?
- What can members vote on?
- Regulation is determined by who – government or Council?
- Don't think it goes far enough – regarding members rights.
- To follow up - to what extent can the Registrar review and approve before the decisions become non-Member created? It will go to a few cycles, an RDO goes to the Registrar, the Registrar says “I'm sending it back for suggested amendments”; it goes back; we are just suggesting amendments.

Recommended Discipline Orders

- Adding the ability for the Registrar to be the “Head Case Manager” should not be necessary. One Member noted that there is a lawyer sitting on the committee that should be aware of all similar cases and discipline, why are there inconsistencies? What is not working?
- Member comments that maybe the perceived inconsistencies are actually valid based on the cases, there may be subtle differences in the facts that resulted in the differences, perhaps not inconsistencies, would the Registrar really do a better job than the committee?
- Comment as to why the Registrar or someone else step in to ensure that RDO is honored?
- Who is involved in this stage of the process? Is Member or Permit Holder under investigation involved?
- How will balance of power be distributed? Does Registrar have more power than committee?
- Does Registrar have power to reject a negotiated settlement?
- Change language to reflect all options in negotiated settlements.
- Case managers are volunteers. There may be conflicts with a case manager and an investigated member.
- One person challenged the idea that this is simply an administrative process.
- One person suggested this sounds like a training issue for case managers and alteration of the Act is not required.
- One person suggested that it makes sense to change the responsibility from the case manager to the Registrar but asked what controls will be established for the Registrar.
- What linkages are established between the Permit Holder and the member being investigated?
- If this is just an issue of acceptance of an RDO, why is there a consistency issue?
- Does the registrar do the follow up regarding compliance?

- Agree. Current arrangement for the case manager and the investigated Member/Permit Holder to discuss and negotiate the RDO, has not been very successful so far and giving the Registrar the authority to act as case manager makes the process faster and fairer.
- Proposed change may not resonate well with the disciplinary committee as this change in essence restricts their current authority level.
- Question: who is the Registrar? Is it an individual? Is it a team?
- Without this, can Registrar be the case manager for all RDOs? No, it is necessary to appoint a case manager reviewing case by case.
- Concentration of powers again.
- Question the rationale of more consistent decisions. Don't see anything in the preparation of RDOs to make more consistent decisions. Why assign this to the Registrar? Maybe should be assigned to a case manager.
- Problem is not how it will operate. It is saying the Registrar is all knowing. There has to be more than one person involved in order to cover it all.
- Why is it going through the Registrar and not to the Council for the decision?
- There is not continuity and fairness. Nice to see a process for efficiency and consistency.
- There is potential for delegation of authority.
- Clarify if it is the individual Registrar, or the Office of the Registrar?
- Thought the Registrar is taking over the role of case manager. I think it's OK. The role needs to be defined. It could bring more efficiency to when the case is closed.
- Initial reaction: yes, restrict the Member's practice until they are proven in violation or not.
- What is the difference between a suspension and a restriction?
- Will the suspended/restricted member be given a hard date on when to expect the investigative decision?
- This is already happening in other systems.
- Will this kill the Registrar? (Overload them with work)
- Are there case studies available of disciplinary investigations?
- Will Members be compensated if they are restricted/suspended instantly like this, but are found to be innocent?
- Are frivolous/vexatious complaints given attention?
- Does this mean hiring case managers (therefore raising APEGA member fees) instead of relying on a group of volunteers to be case managers?
- Struggling with what is the benefit of having the Registrar as the case manager (vs. a group of volunteers). If it is a group of people at the Registrar, then there will still be inconsistencies. If it is one person at the Registrar, won't they be overloaded?
- With all these changes, it seems like the Registrar may be overwhelmed. Is that not a risk? There's a support office. We get ~80 complaints a year. That's not a lot of complaints. Often there is no evidence. 20-25 RDO's throughout the year, this is manageable.
- Sounds like a rubber stamp process. Does case manager have any power?
- The authority of the Registrar is packaged together on the website. Can in future sessions we please be consistent. The cumulative effect on the Registrar is to add more executive authority. Will APEGA change the training for the Registrar given these changes? Are we still self-regulating? Self regulation should NOT be this - this makes the Registrar the regulator. We don't want this. Self regulation is messy committees, which is still what we need.
- Registrar becomes judge on RDO. Does the Registrar have the time and capacity to handle them?
- Define what powers the Registrar is able to delegate.
- Should go back to the investigative committee – what is the appropriate sanction? Then to person involved and see if that person accepts it.
- Any terms for reinstatement and practice?
- Notice this similar to PEGBC – working towards harmonizing good idea.
- How many are we seeing? Again giving too much power and causing more work for Registrar?
- Probably 35 complaints a year for this type of issue? About 2/3 end up in RDOs.
- Is there a preamble to this - intended for timeliness and consistency should be in a preamble to this in the Act.
- How does this speed things up?
- I look at the dollar figures – if you are paying those kind of fines, there needs to be teeth in this to make sure you can see what the person has done or will do to rectify the practice/situation – make

sure conditions are met before license is given back.

- If model we have now is the investigation committee, then come to terms on what the discipline should be – I like the idea that we have the group (investigative committee) that has the precedents then the committee has all it needs to make a decision.
- Has the board ever had the opportunity to have a third party audit on practices? Having a third party audit on all of a person's practice has more weight than a dollar sign.
- Registrar - will this be single individual or multiple persons?
- Public needs to know we can settle these things fast.
- Who will deal with the RDO? The investigated panel and the investigated person. And they can certainly have their lawyers available. It is between those two entities.
- If you want consistency, why don't you come up with a list with a, b, c, d and that was the path taken from the RDO? We will have most probably a matrix "what would be the punishment in each crime" which will become quite clear.
- Just to recap; are you changing the person in charge of the investigation to the Registrar? No, the investigation panel is still in charge of the complaint and/or investigation. The registrar will administrate the RDO.
- It seems to me that you would have everything figured out between the RDO and the investigated person and then you would send up one level: Registrar, just to have somehow an approval from the Registrar or something like that? Currently, the case manager has all the authority to do all those things. We do not see the Registrar telling them to come back in their decision (case manager's decision) very often. The only reason why they would send back, or send to a hearing if there is some big gap or if there was some inconsistency in the order that was made. For example: if the severity was minor, and the company and/or person got a major fine.
- Currently, there is not much consistency on how the case managers look into the investigation.
- Thumbs up.
- Want consistency.
- Concern the Registrar will be bogged down by new duties – will be handled by the team or his or her designate?
- Good change.
- Are statutory boards remaining the same?
- Mandate that Registrar or somebody to intervene and close the case.
- A number of RDOs might be rejected if Member knows his or her name must be published.
- Why is this always referred to the Registrar - why not some real independent (fairness advisor) person?
- Is the intention to empower the Registrar so much? This seems to empower the Registrar.
- How many RDOs are there?
- Does the Registrar have the time to take a look into so many RDOs?
- If this doesn't have to go to disciplinary action but the case manager, can opt to take it to disciplinary action.
- Is investigative committee still involved?
- It's not every complaint that has to go through RDOs.
- Too much work for Registrar.
- Can we look at the process?
- There needs to be a separation.
- Registrar's office takes away from work overload.
- Agreement with the principle, we may need to have a way to oversight the Registrar.
- How will you manage with the other jurisdictions?
- How to conduct in general - where practicing out of jurisdiction.
- What difference would there be if Registrar doing herself and asking investigation committee to do that?
- Not sure the Registrar has an advantage over Investigative Committee in access to all the prior RDOs if all discipline decisions and accepted RDOs are published.
- Can the duration of the discipline decision publication on the APEGA website be negotiated?
- Takes away check of current case manager.
- Can Registrar be filing complaint and case manager for RDO?
- Can Registrar – a P. Eng. – be a good case manager for a P. Geo case?

- Moving away from volunteer based organization to a staff based organization.
- Registrar will need a massive bureaucracy to support this.
- This is just more work dumped on the Registrar and will decrease efficiency of the Registrar.
- Registrar will be acting as an oversight.
- Stated authority needs to be reworded so it's softer?
- All the criteria need to be laid out so Members can know and make national choices.
- Would the Registrar see all of the information?
- Is the Registrar making a decision?
- Are other people worried about or voiced concern how much authority will be given to the Registrar?
- This makes sense.
- Creating more consistency/efficiency? Wouldn't this cause more work so not efficient?
- Without this, could the Registrar be case manager now?

Increase to discipline related fines

- Comment that there should be a matrix published for certain offenses, perhaps in the event of loss of life perhaps 500k is not enough for Permit Holders.
- Member comment that 100k is fine for members, but 500k is not very much for large EPC firms. Perhaps this should be proportional to the revenue of the EPC company?
- If all the fines are increased, will this increase insurance costs?
- Costs are incremental to fines.
- Clarifications - How does this change in ex-Member responsibility change affect the liability act? How often does the legislative act change?
- Suggestion that the new fine is too high.
- Is there a difference for fines in terms of size of business? Comparison between one-man operation (Member and Permit Holder) and a multinational corporation.
- Is there a fine to deter a big corporation?
- What is the basis for the new fine structure?
- Is there an exponential increase in fines for multiple offenses?
- Should there be a minimum fine too?
- How effective will this increase be if the cost is covered by insurance?
- Success in collecting fines is really good at the moment. This may be affected with the increase.
- What will the extra revenue be used for?
- This may help recover costs on APEGA's end.
- A big enough stick to deter mostly repeat offenders. In most cases, offenses can be corrected through education, but for the "real baddies" this may provide enough room to be an adequate deterrent. Note: this comment referred to use-of-title offenses, which has a comparable recommendation (but one that is not expressly discussed today).
- No specific mention of repeat offenders, perhaps there could be some mention of bigger consequences for repeat offenders. Sanctions policy may include a matrix to address an approach to implement sanction amounts.
- Where does the money go once the fines are recovered? How does APEGA manage these funds? Right now recovery of costs is more of a deterrent than the current fine amounts (legal fees).
- How does the size of these fines relate to the "ultimate fine" of suspension or removal of a license? This has to be in the matrix as well, one of many sanctions included in the policy.
- Are fines insurable? Maybe they should not be?
- What is a meaningful limit? Do we need to define a limit?
- Does this consider 1st offence, 2nd offence, ...?
- Makes sense.
- What does APEGA do when considering the ability of the Member or Permit Holder to actually pay the fine?
- What evidence/data do we have to say that the current fines are too low?
- How often are these fines even levied, are they really a deterrent?
- Regardless of size of company, the price for permit to practice is the same. Should fines also be made regardless of size?
- These fines seem reasonable, and the government could impose their own numbers without our input.
- Is there no way to put a cost of living increase/inflation into these fines so they don't become 'stagnant'?

over time?

- Somewhat disagree. While inflation is a factor, a 10 fold increase from \$10,000 to \$ 100,000 is still a very large jump. Also participant suggested that a minimum penalty should also be defined.
- Since insurance may cover it, is this proposal really effective? (It was clarified that such penalties are not covered by insurance).
- The ERC committee has discussed this previously, repeat offenders. A higher fine should be alright. But this should not be applied for people using the title with no permit. This fines against Members/Permit Holders. There is a similar proposal for the people using the title without permission. Note that this is not a way to increase revenues for APEGA.
- How will the fine be defined? We are working on a matrix to implement the fine according to the severity.
- How size of fines relates to cancellation of fines, and how is this in the matrix? It has to be in the matrix. All of the new policy and any changes will be available to the public for their awareness.
- Should we attach the dollar amount to an inflation clause? Don't think the numbers are that much.
- For some small permit holders, this would put them out of business.
- Insurance coverage will increase dramatically because of the \$500,000 maximum because the insurance companies will only look at the maximum number. Will be a constant cost.
- Should we be significantly higher than other professional association across Canada and Alberta?
- Where will the fines go? APEGA or the plaintiff? (Clarified that it would be APEGA).
- Can fines go to reduce fees of those who do not get discipline-related fines?
- Can there be a tier-level of maximums based on the size of the business?
- Keep the fines where they are now. The purpose of APEGA is not to fine; the purpose is to make it so members practice in way they don't get fined.
- Like a tiered system. The small firms shouldn't be punished as much as the large firms because their impact is not as great.
- What is the purpose of the fine? Disincentive? For me, putting it on my public record is a greater deterrent than a fine because it affects my ability to practice.
- Concern is that \$100 000 will be too much for one person, their family will have to help them, therefore the family is punished as well.
- Recommendation: use inflation rate to determine maximum fines (therefore to proportion to \$10k 20 years ago).
- Recommendation: Instead improve screening process to becoming an APEGA member: The member has probably had their career irreversibly damaged as it is.... And then they get hit with a huge fine as well?
- Are fines tied to suspensions as well?
- What are other professional organizations using as maximum fines? Engineers, doctors, lawyer organizations, etc.?
- I don't think a fine will affect behavior of an engineer. The insurance costs associated with a liability like this is expensive. Are our wages going to be raised as well? I don't understand the benefit.
- I'm concerned about the increase. Should be closer to 30k than 100k based on how long it's been – inflation.
- Agree that 30k seems more correct. Comparing with other jurisdictions, tens of thousands is the typical range. 30k would keep us in line with that.
- Fines don't change engineering behaviour, that's your moral compass. People misbehave when they think they're not going to get caught.
- Where does the money from fines go to? To protect the public (the whole point), the money benefit to them is via civil suits. Not fines to APEGA.
- Loss of ability to practice is a very substantial cost. Think of the total cost – civil suit, fine and loss of practice.
- The intensity of public safety for doctors is different than for engineers. We don't need to follow them exactly- this is an entirely different profession. Doctors work on an individual basis. Can't imagine surviving a 100k fine plus suit, and loss of practice.
- Regardless of the numbers, sanctions matrix important to introduce. Economic impact, loss structure, etc.
- Given the existing max amounts, how often has APEGA issued those max fines? Half a dozen a year approx., right now we get more money back for cost of hearing than the fines. There is a high cost to hold a hearing. I've never seen a fine more than \$4k over and above costs.

- Just to clarify, the fine would be used toward covering costs? Fines go into general revenue that offsets membership dues. If fines get much larger, might need to look at another approach to manage that money.
- What's the point if these damages are already addressed in civil court? What is the point of the fine? It's just APEGA's cost recovery. The fines just go back to general revenue.
- It's like a speeding ticket – got caught speeding, but there's no fine.
- Concern over how often the max penalty occurs.
- Is 500K enough to be the max penalty for Permit Holder? But permit holder can be an individual... is the company which uses the individual's permit allowed to pay the penalty?
- What's correlation between fines and other disciplinary decisions? Does paying fines help the involved members to be cleared from other disciplinary decisions? Any chance of the policy gets abused in practice?
- Do members differ from Permit Holders?
- Idea of judgment from a panel on a person? Somebody's idea might think an amount is not fair enough as to another. Is there a regulation for numbers?
- At those types of level APEGA is very fair, but there should be honest matrix sanctions accounting: size of the company, number of employees. Regardless of what happens we have to track that.
- APEGA approach is not to punish, is to detour. Do we want to punish, detour or educate?
- Would it be a hearing instead of a fine? It would be the cost of a hearing. There has been a way to limit it
- Why just establish the highest not the lowest limit?
- With the Government current regulation is easy to adjust. In the province there are more medium size enterprises. If there is just one individual, how to deal with? The sanction matrix?
- For big Permit Holders 500K might not be enough. For medium and small size practitioners...(?)
- Government should be like with other professions, look a salary? Half of it? A year of it?
- What about individuals? There should be big consideration to people that are consultants, people that rotate between x, y and z companies.
- This does not assure the public is getting the educative idea.
- How does a company recognize its mistake, mitigate it, change?
- Increase the fine for large companies.
- Takes it out of legislation, put in regulation.
- It can go as regulation.
- Individual Permit Holder fine increase.
- Not very future proof and will have to be changed at a later date. Should be based on something and not fixed.
- Maximum is very high, some people may not have the ability to pay that and it may financially cripple them.
- Still liable/open to civil action, so this fine is not necessarily a deterrent, or the best deterrent. APEGA's best deterrent is the ability to suspend and revoke membership, taking away careers.
- Is it ethical for APEGA to profit off of the mistakes/wrongdoings of their members?
- This amount is too high.
- This amount does not quantify punishment.
- More resistance from individuals admitting fault and delaying investigations.
- I look at the dollar figures – if you are paying those kind of fines, there needs to be teeth in Act to make sure APEGA can see what the person has done or will do to rectify the practice/situation – make sure conditions are met before license is given back.
- First offence or small infraction – need to be clear on the criteria for assigning fines.
- It is a punishment, but does it fix the problem?
- Increase in fine shows that APEGA is taking an issue more seriously – shows public giving more of a punishment.
- We are valuable and invisible to the public – so this increase shows the public that APEGA is concerned for the public, makes more invisible, shows penalized.
- Where did the fine numbers come from?
- What happens to the money that is collected? How is it used?
- If repeat offender, then should have a statement regarding repeat offenders and fines scale.
- Who is this being pushed by? It is a big jump.

- Keep it consistent with other engineering/geoscience associations in Canada.
- Fines are disproportionate - upper limits should be much higher for large company - look at the scope and size and consider that in building metric.
- Take it and put into Regulations (will this be happening)?
- Would that include costs as well? No, costs would be above.
- Is that what doctors, dentists, accountants and others have? It could actually be more because it's different. Malpractice is very, very different. It can be a lot more than that.
- Is this not going to drive up your insurance rates, bigger fines means you have to carry higher premiums? That's something we have to get clarity from the insurers on the insurance requirement on this.
- Normally if you have an incident, your civil and your OH&S plus costs...and cost of progress goes up, affecting the general public as cost of doing business affects everyone. It is meant to be a deterrent.
- Losing my right to practise is significantly more than paying 100K fine.
- Who keeps the 100k\$? It goes to APEGA, where it's different on the fines and violations. When it comes to title and scope, then it goes back to the public...so that goes back to the courts.
- What is the maximum right now? 10K
- What is the minimum? They may not do a fine, but they would maybe pass on the cost of the discipline hearing. Really depends on the events and the severity of it.
- Setting the fines as a fixed number isn't future proof.
- Have fines tied to inflation or some other mechanism
- How can you defend yourself 16 years after you've left practice?
- What if you are dead?
- Is the intent that fines be financially crippling?
- Engineers are subject to civil prosecution and loss of license.
- Unethical conduct still allows you to lose your profession.
- Is it ethical for the Association to profit from malpractice? Fines should just cover the cost of investigations.
- Fines are appropriate because retired members don't care if their license is suspended.
- \$100,000 is too high.
- The higher the potential fines, the more likely judgement will go to appeal.
- Can fines be indexed to inflation?
- Can fines be indexed to company size (income) or inflation?
- Consumer price index 1980-2015 increased v.s. 10% increase in fines.
- Need to consider offender's ability to pay.
- How much does it cost for APEGA to process a case?
- Would like to see \$1 million for a Permit Holder for loss of life - there should be a table of criteria for infraction categories.
- Loss of life shouldn't increase fines.
- Agree with \$100,000 for individuals.
- \$500,000 is too low for a large engineering firms.
- What would the impact be on insurance premiums?
- \$500,000 would not be a deterrent for large successful companies.
- Fail to see how penalizing a member for \$100,000 is helpful if this pushes a member into bankruptcy.
- Clarification that the Discipline Committee and not the Registrar assesses fines.
- There must be criteria in selecting a member fine (0-\$100,000 - where to land?).
- Is \$500,000 ok for large corporations?
- Premise behind increasing the fines might not be a deterrent.
- Members don't look forward to the fine penalty as a deterrent. \$100,000 might be out of place.
- Professional body will have to sue for the case of Permit Holder.
- In the member category is there a difference between a company employee or self employed member acting in consulting capacity?
- It should be consistent with other associations practice.
- More clarification needed in metrics and guidelines.
- How do we look at which deciding for their amendment?
- Why put in maximum (Act), why can't say according to regulations or bylaws?
- Does the Permit Holder of the engineer carry the value of the disciplinary fines?

- Mixed feelings about this. Just because its been since 1982, why do we have to raise it 10X?
- 1/2 million for small companies is too big.
- Insurance implications for everyone.
- Is there going to be criteria established for what gets what fine?
- Severe, but appropriate for individual.
- How do we make sure there are no unintended consequences from these fines?
- Should this live in regulations or bylaws?
- Clause that the company cannot pay the fine for the individual.
- Too low.
- Threshold to Permit Holders should be looked at.
- Percentage of revenues for both Permit Holders and Members should be considered.
- Fee in addition to fine?
- Further the limit, the harder it will be to (?)
- Need to be proportionate to organization size and wealth: very different for sole proprietor or large corporation. \$500K is laughable with large firm.
- Space shuttle example - individual member can be in a difficult position when in a larger organization which puts pressure.
- Should be no limit to the fines. Maybe even have minimums of \$250K for permit holders. Maybe a percentage of their benefit.
- Are these increases being imposed by government, or offered by APEGA? Don't want to expose our profession more than other professions like lawyers or doctors.
- Concern about e.g. mechanical engineer working in an area normally handled by structural engineers but having the skills or training anyway - worried about being heavily fined.
- Dollar amount might be less important than sanctions.
- Fines might not be a deterrent.
- If Permit Holder – who gets fined? Company or the Permit Holder?
- \$100,000 – not a reasonable number. Protect public, not the member?
- Should be 10/1 ratio of Permit Holder to Members.
- Should be proportionate to income or level of responsibility.
- Errors and omissions insurance cover this?
- What is the intention?
- Garnish wages instead of a fixed price?
- Other provinces?
- Too low for Permit Holders.
- 10x increase.
- Does errors/omissions insurance cover fines?
- Fine is an excess penalty to the suspension of licensure – cruel and unusual?
- Too high for member (individual).
- Matrix of severity.
- Public is protected by removing licenses, fines are excessive of this.
- Violators of title and scope at same level.
- Where does the money go?
- What is the frequency of going after former members?
- Why 10 years instead of five?
- How does this compare to Limitations Act? How does this compare to Construction Law?
- If this fine increases 10X, will it stay static in the next go around?
- Are there fines guidelines in terms of discipline orders?
- What is the money used for?
- Should there be a maximum? Tailor something more fitting to fit the crime.
- \$500K is cost of business or big projects.
- Criteria 1) 1 bn contract – lose accordingly; 2) if people die, fines should be relative to insurance rates
- People hurt, get part of fine?
- Index fines to average salaries.
- How does this fine increase help protect the public?
- Should also think about the Members - the number is unreasonable for individual members.
- Where does the money go?

- Should make sure much bigger number for companies – going to \$1 million ok.
- Should be proportionate to what the income is for the individual member.
- Tie to level of responsibility/level at your work.
- Does it affect all members including M.I.T.s?
- This makes it unaffordable to make mistakes – should have consequences – good to use a sliding scale based on incident.
- Have insurance to take care of this (fine)? (Prof Liability for errors & omissions)
- What are the expectations from other associations?
- What is the intention of this recommendation?
- What other regulators did you look at (i.e. environmental act)?
- Would other province suspensions and interim convictions be considered for fine?
- Are the fines big enough to deter the offenders?
- Will it be a revenue source?
- No mention of repeat offenders.
- Where will the fine money go?
- How does this sizing of fines relate to disciplinary matrix?
- How do you protect the APEGA Member after something goes wrong with something done with your stamp later on after you leave the company?
- In references to fines, keep them up with inflation.
- From a practice perspective, many of us engage from engineering to procurement entities whether they are in Government or private industry. I just wonder if our practitioners are being put into compromised positions and I wonder if procurement or engineers that are participating in procurement with other professionals, if that is still wrong practice or unprofessional conduct? I just wonder what the lines are there, and if business practices, or poor business practices are starting to be inside the lines of practitioners or compromised positions. I wonder if we will see discipline related issues raising in a number of years left behind contract times, whether this fall in this specific comment of law?
- If the numbers fall between \$100K - \$500K, how do we keep that in step with inflation with the coming 20+ years and they won't be irrelevant by that time? There should be a kind of formula there.
- If there is for example, a guy from Chemical Engineering background but is doing some , e.g., structural work, but my understanding, is if they have the education and experience, it is allowed for you to perform this job.

Recovery of discipline related fines and costs

- Three Members indicated that this seems like a reasonable method. The removal of ability to practice protects the public as does the deterrent of the magnitude of the fine, the fine itself is not intended to protect the public.
- If a Member disagrees with fines, is there a mechanism with APEGA to resolve this?
- How will this expedited court process compare to the current process in terms of speed of decision?
- Right now we can't back up discipline outcomes (such as fines). Right now we have to sue the courts to recover funds
- Recovery of our actual costs is different than recovery of discipline fines - Costs include many other items beyond administrative court fees.
- In APEGA bylaws, "costs" are defined as particular items; these are the items we would be claiming for recovery.
- One person indicated this makes sense from efficiency and cost perspective.
- If APEGA has the power to impose fine, they should also have the power to collect.
- Does this align with other associations/professions?
- If you go through the courts, legal precedents are used. Does this bypass that? What are the means to ensure these fines/costs are appropriate and legal?
- Agree. Makes the process quicker and faster.
- Agree. An efficient administrative, procedural change.
- Can't we do that right now? No, If there is a fine, we have to sue in court, this will avoid this step.
- What about costs related to court costs? What is included in this? What about the court cost that is not related to the APEGA cost? It's not just the money to APEGA, also any other. Reimbursement must be based on the costs associated to the association, based on an existing schedule. Different, to lawsuit and costs of lawsuit.

- Is there a limitation period, after APEGA won't be able to sue?
- Yes, no more discussion.
- Why feed the lawyers?
- If APEGA can't collect \$10k, how could APEGA hope to collect \$100k?
- How do we know this won't be more expensive than leaving it, because now other parties can challenge it and create more legal fees.
- Scrap it.
- What is the appeal process if the individual disagrees with the fine?
- Making money easier to obtain for APEGA? Currently do not even attempt to pursue someone if the cost of doing so is more than the money that will be received if that process is successful.
- How much do we spend to do this?
- If people owe <\$5k, we currently don't pursue those. Unless it's a matter of principle.
- Agree to allow APEGA to pursue such authority to reinforce the fines/costs decisions.
- How is the penalty going to be collected?
- What if other provincial professional organizations can help us with collecting the pending fines or cost from APEGA against a certain member?
- It is not clear how to proceed, is it going to be perceived in two different ways? A criminal action? Or a civil action? One piece of the action to sue is removed.
- All agreed.
- Concern that APEGA is now judicial branch and removes the possibility that APEGA may have been unfair in proceedings or discipline.
- Makes a lot of sense – why not in before?
- Save time, effort, and money.
- We ever had a case that we lost when we went to court? We haven't gone to court because it costs so much money.
- APEGA become the judge and jury.... there is also the Court of Appeals.
- Does any other professional body have that sort of power? Yes, most of them have this ability to do this because the cost of civil litigation is so high.
- Should they also be practising while they still have fines? Depends on what the discipline order says. They may just decide on a fine and they may decide that you may have to do "xyz" and you have so much time in which to do it. If we can take that order to the court, then at least the collection on what's in that discipline order, we can still do.....they would still have to do whatever that "xyz" was and if they didn't do "xyz" then we could suspend or remove their license.
- How does it work between provinces...if you don't pay your fine in one province, can you still work in the other one? Based on a case that I was privy to...the member didn't pay their fines or membership and continued practising in another jurisdiction, the regulator here filed a complaint against that Member in the other province for unprofessional conduct, so that the fines could be collected in the other province.
- In case of the discipline-related fine would the person like if you do not pay by this day? Would the person have an extra fine if the person does not pay a certain day, what would be the consequences?
- If you do not fulfill the requirements of the discipline order including pay the fines and/or costs, your license to practice is removed immediately after that time frame.
- Is this done in other professions?
- Is there the ability to appeal?
- Does APEGA now sue for court costs if they go to court to collect?
- Have there been cases where decisions have been reversed by courts?
- See this as a positive, more efficient process than the current one (limit ongoing costs).
- What about undue hardship? This could be a red herring in terms.
- Great.
- Will it be faster?
- General agreement.
- Efficient idea.
- How does APEGA negotiate with the person? Check and balance may be needed.
- Will that increased fine go to APEGA's general revenue account?
- Will this be both Provincial Court power - Judgement and Queens Bench?
- Garnishee? As enforceable as a QB judgment, but not the other powers of execution and garnishee.

- In case of no merit complaints can there be a mechanism for defendant to recoup costs?
- Agreed.
- Where is our standing to recover laws?
- Makes sense.
- Natural extension of our authority.
- Not dissimilar to other bodies legislation.
- Can't we do this right now?
- What will be the court cost apart from recovery money?
- What will be the means for defender to argue for the costs?
- What if APEGA doesn't get the whole proposed costs?
- When to file the court appeal for fines?

Compelling witnesses, producing documents and entering premises

- Comments that the first three items seem fine, concerns over entering the members place of work. How is this actually done?
- Acceptance of change.
- Are interviews secret or can this be publically accessed?
- Investigative committee does not have authority to compel a non-Member to get engaged.
- Investigative committee can be seen as the police whereas discipline committee plays the role of judge and jury.
- Get as much information as possible as early as possible.
- Issue with document ownership, property of the company rather than individual member? Answer may be different depending on whether the complaint is against a Permit Holder or individual Member. Can compel the Permit Holder if appropriate, rather than individual staff. Note that this legislation would overcome any limitations on personnel providing documentation. The effective question is whether there are any barriers in place that would prevent reasonable implementation of this as legislation?
- "APEGA Investigators" is a pretty general term. Who are they? What controls exist to protect the person being investigated? Investigative Committee members are listed on the website. "Investigators" support the committee, but they only act on committee request. Not sure going forward if that will still be the case – at what point can an investigator compel?
- Right now, the Discipline Committee and the Appeals Committee have this power. Intent was to give this authority.
- Conflict with non-disclosure agreements? Often companies have long-standing penalties for disclosure that may be difficult to "get around" - APEGA manages all of their investigations confidentially.
- Does the Act apply to the public?
- Concern regarding potential conflicts between investigators and the investigated Member / Permit Holder.
- One person recommended independent investigators.
- Due diligence requires no conflict of interest with investigative panel.
- Wording "inspect" needs to be clarified.
- Modernize the term "documents" – information, etc.
- Do we (APEGA) have legal authority to bring contempt-of-court proceedings against a Member or non-Member?
- Really disagree with allowing this for anonymous complaints and issues surrounding anonymous complaints.
- How specific is this (enter and inspect any place)? If a member works in their home will APEGA dig through their personal property?
- Is this prior to discovery in legal proceedings?
- When entering and inspecting a place for an investigation, how is the safety of investigators considered? Could investigators be entering a dangerous situation?
- What is the tool to compel a person to cooperate? Legislation and the ability to obtain a court order warrants that it can be enforced.
- Agreed. This aligns and streamlines both the investigative and disciplinary bodies.
- When it is necessary to enter a public place, it is important to be able to demonstrate the importance and substance of the place under investigation.
- Agree. This gives the investigators the power to gather pertinent information and present it to the

disciplinary committee.

- Disagree. The investigative panel essentially acts as the “police” and the disciplinary committee serves as the “judge”. The noted legislative change gives the investigators judicial power and allows them to go above and beyond the administrative process.
- There is an issue with document ownership depending on the type of the contract. Originator of the document is the responsible and owner, but the client is owner based on the contract. Is there a limit for this clause?
- If the document comes from the originator, there is no issue, the concern is in case the member presents documents that the person is not the originator.
- The idea with this change is to overcome any issues with the specific contract. The question is: Are there any barriers to enforce this? This needs to be reviewed.
- APEGA investigators is a general term (I don't know their qualifications - who are they?).
- The name of the Investigative Committee is open. Any investigation happens under the Investigation Committee. We do have staff that are called investigators but under the direction of the committee.
- Going forward, what will be the limitations for the investigators?
- Should I disclose anything that the company says confidential? Does it create conflicts with Non-Disclosure Agreements?
- This is an authority that we want to do to the investigation committee. All APEGA investigations are confidential, however this concern is very frequent in the investigations.
- Issue with privacy. Says you can “go into my house”.
- Could it be legally challenged?
- Most information is in computers. How do they find it?
- What is meant by workplace?
- Does the investigator have the authority? Or does the investigator have the authority through the investigative committee?
- Clarify the investigators' linkage to the investigation committee.
- Concern with the training of the investigators on technical matters (clarified that technical support is available).
- Serious concern about inspecting homes. Need a clearer definition of workplace.
- Does this give access to email?
- How come it isn't like this already? It makes perfect sense that the investigative committee should have access to all the collected information.
- What if the homeowner, for example, does not give permission to search their home?
- If the home owner (for example) could refuse to let APEGA search their home, why doesn't APEGA ask for a court order to search the home first, rather than ask the home owner and make a scene?
- Could government authorities overrule APEGA in the investigation?
- Has APEGA investigated the legality of this? APEGA isn't a court. It doesn't have the legality of the court. Have you asked if this is legal? We don't have this power at an investigative level.
- Concerned about entering a premise. That is a safety issue for the APEGA members who have to do this task. Need training for this. If the police do this, they're trained for it. Need to find help from law enforcement.
- Even for non-Members to submit to interviews? Investigative can only compel non-Members.
- Can police compel members to testify during investigation stage? Think they can do in court but not in investigation. We could be asking to be able to do something even the police aren't allowed to do.
- Why do we need right to access a workplace?
- Don't you need to have a subpoena or a document that gives license to do something like this (enter a workplace)?
- Agree to allow APEGA to pursue such authority.
- Does it allow APEGA to obtain info from other organizations/individuals such as RCMP or first responders to assist investigation?
- Is that entirely new for other processes? How does it work?
- Would there be an investigation in my office? All company? At a lower level?
- Details have not been gone through.
- How important is it? Very.. If the member does not cooperate, does not submit the documents requested, you could charge him. If this rule is in place, he would be legally obliged.
- The first three parts compelling non-Members, what does it intend? Procedures? Documents? Information? How relevant are they? Would it include spouse? Coworkers? Would not members seek

legal action?

- Currently Discipline Committee has authority but Investigation Committee don't have.
- Define work location, as currently people work from office or home.
- What is jurisdiction?
- As a member of the public, aside from a police warrant/search order, this is wrong.
- Constitutionality of this ability/action is a concern.
- Quid Pro Quo – if you don't want to practice, you don't give up documents.
- Concern over investigators coming into homes if we work from home part time. Better wording is required.
- Businesses may have issue with an APEGA investigator coming onto their property.
- Compelling witnesses, producing documents is a good idea as it has been a large difficulty previously.
- Problem when dealing with a large corporation and their lawyers? Employee of a large company being a witness or producing documents. Could be breach of confidentiality agreement with the company so difficult for employee.
- Entering premises not needed as will have ability to compel documents.
- Practice Review Board is a different regulatory body, but other body does not need to have the ability to enter premises.
- If someone has a home office, then right to enter into home involves family and opens up privacy issues.
- Need to clarify work premises, but don't think necessary.
- Employee caught between employer's policy and APEGA's policy.
- What is driving this issue?
- Just because ASET does this doesn't mean APEGA should.
- How can the investigator enter into different work places?
- I think I am ok if this is passing first to the Investigation Committee not first through the Registrar. Whoever is the investigator; panel, staff person or a person that the Registrar requests on a special project. They have this authority to compile a complete report.
- What is the Registrar's involvement? This has nothing to do with the Registrar; this is only dealing with the investigator. The Registrar cannot be the investigator, they can only initiate.
- The discipline committee and the appeal board already have the information. We think that there was an error in legislation drafting that forgot to include that when a complaint comes in you need to do these things in order to have a proper investigation.
- Do you have the authority to do this now without a subpoena? Yes, we do have the authority to do this now without a subpoena.
- Is this just for the hearing? Is there any preliminary hearing? This is for the investigation only, this is not for hearing. The investigation committee does not have any hearings; they just have an investigation report on the complaint. And they decide if there is enough information over here to decide, should we dismiss or should it go to a discipline committee for a hearing. That is their authority of decision making; they either dismiss or send to a hearing.
- What do you think about entering a workplace to get information and doing more interviews?
- I do not like. APEGA can compel me to go to its place. APEGA should not come to my place.
- I am hoping that APEGA includes computer search remotely. Because, I believe that is how APEGA would find the most important evidence that APEGA will need.
- Do you see this level of "intrusion" somewhere else? Yes, we see in other legislation.
- I do not see that happening without police enforcing it. We (APEGA) also sense that when this comes into effect, we believe that for risk mitigation go to the legal route and get a search warrant.
- Why don't you state that in the legislation? Excellent point.
- If you are interviewing Members and non-Members and you found discrepancies between them, how you will figure out which one is right? I do not see that really working.
- How would the employers and engineers react when APEGA knocks at their doors? They may just say to APEGA - you are not welcome over here. Good point.
- I think it should be done in a legal fashion. I do not believe that APEGA should go around and be able to investigate companies' servers.
- Search warrant and police should be only ones to compel a person of the public.
- Concern regarding information being made public if a civil is sealed.
- Concern regarding what documents can be demanded – currently power is held by the discipline committee.

- Pleading guilty with settlement could result in not getting all of the information that could result in more pertinent information coming to light.
- What is the constitutionality of this?
- A company may have serious issues with letting an investigator come on site and remove documents, i.e. Nova Chemicals.
- Are investigators trained staff?
- Can non-Members be compelled to testify if they would have to admit to a crime?
- How will public be informed of power of investigators to compel access to files etc.?
- Investigators should have professional training.
- Agree with the first three proposed changes.
- Entering and inspecting the place of work is questionable.
- APEGA will follow the law.
- Problem with non-Member coming to produce documents.
- Does the investigative committee investigate the validity of the complaint?
- Concern about knocking on the door if a non-Member.
- No problem with member doing that.
- Problem with releasing the confidential documents/confidentiality to non-Member or third party.
- Entering premises could be sensitive.
- Lots of differences between working from home or major corporation.
- This will be a challenge executing.
- Members need to have documentations for however long.
- Can APEGA then log into suspect's computer?
- Storage and retrieval of data issues.
- There are issues around what data can be taken from an organization when you leave.
- It doesn't change the ultimate result.
- No problem with it.
- Does investigative committee answer to disciplinary committee?
- Disclosure of intellectual property to other party could be an issue. How does APEGA look at it?
- Need for court order to compel documents and interview from a non-Member?
- Can you compel someone to travel?
- Access to work site – make similar to AEP.
- Problematic – powers of the RCMP? Above the law?
- Access without a warrant.
- If serious enough that it requires site access, get RCMP involved anyway.
- Does APEGA actually need this?
- Are we more conservative than other provinces or associations?
- How do you force non-Member to appear?
- What is definition of where person works?
- More power than police? No warrant required?
- Same rights as courts?
- APEGA badges?
- We can't override privilege.
- CIS APEGA – we will need absolute experts.
- Costs?
- Would APEGA go to the person to ask to be a witness – can we actually make them?
- To get onto Suncor, need training to get onto the site – how do we even try to get site?
- What would the purpose be?
- Not APEGA's job – the law should take its course. APEGA does not have the experience – warrant is needed. More of a criminal area.
- APEGA will lose its reputation as an organization.
- How could we get enforcement of this when home office?
- What triggered need to make the changes?
- Why does APEGA need to do this? If other associations make these changes, does APEGA have to?
- APEGA is not breaking down doors – want to show first that we are working with the people involved.

- Can you compel somebody to produce documents with partial ownership or third party?
- Currently do these barriers make it difficult?
- Concerns about companies' secrecy policies and non-disclosure agreement.

Complaints against former members

- Comment that this seems fine, however, the two year statute of limitations is brought up, so what is APEGA going to do for the next eight years when its likely not enforceable in court?
- Comment – 10 years is a long time and makes it almost impossible to establish facts.
- There should be a limited duration from the actual event and not the number of years of Member association.
- Recommendation of limitation to five years.
- Recommendation to preserve all relevant documents for 10 years to match extension.
- How does this change affect current statutes of limitation legislation?
- A Member is liable for his/her work for the lesser of 10 years from the point the work was completed or two years from the point the issue was raised. There is no need for chasing retired Members.
- A Member may purposely resign to protect him/her self. In such case, Member should not be allowed to practice ever again.
- A Member should not be able to get out by resigning. If resignation is in agreement with APEGA and the Member, this does not mean that the retired member is 100% out of the loop.
- Legally what is current legislation for document retention?
- The date should be from the date the work was completed not from when the membership was cancelled.
- Be consistent with other legislation.
- Define how long Members / Permit Holders need to keep documents.
- Why was 10 years chosen?
- Regulations change very quickly, 10 years is a long time and what if regulations/standards change in that time frame and affect the investigation/complaint?
- I think 10 years is a long time, trying to rehash something 10 years into retirement may not allow the Member ability to recall and contribute effectively in the investigation.
- Consider diminished capacity while aging and being involved in an investigation up to 10 years after membership is cancelled.
- Disagree. This change does not comply with the laws of professional liability which require a person to be liable for certain number of years of practice plus two years. Why should a person be liable after that?
- What is the rationale? If a person is not a member anymore, why is it necessary to hold them accountable?
- More thought should be given to this before enacting the proposed change.
- Can an individual circumvent punishment simply by retiring during an investigation?
- Needs to be less than 10 years.
- How about in line with record retention – seven years?
- Confusing and unclear to me.
- When is the timeline? When does it stop and end?
- Should the starting point be from the point that the incident occurred rather than following the date of cancellation of membership?
- Why 10 years?
- Why two years?
- How about we increase it to 15 years?
- Does this mean members should keep their records even after retirement?
- What is the initiative for this? Shouldn't APEGA be more proactive instead of giving a big 'fudge factor' of 10 years?
- This may deter people from retiring.
- This may deter people from pursuing engineering as a career.
- This may make engineers design more conservatively, therefore increasing project costs.
- Does this include when designs are used past their 'expiry date' and then something fails?
- My concern is that 10 years is too long. This should also depend on the nature of the engineering service being provided. The number of years' punishment should be proportional to the type of project

and longevity of that project.

- I don't have a problem with 10 years.
- We looked at the CPA act, they used six years. Thought 10 years would be applicable according to construction law.
- We're talking about 10 years after the individual retires, not 10 years after the project is completed. Not the same thing. Maybe we have the wrong relative date here. I won't remember well a project I did in 1981 when I retire in 10 years!
- Might need liability insurance for an extra 10 years after I retire. Cost of that liability is significant especially post-retirement.
- Why is there a need to do this investigation within 10 years of retirement? There's recognition that after practicing, still responsible for previous projects. Ensure APEGA has continued access.
- Does this responsibility go on the organization or the individual member? Could be both.
- How do you defend yourself 10 years later – you won't have your records. They're not necessarily your records to keep.
- Is there any similar policy against current members of APEGA?
- 10 years since the accident? Or 10 years after the discipline takes place?
- Concern over 10 years might not be enough.
- Definition of membership cancellation in this specific case, can it be voluntary membership withdrawal or a result of APEGA discipline?
- How is this change going to impact non-practicing Members?
- 10 years of what?
- 10 years is more related to construction law.
- 10 years from the complaint? Cancellation of license? How can you deal with things so far in the past? To what end? How to find somebody from 10 years ago?
- After 10 years everything falls apart.
- What about six years?
- Cause-effect, there would be different scenarios.
- There are a couple of thoughts here.
- Cancel the membership in order to investigate.
- Proposal is in line with construction law.
- Non-practice Member will be stopped quickly working as practice member.
- Portability - How it is important if somebody is non-practice Member in one province and is practice Member in other province?
- Lot of deliverables produced are subject to wear and tear.
- Long reach. Requires proper framework.
- Just clarification remarks. Maybe revise wording to make clearer.
- Where does the 10 years limit come from?
- Are we only going to have a two-year limit for record of ethical practice, but 10 years down the road someone can file a complaint? Should be the same amount of time.
- Practical concerns about 10 years. Someone who retires when they are 65 or 70 and a complaint comes up at 80, there may be diminished capacity to defend and where would all those supporting document be? Whether you are a sole practitioner or an employee.
- 10 years is onerous.
- What are other professional associations doing?
- Have this on a graduated scale – relative to the nature of the incident.
- How do we assure that the documents will be available/retained? A company may not exist anymore.
- If you retire are the records expunged?
- What about liability insurance? What are the implications?
- What is the statutory limitation now?
- Perhaps make a distinction in the time frame between Members and Permit Holders.
- If passed and goes into effect in 2019, those that retire/cease to practice earlier – would this affect those who retire earlier?
- What is the current legislation for other Canadian engineering and geoscientists associations?
- What happens in the case of a life member?
- Logical but if it's a non-practicing Member, is it likely a public safety issue and method to collect fines?
- How does this go with interprovincial - no (??) of the decision and how it relates to 10 year time frame?

- Issue could be wear and tear - there should be framework and criteria to apply this in regulation.
- I am concerned about the property owner of the document, if the person changes company. Is the person liable for those documents that were left behind in his/her previous job or would it be the companies' liability? If you stamped and sealed a document that is your intellectual property.
- If you leave a company, you must take everything with you, or all the documents stamped by you are now company's property? Good question, I do not know. It may depend on the contract that you signed.
- For instance: I had a friend who did some analysis on some cranes. And he was supposed to put a safety mechanism in one of his projects, and he missed. He changed work afterwards. His friend is trying to do his due diligence on the project that he stamped and saying to his previous employer that he must re-do the project. However, the ex-employer sees no problem and therefore will not inform the client. Some of the complaints that we are having now are construction model/ structural.
- Makes for a stressful retirement.
- What is the current document retention period?
- Revenue Canada keeps files open for seven years
- What will APEGA do to a member in the extra eight years?
- Review legislation to allow the same detail of data to be available to both the investigation and disciplinary committees.
- This is too much time - you can't go to the guy after 10 years to ask what he has done before. Five years would be good.
- What is the motivation behind this?
- Put into the legislation.
- PPMP issues around data retention.
- Record keeping is 10 years from end of warranty.
- Hard to remember after 10 years have passed.
- Conditions change and codes change.
- This won't be implemented retroactively?
- Good to consider the behaviour of the work rather than looking into the time frame.
- How long does the company have to keep the records?
- What are the time frames for other professions?
- Different time line for Members versus Permit Holders.
- Should be some align out to professional records.
- When members retire, they may retain professional liability for two years. Have not budgeted for the full 10 years. Can be a real problem both in availability of insurance as well as in cost.
- When a firm acquires another, do they assume that liability? What about divestment?
- If a firm goes bankrupt, then does the liability switch to the Members for 10 years?
- How often does it really come up?
- How does this compare to the liabilities, limitations act?
- 10 years a long time; maybe should be shorter, e.g. five years.
- How effective might this be? Person gone, no longer a Member – judgement not enforceable.
- Limitations Act – 10 year from time of act, not from cancellation of membership.
- Issues of 10 years – company documents might not exist; company might not exist.
- Follow civil litigation, construction law.
- Members can't quit halfway through investigation.
- How do you reconcile that some equipment fails in five to 10 years?
- Does PEO (other provinces) have this?
- If retired, still applies.
- Liability needs to be aligned so that it makes sense. Needs to be aligned with incident.
- Insurance will need to be kept for 9.5 years after ceasing to be a member.
- How long do records need to be kept?
- Does this apply to cancellation of memberships?