



Mobility for Geologists and Geoscientists in Canada: Issues and Possibilities

(Working Paper)

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The Prospectors and Developers Association of Canada (PDAC) commissioned this working paper in order to support its work on behalf of the PDAC membership and the geoscience profession. Comments on this working paper and on the issue of geoscience registration and mobility are encouraged. Please contact the PDAC at info@pdac.ca

Table of Contents

Introduction..... 1

Context – Mobility and the Agreement on Internal Trade..... 2

Views of the Self Regulatory Organizations on Mobility 4

 NO – Changes are not required for mobility 6

 YES – Mobility is a major issue requiring changes to the system..... 7

Mobility for other regulated professions in Canada 10

Findings – Challenges and Considerations 16

Options..... 19

Introduction

This working paper presents the results of preliminary research to examine the issue of mobility for geoscientists in Canada. As members of a profession engaged in mineral exploration, geoscientists have always needed the ability to move freely from location to location. In an increasingly globalized world, there is an even greater need for geoscientists to practise easily in different parts of Canada. However, members of the profession are facing barriers to this ease of movement. The bureaucratic requirements for registration in each jurisdiction where geoscientists work impedes their mobility.

To examine the issue of mobility for geoscientists in Canada and explore possible strategies to address those issues, the Prospectors and Developers Association of Canada (PDAC) commissioned the Institute On Governance (IOG) to conduct research and prepare a report and strategy paper based on the results. Part of the research involved interviewing representatives of the Self Regulating Organizations (SROs) that form the constituent associations of the Canadian Council of Professional Geoscientists (CCPG). The IOG also contacted representatives of some other regulated professions in Canada (such as the Association of Canadian Land Surveyors and the Certified General Accountants) to ascertain how they have handled their problems with mobility. Further aspects of the project required the IOG to suggest methods to secure more information about the population of geoscientists and to propose strategies based on their research.

During the course of research, the IOG gathered information about what is possible in the realm of mobility and about how other professional organizations have dealt with this challenge. There appear to be some myths that have been propounded about mobility that may have impeded geoscientists' ability to deal with the issue. Also, more information on the views of geoscientists themselves was required to supply a firm foundation for the conclusions of the research so far. The IOG proposed that a survey of geoscientists be conducted to supply this information. The results of this survey will be combined with the summary presented in this working paper in a final report to PDAC. The final report will provide an overview of the situation related to mobility — the issues, the strategies adopted by other professions, the myths, the impediments to overcome and possible strategies for geoscientists to consider.

The present document is a working paper that summarizes results of work so far. Its purpose is to report on two aspects of research conducted by the IOG:

1. What interviews with the SROs revealed about views on mobility;
2. What we learned about the challenges of achieving more mobility in our discussions with other regulated professions in Canada.

Following our report on these two aspects, we present some considerations and options for change to improve the mobility of geoscientists.



Context – Mobility and the Agreement on Internal Trade

The British North America Act (1867) has been interpreted to locate regulation of professions in the provincial domain. Provincial bodies have regulated professionals such as engineers, who have been regulated since the 1920s. This produces a situation unlike that of many other countries in the world (except for the United States) where regulation and certification is legally a national concern. Hence, an engineer from, for example, Australia, is designated an Australian engineer, not a Queensland engineer or a Victoria engineer, and so on. The same is true for other regulated professions – Australia has one professional self-regulating body for each of the professions that certifies members to practise anywhere in the country.

The ability of members of most of the regulated professions in Canada to move freely from one jurisdiction to another in order to work and practise in their professional capacity involves a number of widely acknowledged problems. Because registration and licensing of members of the professions has not been national, the requirements for registration are not uniform across Canada and some are very time-consuming and involve a lot of paperwork for applicants. The national organizations for these professions, who do not have legal regulatory powers, are particularly alert to the difficulties their members encounter when they try to practise or move outside the jurisdiction where they are licensed.

In an effort to improve this situation, the federal government, provinces and territories hammered out an arrangement as part of the Agreement on Internal Trade (AIT). The AIT was enacted to address the need for the free movement of goods, services and people across the provinces and territories of Canada. The AIT was passed in 1994 and came into effect in 1995.¹

Chapter 7 of the AIT specifically targets labour mobility across Canada. Article 701 states:

The purpose of this Chapter is to enable any worker qualified for an occupation in the territory of a Party to be granted access to employment opportunities in that occupation in the territory of any other Party, as provided in this Chapter.

One of the issues addressed by Chapter 7 is the use of measures that create barriers to labour mobility, including occupational standards, licensing, certification, registration and residency requirements. This Chapter of the AIT seeks to ensure that licensing, certification or registration of workers “relates principally to competence” and that any measure adopted or maintained “does not result in unnecessary delays in the provision of examinations, assessments, licenses, certificates, registration or other services that are occupational prerequisites for workers of any other Party.”

Thus, the Labour Mobility Chapter in the AIT attempts to provide assurance that members of the regulated professions in Canada do not encounter unnecessary barriers to work in other provinces outside their home province.

¹ http://www.ait-aci.ca/index_en.htm

The need for mobility was further acknowledged in the *Framework to Improve the Social Union for Canadians* in 1999.² The federal and provincial / territorial governments collaborated on the Framework to promote mutual respect for fundamental Canadian values, and to work together to meet the needs of Canadians in the context of these values. Through the Framework, the two levels of government committed to various measures to uphold principles crucial to quality of life for Canadians, such as equality and active participation in Canada's social and economic life.³ Section 2 in the Framework acknowledges the importance of mobility within Canada for working people:

All governments believe that the freedom of movement of Canadians to pursue opportunities anywhere in Canada is an essential element of Canadian citizenship.

Among other commitments, the Framework includes an important statement for the mobility of workers and members of the regulated professions:

Governments are also committed to ensure, by July 1, 2001, full compliance with the mobility provisions of the Agreement on Internal Trade by all entities subject to those provisions, including the requirements for mutual recognition of occupational qualifications and for eliminating residency requirements for access to employment opportunities.

However, in July 2001, many regulated professions still reported difficulties with mobility across Canada. In its *Report on Implementation of the Labour Mobility Chapter of the Agreement on Internal Trade*⁴, the Forum of Labour Market Ministers assessed fifty-one professions for mobility in July 2001. Of these professions, the Report noted that

...regulators representing 42 of the 51 regulated occupations have, on a national level, substantially met their labour mobility obligations or are well on the way to doing so. For the nine remaining occupations, regulatory bodies have major issues yet to resolve.

In other words, despite government requirement for professions to comply with the mobility provisions of the AIT in the Social Union Framework by July 1, 2001, the regulated professions still face obstacles and some of them have "major issues." Although the Labour Market Ministers' Report presents an optimistic picture, many professions still find the different criteria and registration requirements of other jurisdictions curtail their ability to move to other parts of the country to work.

Geoscientists are among the regulated professions whose progress towards full mobility has been reviewed in the Forum of Labour Market Ministers report. The registration and regulation of geologists and geoscientists in Canada is a relatively recent phenomenon. The provincial governments have passed acts to regulate the profession only since the early 1990s. In some provinces, regulation has only occurred in the last year or two.

² http://socialunion.gc.ca/news/020499_e.html

³ Quebec is not a signatory to the Social Union Framework.

⁴ <http://www11.hrsdc.gc.ca/en/cs/sp/hrsdclmp/mobility/2001-000049/2001-000049.pdf>

Geoscientists are now legally required to register with a self-regulating organization in the province in which they practise. These SROs are combined organizations with engineers in seven of the provinces and territories (British Columbia, Alberta, the Northwest Territories and Nunavut, Saskatchewan, Manitoba, New Brunswick, and Newfoundland – Labrador). Only in Ontario, Quebec and Nova Scotia do geoscientists have distinct regulating organizations for themselves. Hence, for the most part, the associations that regulate geoscientists do not represent their interests exclusively, and these associations are also concerned with the needs and requirements of the engineers who represent the majority of their membership.

The authors of the *Report on Implementation of the Labour Mobility Chapter of the Agreement on Internal Trade* acknowledge that, like other professionals, geoscientists still encounter impediments to full mobility and their representative associations are engaged in meetings to recommend actions to implement full mobility.⁵ In other words, the SROs for geoscientists had not yet fully complied with the Mobility provisions of the AIT in 2001. In the views of many geoscientists interviewed for the present report, not much has changed since then.

Views of the Self Regulatory Organizations on Mobility

Geoscientists frequently practise in areas outside of the provinces in which they live and where their home offices are located. Exploration geologists and geoscientists, in particular, need to be able to travel to any part of Canada on short notice, but environmental geologists and geoscientists also share the need to practise outside their home jurisdiction, although less frequently. This need to work in other locations requires geoscientists to register with a number of other SROs.

The requirements for registration with SROs are varied and inconsistent across the country. The paperwork and the costs involved often discourage geoscientists from registering to work in other jurisdictions, especially when they need to travel on short notice to work in another jurisdiction for a brief period of time. The Prospectors and Developers Association of Canada (PDAC) takes the position that neither geoscientists nor the public are well served by the existing regulatory framework.

PDAC supports the professional registration of geoscientists in Canada. Furthermore, PDAC takes the position that a Canada-wide system of professional registration would enhance protection of the public through setting up a standard of practice consistent across Canada, a higher rate of compliance, and more effective administration.

Through the Canadian Council of Professional Geoscientists in Canada (CCPG), the SROs (constituent associations of the CCPG) have sought to address the mobility issue for geoscientists by introducing an Inter-Association Mobility Agreement (IAMA). The member associations of the CCPG signed this Agreement in 2001. The intention of the Agreement was to make it possible, in most cases, for a geoscientist licensed in one province or territory to get a license to practise in any other province or territory quickly and with a minimum of effort. With

⁵ *ibid.*, p. 16.

this agreement, a geoscientist must register as a full professional, in compliance with the rules and regulations of the province where he or she will be working, with full fees, even if the period of work is for only a few days.

As noted in the Forum of Labour Market Ministers report, the self-regulatory organizations for geoscientists are working on improving the Agreement to allow maximum mobility. One aspect of the IAMA that impedes full mobility is its “notwithstanding clause.” This clause mirrors a similar clause in the agreement governing the mobility of engineers in Canada and was included to make the IAMA acceptable to the SROs, which, as noted above, are primarily joint associations with engineers. Under this notwithstanding clause, a geoscientist whose application to practise is approved in one province might not be accepted in another province because of differing criteria. This reduces the practical usefulness of the IAMA.

The SROs, through the CCPG, have continued the discussion on the topic of mobility for geoscientists in Canada. They are working on improved procedures to allow geoscientists easier registration in other jurisdictions. However, the various SROs have different views on the importance of mobility as an issue for geoscientists and on how to address this issue.

A major part of the research for the present working paper comprised interviews with representatives from the SROs. The interviewees were the presidents, executive directors and SRO representatives on the Board of the CCPG. Some of these interviewees were engineers and some were geoscientists — however, on at least one occasion, an interviewee explained that he got his degree as an engineer but was now a practicing geoscientist. Also, the responses from the interviewees were not determined by their profession — that is, some engineers gave responses more sympathetic to the problems of geoscientists than some of the geoscientists gave.

The interviewees were asked if mobility is an issue for geoscientists in Canada. That is, they were asked if the present regulatory framework allows free mobility of geoscientists, or if it needs to be changed. All of the interviewees admitted that there were various kinds of difficulties for at least some geoscientists. However, their responses can be divided into arguments for and against changing the present system to address mobility. The “No” side claimed that mobility is not an issue requiring a change to the current regulatory framework and gave various reasons to support this claim. The “Yes” side claimed that mobility is a major problem for a number of reasons and that this problem needs to be dealt with.

Of the 12 interviews, 7 said “No” and 5 said “Yes.” Some of these interviewees were more definite in their responses, and some gave qualified responses. That is, some of the people who said “No” followed this response by explaining that, nevertheless, there were difficulties that had to be mitigated. Likewise, some of the people who said, “Yes, mobility is a problem,” followed this by saying, “However, it is being taken care of by the associations.” Whether the interviewees said yes or no, certain common themes emerged in their arguments.

In this section, we present the arguments first of the “No” side followed by the arguments of the “Yes” side.

NO – Changes are not required for mobility

- 1) Changes to the system cannot be made because the regulation of geoscientists is a provincial matter. Since regulation comes out of provincial legislation, making changes would be a slow process. That is, once you open up legislation, you open it up to anyone who wants to make any kind of changes. So the provinces would not be open to changing the situation for geoscientists and mobility issues will have to be addressed by other means.
- 2) Changes do not need to be made because the associations are addressing the difficulties and working hard to remove barriers for geoscientists from other jurisdictions. For example, some associations are giving their registrars the ability to approve applications between meetings of the council and this speeds up the process. They have worked to eliminate asking for information that puts delays in place, such as work histories, copies of transcripts, essays and course-by-course reviews of degrees. On a national level, the associations are trying to be more consistent and harmonize requirements.
- 3) The regulatory framework does not need major changes because the associations have a mobility agreement, namely, the IAMA. This agreement is living up to its terms and facilitating registration. Although the IAMA is flawed because of the “notwithstanding clause,” this is not a major problem because most associations accept applications with no assessment and the notwithstanding clause is used only very rarely. Thus, all that is required are some improvements to the IAMA.
- 4) Changes to the regulatory system are not needed since mobility problems are due to problems with registration, which are the result of differences in credentials. Unlike engineers, geoscientists do not have standardized accreditation across the country. They have variations in what is involved in graduating from the different universities in terms of knowledge, courses and the degrees conferred. Since training varies from one jurisdiction to another, the development of national standards has been impeded. Thus, the system of registration does not need to be changed but the system of accreditation does.
- 5) Regulation and registration are new for geoscientists and they are not used to it. Only ten years ago, geoscientists were not licensed. Thus, they either do not know that they have to be registered or they are not comfortable with it. Older geoscientists see it as an imposition and do not appreciate the need for it. Thus, geoscientists do not have the “culture of regulation” that engineers have. However, with time geoscientists will get used to regulation and registration. In other words, the regulatory system does not need to be changed because present problems are just a matter of growing pains.
- 6) The system of registration does not need to be changed but the attitude of geoscientists does. Geoscientists do not want to register in other jurisdictions because of the cost involved. It isn't a matter of time and the nuisance of the paperwork since most of the provinces are processing applications more quickly. But geoscientists just do not like having to pay extra to work in another jurisdiction. The cost of registering with the provincial Associations is relatively low, with an average cost of about \$280. Despite the low cost involved,

geoscientists claim they can't afford to pay to register in every jurisdiction where they work. So, the system does not need changing, but geoscientists need to learn to pass on costs to their clients and charge them more. That is, they need to realize that getting registered is just the cost of doing business.

- 7) The system should not be changed to allow incidental practice (IP). Incidental practice is defined as practice that allows a member in one jurisdiction to complete short-term projects in another jurisdiction with no charge attached, for a specified number of months within any one year period. But the associations cannot condone IP because people would not register when they can just work wherever they want under an IP agreement. Allowing IP leads to inequity because the members of an association in a province pay to be registered and it would not be fair if someone from another province came in to work without contributing. Also, IP would be especially problematic for small jurisdictions. In any given year, 20 to 25% of practicing geoscientists come from outside the province. If there was IP, then the provincial associations could lose up to 25% of their revenue. This would be a significant loss for them because smaller associations depend on license fees to survive.⁶
- 8) At present, only a vocal few are unhappy with the regulatory system. Mobility is an issue only for a minority of geoscientists, namely, the exploration geoscientists, who are a small and vocal group. Most geoscientists do not complain to the associations about lack of mobility. So, the regulatory system should not be changed to satisfy the minority.

YES – Mobility is a major issue requiring changes to the system

In contrast to the “No” side, many of those who argued for change asserted that mobility is the number one problem for geoscientists in Canada. In the following, we present their arguments:

- 1) Geologists have special needs — they have to go to other locations on short notice. Being called on a moment's notice to work in another part of the country is the norm. This is a different form of mobility than any other professional group requires. Also, geoscientists work on projects with other geoscientists in other parts of the country. Sometimes, their work is in two provinces at once. The regulatory system needs be changed to accommodate these special needs.
- 2) When geoscientists apply for registration in another province, even though they are geoscientists in good standing in their own province they have to meet requirements all over again each time they have to work in another province. This involves a lengthy process in just about every jurisdiction. Often, it takes so much time to process the application for registration, the job is finished before they are registered. Some associations require that tests be written and some require professional development and separate liability insurance, and so on. It is senseless to have to produce references and credentials over and over and keep track

⁶ This objection to IP seems to suffer from a logical problem. If geoscientists are not registering to work in other provinces because the system is deemed too bureaucratic and time-wasting, the associations are losing money anyway.

of all the paperwork involved. The system must be changed to get rid of this burdensome process.

- 3) The current Inter-Association Mobility Agreement (IAMA) is not a long-term solution to the problems geoscientists encounter with mobility, although it is a step in the right direction. The IAMA still requires full registration in every province, and this involves different fees, rules, requirements and classes of membership. Geoscientists need a change to the regulatory framework, not mere improvements to the IAMA.
- 4) The regulatory framework needs to be changed because the mobility problems of geoscientists are not being addressed by the current situation. There is no geoscience group, no mechanism to represent the geoscience constituency and give them a voice. The representatives from the associations to the CCPG are not there to represent geoscientists, they are there to represent the associations. And the associations are not working adequately for the needs of the geoscientists. Despite the fact that they were charged to design registration so that it assisted mobility, they didn't. The associations don't trust geoscientists from other provinces and maintain stringent standards for outsiders because they want to protect their own turf. They keep these onerous registration requirements in place because they want to look like they have high standards. Most importantly, many of the associations just don't want to listen when geoscientists complain.
- 5) The system needs changing because being in joint associations with the engineers does not serve the best interests of geoscientists. Six of the ten Constituent Associations of the CCPG are made up mostly of members who are engineers, not geoscientists. The following chart shows the make-up of the Constituent Associations in Canada:

Association	Type of Association	Eng Members (2003 data)	Geoscience Members (2005 data)	Percentage of Geoscientists
NAPEGG (NWT/Nun)	JOINT ENG/GEO	304	158	52
APEGBC (BC)	JOINT ENG/GEO	13,679	1,211	9
APEGGA (Alberta)	JOINT ENG/GEO	28,878	4,302	15
APEGS (Sask)	JOINT ENG/GEO	2,584	533	21
APEGM (Man)	JOINT ENG/GEO	3,800	261	7
APEGNB (NB)	JOINT ENG/GEO	2,128	94	4
PEG NL (Nfld)	JOINT ENG/GEO	1,824	204	11
APGO (On)	GEO ONLY		1,026	100
QIQ (Que)	GEO ONLY		635	100
APGNS (NS)	GEO ONLY		82	100

In every one of the joint associations the number of engineering members exceeds the number of members who are geoscientists, often to a large extent. For example, the largest

association is Alberta with a combined membership of 33,180. But only 15% of the membership are geoscientists. The concerns of geoscientists cannot compete with the concerns of the engineers, who dominate the associations. Mobility is not an issue for most engineers, who generally work in one municipality. Thus, it is not an issue that makes it onto their radar screen. They lack the will to understand the situation for geoscientists or do anything about the need for mobility.

- 6) The differences between engineers and geoscientists make joint association problematic. Engineers have been regulated in Canada longer than geoscientists and therefore, engineers have a culture of regulation that geoscientists do not. This disparity in thinking means that engineers and geoscientists will have different ideas about issues like mobility. Since engineers dominate the associations, the associations will not address the problems of geoscientists in the current regulatory framework. Thus, geoscientists need to find ways to make changes to the registration system for themselves.
- 7) The accreditation program for engineering is more established than it is for geoscientists. There is no national syllabus for geoscience, which is an evolving discipline. Thus, the engineers are suspicious of the credentials of the geoscientists. Since engineers dominate the associations, they will maintain the stringent requirements imposed on geoscientists who apply to work in their jurisdictions. Geoscientists need to address the problems of accreditation, which is best done through establishing a national practice with national standards.
- 8) There is an array of geoscientists. Some have PhDs and academic credentials. However, there are also many geoscientists with college degrees but many years of work experience. The academic engineers and geoscientists want to “raise the bar” for the profession. Often, the people with PhDs do not need to move to practice — they are at universities or have junior staff to do the work in the field. They cannot appreciate the situation of the geologists who have been working for 30 years and suddenly find that they are required to write an ethics exam. Changing the regulatory framework to establish a national designation would ensure equity for all geoscientists.
- 9) Many geoscientists (generally, the exploration geoscientists) are, intentionally or unintentionally, not registering to work in another jurisdiction. Estimates are that up to 50% of the geoscientists working in other provinces are not registered with the provincial association. Exploration geoscientists who do not register are, thus, criminals because they are practicing illegally. This is not fair for all these geoscientists, especially the young ones who comply with the rules. Since non-compliance is primarily a result of the onerous registration requirements, the system needs to be changed to allow freer mobility, which will, in turn ensure a higher rate of compliance.
- 10) Canada’s geoscientists are the best in the world and have been acknowledged internationally for their expertise. Their quality is a result of the mobility they had until recently. Geoscientists had free access to the land (the laboratory for geoscientists) and this made them the most highly trained group of geoscientists in the world. However, according to one interviewee, registration has “castrated” geoscientists by limiting their access to the land.

Thus, the regulatory system needs to be changed to allow freer mobility, which is a necessary condition for the high quality of Canadian geoscientists, guaranteeing their competitive edge internationally.

Mobility for other regulated professions in Canada

Workers in Canada expect to be able to move freely across the country in order to work or practise their profession. They want the ability to access opportunities in different parts of the country without having their credentials reassessed unnecessarily, without excessive costs and without time delays. Employers want access to the best workers, no matter where they come from. The mobility of workers and professional people is an asset to the Canadian economy in general because it facilitates trade and improves income for businesses and individuals.

With the advent of new regulatory frameworks, many professions have had to address problems surrounding reassessment of credentials in order to license members who move to other jurisdictions. Most regulated professions are governed by self-regulating organizations or associations. These organizations are delegated authority by the legislation of provincial governments. Some of the professions also have national associations of the provincial regulatory bodies.

Professional organizations have recognized the importance of free mobility for members of their associations and have worked towards ensuring that mobility. They have examined the systems of licensure, educational requirements, legislative change and balancing the needs of protecting the public while ensuring mobility for their members. Some of these organizations have made progress towards achieving their goals and some are still encountering major difficulties.

For the present research, we interviewed representatives of the national or provincial bodies for 6 professions in Canada. We asked about the nature of mobility issues for their members and what interjurisdictional measures were in place to aid mobility. In the following, we present the results of our discussions with these interviewees and point out some of the pitfalls they have faced and some effective measures they have taken.

Certified General Accountants Association of Canada (CGAAC)

Certified General Accountants are provincially regulated in all jurisdictions in Canada. The CGAAC is a national body but its members are the provincial associations, not the Certified General Accountants (CGA). That is, a Chartered General Accountant is a member of a provincial association, not the national association. There is no national certification of CGAs in Canada. The goal of the CGAAC is to ensure that every CGA is equal across Canada.

The provincial associations have a Mutual Recognition Agreement (MRA) to comply with Chapter 7 of the *Agreement on Internal Trade*. However, the CGAAC has found it necessary to pursue cases involving disputes between member provincial associations recently. At present, there is a dispute between the Quebec association and the New Brunswick association because

CGAs from New Brunswick were unable to practise in Quebec. There was also a dispute several years ago between Ontario and Manitoba. At that time, CGAAC won the battle after bringing the dispute to the AIT panel. The CGAAC claimed that the problem with bringing disputes to the AIT panel is that cases take a long time and are very expensive. Also, even when the association wins a panel decision, it doesn't mean that it has entirely won the battle because the panel decision is non-binding. Usually, the decision is more of an embarrassment for the losing party.

For the General Accountants, the issue of mobility arises because provincial associations are concerned about giving licenses to accountants to do auditing. That is, they are rigorous in checking the competency of general accountants to do auditing in the provinces where they have not received their accreditation. National certification is not an option for CGAs because the provincial bodies will not agree to it. In particular, the Ontario organization is not interested in a national certification solution, and the Ontario membership constitutes 35% of the CGAs in Canada.

Canadian Psychological Association

Psychologists in Canada have encountered significant problems with mobility between jurisdictions. These problems result from different criteria for registration surrounding educational requirements and the issue of right to title. As the 2001 *Report on Implementation of the Labour Mobility Chapter of the Agreement on Internal Trade* states:

The type of recognition that will occur among jurisdictions that require master's versus doctoral training has been a contentious issue.

Some provinces recognize a master's degree for individual practice, but some provinces require a doctoral level degree. This has caused problems for some psychologists wanting to work in a province other than the one in which they presently practise.

The regulation of psychology comes under provincial jurisdiction, especially because the provinces claim exclusive jurisdiction over the regulation of health. This has made any movement toward a pan-jurisdictional recognition of credentials very difficult. The interviewee at the Canadian Psychological Association considered this unfortunate because, "the provision of psychological services is not different in different jurisdictions. Depression is depression, and the treatment of depression is indistinguishable from one province to the next."

The provincial regulatory bodies have a mutual recognition agreement to satisfy the requirements of the AIT, but outstanding mobility issues for psychiatrists who need to work in another province remain.

The Canadian Institute of Forestry

Foresters are regulated in seven provinces: British Columbia, Alberta, Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland. The Canadian Institute of Forestry is the national secretariat for the provincial regulatory bodies.



There have been some issues surrounding mobility between the regulatory bodies of Alberta and British Columbia, and between New Brunswick and Nova Scotia. These issues result from the fact that these provinces are close together. Foresters frequently cross provincial borders to work; also, provinces share the ownership of some forests. The regulatory bodies for foresters signed a Mutual Recognition Agreement for these reasons.

However, foresters have largely avoided problems with mobility because the provincial regulating bodies set up an Accreditation Board 15 years ago. The Accreditation Board set standards for foresters in all jurisdictions at the academic level. The provincial bodies recognize the accreditation of the foresters because they set up the Board. Accreditation is paid for by the regulatory bodies and they decide the criteria for accreditation. This has greatly facilitated the mobility of foresters interprovincially. Nevertheless, this does not equal national certification. If a forester has a license in, for example, Alberta, he or she would have to get a license in British Columbia in order to work there. Getting a license has not posed a problem because the provincial bodies process applications quickly due to the accreditation system. Furthermore, the provincial bodies “talk to each other,” and whenever there is a problem, it gets resolved by these provincial associations.

Association of Canada Lands Surveyors

Land surveyors are regulated by provincial bodies in all jurisdictions except Nunavut, the Northwest Territories and the Yukon. However, land surveyors who work on federal land in any province or territory are regulated by the Association of Canada Lands Surveyors (ACLS), the national body for surveyors.

Surveyors encounter a restriction to practising across Canada. In order to work in different places, they have to know about property rights in the different jurisdictions. Also, Quebec has a civil code whereas the rest of Canada has common law. So, surveyors need to write an exam to demonstrate that they know the different laws that apply if they are to work in another jurisdiction. That is, they have to write professional exams that are region-specific. Furthermore, they are limited in the number of hours they may work in another province.

The provincial regulating bodies and the ACLS have an internal mobility agreement. The agreement took about a year and a half to negotiate, but there were no “turf” problems between the provincial SROs. However, not every province joined right away, and some waited to see how it would work before they signed. The agreement seeks to ensure that licensed land surveyors from other jurisdictions will be recognized after they have demonstrated knowledge of local property rights.

As a national body with no regulatory power, the ACLS is unique because members can append the title “Canada Land Surveyor” to their names. A land surveyor who is certified in his or her home province and is also a member of the ACLS can append the provincial designation (e.g., SLS for a member of the Saskatchewan association, OLS for a member of the Ontario association) and CLS to his or her name. Thus, it appears that there is a national designation even though land surveyors are regulated provincially.

Despite the requirements for becoming licensed in another province, the interviewee from the ACLS claimed there have been no significant problems with mobility for land surveyors in Canada.

The Canadian Institute of Chartered Accountants

Chartered Accountants are regulated by provincial and territorial institutes across Canada. However, the provincial and territorial institutes cooperate with each other and with the Canadian Institute of Chartered Accountants (CICA) on the standards for license of the profession.

The CICA's activities are overseen by a Board comprised of 12 directors which includes two representatives from each of four regions — Ontario, Quebec, the Western Region and the Atlantic Region. Responsibilities for the Chartered Accountant profession in Canada are shared between the CICA Board and the provincial / territorial institutes according to a Protocol adopted in 1998. This Protocol includes the education requirements and qualifications required for licensing Chartered Accountants. The Protocol ensures reciprocity across the provinces and effectively acts like a Mutual Recognition Agreement.

Under the Protocol, Chartered Accountant candidates are required to write a qualifying exam, set nationally with input from the provincial and territorial institutes. Chartered Accountants become members of the institute in the province or territory where they are working. If they move to another province, they apply to the provincial institute in that province. The provincial institutes check to see that they are members in good standing in their own provinces to assess the CA for membership. There are no extra tests or different criteria from province to province. The relationship is very cooperative between the provincial institutes to ensure the transferability of membership.

This cooperation is partly due to the Protocol, which provides a framework for harmonization of qualification requirements among the institutes. This framework has been in place for a long time. The Protocol adopted in 1998 formalized the situation that had existed for Chartered Accountants in Canada since the early part of the 20th century. In the 1930s, Chartered Accountants were required to write a national exam administered by provincial Boards, and national standards were set with input from the provincial bodies. Because of this framework, formalized in the Protocol, and because the provincial institutes are cooperative and supportive of the members, Chartered Accountants have enjoyed free mobility between all jurisdictions.

Federation of Law Societies of Canada

In Canada, law is a self-regulating profession whose members are governed by law societies in each of the provinces and territories. These 14 societies, who act in the public interest to set and uphold standards, maintain the integrity of the profession and advance the rule of law, play a wide variety of roles: they admit lawyers to the bar, set the standards for bar admission, dispense discipline and enforce professional codes of conduct, among other important tasks. They are all represented on the board of the Federation of Law Societies, the national coordinating organization that has advanced the mobility brief.

The need to ensure mobility among lawyers increased in the 1980s and 1990s, as more and more firms began to merge so as to become national (or international) and able to serve a broadly based corporate clientele. In 1994, the Inter-Jurisdictional Practice Protocol (I-JPP) established what became known as “the 10–20–12 rule”: lawyers from one jurisdiction could work in another on a maximum of 10 matters over 20 days within a 12-month period, without a permit or membership in the bar of the host jurisdiction. In July 2001 the western provinces signed an agreement to extend this to six months. This was followed by the establishment of a National Mobility Task Force, which reported in August 2002.

The resulting National Mobility Agreement allows lawyers, under its **temporary mobility** provisions, to work without permit or notice for up to 100 days per year in another jurisdiction that is signatory to the Agreement. The only stipulations are that the lawyer’s record is unblemished (i.e. no discipline record, no criminal proceedings), that he or she has liability insurance and defalcation compensation coverage, and that there is no “economic nexus” with the host jurisdiction (one or more of: permanent residence, opening of an office, performance of more than 100 days’ work, or opening of a trust account). A discipline record does not necessarily disqualify someone from working in another jurisdiction; as long as notice is served and the jurisdiction in question is aware and can track the person, permission is often granted by way of a **mobility permit**. Further, temporary mobility can be extended on request, providing the lawyer is not setting up shop.

Where there *is* economic nexus, the lawyer must either cease and desist, apply for a mobility permit, or apply for **permanent membership** (including payment of fees) in the law society of the host jurisdiction. No transfer exams are required, and there are few conditions to meet (there is a requirement to read materials specific to the laws of the place), as long as the person is in good standing with his/her home jurisdiction.

The system relies a great deal on trust, respect and collaboration. It also rests on the recognition that educational qualifications, standards for admission, and standards of competence, conduct and integrity are much the same across the country. Concern for ease of mobility is matched by concern to protect and serve the public interest — hence the minimal requirements, balanced by the need to track those with a discipline record. A **national registry** has been set up to enable participating jurisdictions to share information on the lawyers who avail themselves of the mobility provisions.

A few issues remain: how to fully incorporate Quebec, given the different legal system, and how to put in place an effective dispute resolution mechanism. There are eight signatories to the Agreement (seven, if you consider that Quebec’s participation is subject to a somewhat different arrangement, due to the different legal code). The remaining provinces continue to operate under the I-JPP, and the territories, wary of being “swamped” and highly reliant on fees, have chosen to implement only the permanent transfer provisions for the time being.

Canadian Institute of Actuaries

Actuaries are one of the very few professions in Canada that are regulated federally rather than provincially. The national organization of the actuarial profession, the Canadian Institute of Actuaries (CIA), was established by an Act of the federal parliament in 1965.

In the early part of the 20th Century, there was no national organization of actuaries in Canada. However, there were actuarial clubs in Toronto, Winnipeg and Montreal. In the 1940s, the federal government asked the Toronto club to produce a study on the risk of death in dangerous professions. A number of actuaries felt that such a study would carry more weight if it came from an association rather than a club. The Canadian Association of Actuaries was established October 8, 1946 and included all members of the Actuaries Clubs of Toronto and Winnipeg as well as a group of Montreal actuaries. This was the organization that formed the membership basis of the CIA in 1965.

Impetus to create a professional association occurred in 1963 when several U.S. actuarial organizations came together to form a professional body with standards of practice and rules of professional conduct. Canadian actuaries decided to follow suit. The statements of insurance companies transacting life and health insurance in Canada had to be signed by an actuary who was a Fellow of a recognized actuarial body. With the advent of the CIA, most Canadian jurisdictions introduced the requirement that the actuary be a Fellow of the Canadian Institute of Actuaries (FCIA).

The formation of the CIA came about after Senator Wallace McCutcheon was asked to put together and introduce a private member's bill to create the Canadian Institute of Actuaries. Mr. McCutcheon was an actuary and a successful business executive. He also served as Minister without Portfolio and Minister of Trade and Commerce in the Diefenbaker government.

One critical factor in making regulation of actuaries national rather than provincial was the small number of actuaries in 1965. It was felt that forcing the creation of provincial professional bodies would have been illogical and cumbersome. For example, why force the profession to set up a provincial body in Newfoundland where there were no actuaries?

The website of the CIA contains the following explanation:

None of the provinces saw fit to license actuaries, but they made full use of the FCIA (FICA, en français) designation. Regulations under the Ontario and Quebec pension plan legislation required non-insured pension plans to be valued at least once every three years by an FCIA, and that a cost certificate be filed. Other provinces followed this example a few years later. Many Acts relating to public sector pension plans also require certification by an FCIA.⁷

Because actuaries are fellows of a national body incorporated federally, they have no problems with interjurisdictional mobility.

⁷ http://www.actuaries.ca/about/history_e.cfm

Findings – Challenges and Considerations

Many of the regulated professions in Canada have expressed the desire for change to ensure greater mobility for their members. Similarly, some of the representatives we interviewed from the SROs for geoscientists expressed a great deal of frustration with the current situation. However, other interviewees dismissed the claims that changes are needed to allow geoscientists full mobility.

An overview of both the “Yes” and “No” arguments and the situations for other professions reveal a number of considerations and challenges for making changes to the regulatory system. Various points were made that might constitute impediments to change. Some of these points are debatable but need to be answered. Other points are grounded in reality. Strategies to implement changes to ensure mobility will need to take these arguments into consideration and address the challenges they may involve.

In the following, we present some of these challenges and points that need to be considered when developing strategies for change.

According to interpretations of the British North American Act of 1867, the regulation of professions in Canada is provincial and follows from the distribution of legislative powers in sections 91 and 92 of the Act. However, not all regulated professions in Canada are regulated by the provinces. As stated in on page 15 (above), actuaries in Canada are regulated and licensed federally, not provincially. There are also other federally regulated professions (e.g., airline pilots). These exceptions demonstrate that provincial regulation is not absolute. Since this claim is not universally true, it is open to challenge when used to support the status quo. The fact that other professions are federally regulated, couple with the fact that some provincially regulated professions have national accreditation or standards and a history of working together, provides support for the idea of a pan-Canadian system of professional practice with a national designation for geoscientists within the provincial regulatory framework.

There will be resistance to the idea of national registration because many SRO representatives believe provincial regulation and registration of the professions cannot be changed. Several interviewees asserted that geoscientists will have to ameliorate any mobility issues within the existing context. That is, they believe that issues will have to be dealt with by the associations, in an agreement reached among the associations. It is likely that many SRO representatives will echo this view and consider proposals to address mobility issues from a national perspective as challenges to their authority. However, other associations have agreements through their provincial and national bodies to set up some form of national registration that have not reduced the regulatory authority of the provincial organizations. For example, the provincial institutes and the national body of the Chartered Accountants of Canada have an agreement in place (the Protocol) that sets a national exam and harmonizes requirements among all jurisdictions. The Chartered Accountants enjoy free mobility because of the reciprocity achieved by this Protocol. In other words, despite the fact that a regulated profession must work within the context of provincial registration, there are means to establish a form of

registration that is based on national standards. Once established, such a system of registration would allow freer mobility for members.

The regulation and registration of geoscientists is still very new. This claim presents a challenge to those who call for changes to the regulatory framework because it is used as an excuse for a “let’s wait and see” attitude. That is, several people who argued that change is not necessary talked about the growing pains of the profession and thought that geoscientists just need time to adapt to the culture of regulation and to work out registration problems. However, there are problems with taking a “wait and see” attitude. Regulation is important for public protection and it is important for geoscientists to be registered. If geoscientists are not registering because of frustrations with the current system, public protection is not assured. Waiting for geoscientists to adapt to the existing regulatory system is not adequate and constitutes a form of just ignoring the real problems. These problems have to be addressed. Furthermore, a number of interviewees claimed that time has nothing to do with increased compliance. These interviewees pointed out that engineers have had a culture of regulation for a much longer period of time than geoscientists, yet the engineers do not have full compliance. That is, many engineers (especially in minerals and mining) do not bother to register when working outside their home jurisdictions. Therefore, illegal practice can occur no matter how long the profession has been regulated, and it is important to address the problems, not ignore them using the justification that they are merely the result of regulatory newness.

Mobility problems for geoscientists are partly due to the lack of a standardized accreditation in Canada. This fact does present a significant problem for geoscientists in Canada and a challenge for those who are calling for a change to the system. So far, this variation in accreditation has been used as a rationale for maintaining the status quo in requirements for licensing out-of-province applicants. That is, because geoscientists have variations in their credits and degree qualifications when they graduate, the associations feel it necessary to evaluate their credentials more rigorously. However, this situation lends support to the claim that national standards for accreditation would be beneficial. Other professions have set up such pan-Canadian accreditation systems. The chartered accountants benefited from a nationally standardized accreditation and the Foresters also have an Accreditation Board that sets qualification standards across the country. If geoscientists set up national standards for accreditation, these standards could be the first step towards a national professional designation for geoscientists.

The provincial associations will resist the idea of implementing an agreement for Incidental Practice (IP). Some representatives of the SROs claim that allowing Incidental Practice would involve the loss of revenue for the associations, especially the smaller associations in smaller provinces. However, the associations are losing revenue now because of the geoscientists who are practising illegally. It is important to get all the geoscientists in Canada to register for the sake of oversight and public safety. This will not happen if geoscientists view the situation as presenting too many time-wasting barriers that impede their ability to practise. If the associations set up an agreement involving IP with rules and limitations (such as the agreement reached by the Federation of Law Societies of Canada or between the Ontario and Quebec SROs), this would allow the freer mobility geoscientists need while encouraging their registration. The SROs could maintain control over the administration of the agreement and if

the revenue from registration were centrally administered and distributed among all the associations, they would have sufficient “war chests” for enforcement and discipline.

The provincial associations will resist changes to the regulatory system because they claim geoscientists have a mobility agreement – namely, the Inter-Association Mobility Agreement (IAMA). Many representatives of the SROs assert that the IAMA is all that is necessary to address mobility issues for geoscientists. They admit that it has flaws, but claim these can be fixed (for example, getting rid of the “notwithstanding clause.”) This is a challenge for proponents of change because defenders of the status quo seem to be unwilling to consider other options. However, there is evidence that, as it stands, the IAMA is not adequate to deal with problems and needs to be drastically revamped or replaced with a better agreement. All the interviewees admitted that, despite this agreement, geoscientists are still practising in other provinces without registering. Therefore, it would appear that the IAMA is not addressing mobility issues and the current regulatory system needs a national system of practice that protects the public and allows full mobility.

The current regulatory system poses a challenge for bringing about change because geoscientists share joint association with engineers in most jurisdictions. Many interviewees claimed there are differences between geoscientists and engineers that make joint association problematic. They argued that engineers and geoscientists are very different in the way they think. For example, engineers like being regulated — they like being “pigeon-holed” — whereas geoscientists do not. Another difference involves the length of time that engineers and geoscientists have been regulated. That is, because engineers have been regulated since the early part of the 20th century, they now have a “culture of regulation” while geoscientists do not. This difference in the attitudes of engineers and geoscientists is problematic because the geoscientists are outnumbered in almost all of the joint associations. Equality and understanding is difficult in associations dominated by one profession. A significant communications and lobbying strategy is required to present the needs of the geoscientists to the larger community in order to bring about changes within the existing framework. The fact that geoscientists face barriers to mobility that impede their ability to practise will resonate with engineers if they understand the consequences of this situation — namely, that it serves neither the public interest nor the geoscientists.

The need for mobility is not the same for all geoscientists. For example, exploration geoscientists have different needs for mobility than environmental geoscientists. This fact presents a challenge for change because some SROs claim that only a minority of geoscientists are highly mobile and the majority of geoscientists do not find mobility to be a problem. However, exploration geoscientists are not alone in their need for mobility and mining engineers, process engineers and metallurgists also have to travel on short notice in order to practise. The point is, the numbers shouldn’t matter — some geoscientists and engineers need to be highly mobile in order to work. The associations should enable them to practise wherever they need to go through some form of agreement and setting up national standards to allow ease of movement. This will reduce the number of people (both geoscientists and engineers) who work in other jurisdictions without registering because the process is prohibitively slow and cumbersome.

Many geoscientists are not registering when they practise in another jurisdiction. Some estimates put the number of non-registrants at “up to 50%” and it might even be higher in places like the Northwest Territories or Nunavut. This acknowledged situation provides the most compelling evidence for changing the system. When the non-compliance is this high, it becomes obvious that the current regulatory framework needs a drastic overhaul. Anecdotal evidence indicates that geoscientists would be more likely to comply if there were national registration with pan-Canadian standards of practice. Since such a system would reduce the paperwork and time (and perhaps cost) involved in registration, geoscientists would be more likely to comply. In this way, the interests of public protection would be better served by a significant change. However, definite data is required to demonstrate that geoscientists are not complying but would be more likely to comply if the system were changed.

Options

As stated above, PDAC’s position is that an internationally recognized, Canada-wide system of professional practice would improve mobility for geoscientists and provide better protection of the public. A pan-Canadian system would eliminate the problems involved in registration and allow for professional practice without consideration of provincial and territorial boundaries. Such a system would improve compliance with registration by geoscientists, be cost effective, establish consistent standards, all of which would, in turn, lead to greater protection of the public.

However, there is a major challenge to establishing a Canada-wide system of professional registration. Changing the current situation will be difficult because the provincial associations have the legal authority for any changes. Although it is **not** true that **all** professions are regulated provincially under the British North America Act, nevertheless, geoscientists are now regulated provincially. Solutions to their problems of mobility must be dealt with under this legal condition.

Therefore, achieving some sort of agreement for a Canada-wide professional designation will require co-operation between the provincial associations. This will depend on their accepting the need for change. In other words, geoscientists will have to express their collective desire to the associations. Statistical data to support arguments for some sort of co-operative agreement will be necessary. Because geoscientists are in a minority situation in the joint associations, they will need to campaign effectively for their needs.

Proposed strategies for change must contain the assurance that the legal authority of the provincial associations is not being challenged. Some sort of national agreement on credentials and registration can be achieved while maintaining provincial regulation of the profession. The Protocol between the provincial and national institutes of the Chartered Accountants could provide a model for this. A system of national accreditation and registration is a crucial step towards a national system of professional practice and a Canada-wide professional designation.

There is a range of what might be achievable for geoscientists in terms of mobility. Each of these comprises a possible stage in the process, from improving the existing IAMA, which would provide the least improvement, to a Canada-wide designation recognized by all the associations, which would provide full mobility. These stages are:

- a) The existing IAMA could be improved to remove the notwithstanding clause and allow better measures for reviewing credentials, agreed upon by the SROs.
- b) A new mutual recognition agreement or interjurisdictional agreement could be developed to replace the existing IAMA and establish greater mobility for geoscientists.
- c) The SROs, through the CCPG, could develop an electronic database of geoscientists. This database would provide all the information required when geoscientists apply to register in another jurisdiction.
- d) A national system of accreditation needs to be established to remove a major impediment to ease of registration. This system could be set up through the Canadian Geoscience Standards Board (CGSB), whose mandate includes assisting the provincial associations with harmonizing activities in the area of registration and with developing standards.
- e) Some form of incidental practice (IP) could be developed and implemented. This IP could be modelled on the form set up between the Ontario association (APGO) and the Quebec association (OGQ).
- f) A national professional designation for geoscientists could be implemented. This designation would constitute the only requirement for registration in any jurisdiction in Canada. That is, the credentials of a geoscientist with the national designation would not require review by the provincial associations when he or she applied to work in that jurisdiction. This would save time and unnecessary paperwork for geoscientists and afford better protection for the public.

Even those who argued against change acknowledged that there were problems with the current system of registration. The differences seem to come down to how serious are the problems and what can be done to address them. Hopefully, with evidence that change is necessary, possible and that the majority of geologists desire it, effective change can be achieved. Since some form of national designation that does not impair the regulatory authority of the associations is demonstrably the most effective solution (especially since other regulated professions have gone that route) and quite achievable, implementing such a designation seems the best option.