

Professional Opinion - Independent Opinion - Reviewing a Project Prepared by another OAA Member or Practice

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Summary

There are a number of general and legal issues to consider when an OAA Memberⁱ undertakes to provide a professional opinion—including regulatory and contractual matters, confidentiality, and protecting the public interest—as well as the appropriate procedures to follow. The issues outlined in this Regulatory Notice address the most common circumstances where the same client has retained both a Certificate of Practice (practice) and a review memberⁱⁱ. Not all of these issues will apply where, for example, the client of the review member is a third party (such as a legal counsel or insurer retained by a user group); the client has retained the review member to advise legal counsel; or the review member is affiliated with a committee acting on behalf of an authority having jurisdiction.

Background

This Regulatory Notice addresses the various circumstances and related issues where a professional opinion by a member of another practice or member's work may be sought. These circumstances might include a client, an authority having jurisdiction, or a third party such as an insurer or legal counsel requesting the opinion.

Examples include:

- **Independent Opinion** where a member reviews a project prepared by another practice as part of a quality assurance process;
- **Expert Opinion** that is part of a formal mediation or judicial process;
- **Expert Witness** where a member provides testimony as part of a judicial process;
- **Advocate OAA Member** where the member acts as the representative of a client or user group;
- **Practice Review** where a member is retained to review an architectural firm's practices and procedures as part of a risk management strategy;
- **Design Critique** where the review member offers a reasoned opinion or evaluation of a specific design acting on behalf of a client or as an affiliate of an authority having jurisdiction or ratepayer group; and
- **Compliance Architect** where an architect is retained as part of a planning, design, and compliance (PDC) team to evaluate compliance of a proponent's design with the client's guidelines and performance requirements as in a P3 project.

Legal and Regulatory Issues and Procedures

The following procedures in whole or part are generally applicable to most situations, but may differ in specific circumstances.

Regulatory: Standards of Practice of the [Regulation](#) under the [Architects Act](#).

The standards of practice do not prevent a member from accepting an engagement or being affiliated with a committee where the purpose is clearly different; for example, where a member is engaged to provide testimony as an expert witness, or to advise legal counsel, as part of a judicial process or where related to a review process. The requirement for notification by the client does not apply in these situations as the member is not being retained for the same purpose.

Where the holder of Certificate of Practice (holder) or member is contracted by the client, the intent of the Regulation is to permit the member to provide a professional opinion on the work of another member provided that the member whose work is being reviewed is notified in advance by the client. Where the client cannot confirm in writing that the member has been notified that an independent opinion is being sought, the review member should decline the appointment.

The review member should not go beyond the mandate of the committee of which they are affiliated, or beyond their contracted mandate with the client. A change in the mandate should be made only with the express written authority of the client.

It is strongly recommended the review member not accept an offer to be engaged to succeed the member whose work is being reviewed. The review member could be seen as having solicited the work from the client contrary to the Regulation, having induced a breach of the contract, or having intentionally interfered in a contractual relationship between the client and the original member.

Refer to [Practice Tip PT.07](#) for information regarding the preparation of an independent opinion.

ⁱ **OAA Member:** Every person licensed by the Ontario Association of Architects is a member of the Association, subject to any term, condition, or limitation to which the licence is subject. R.S.O. 1990, c. A.26, s. 5 (1).

ⁱⁱ **Review Member:** OAA member retained to prepare an independent opinion of another practice or member's services.

References

Architects Act, R.S.O. 1990, c. A. 26

Regulation 27, R.R.O. 1990, O. Reg 27

The OAA does not provide legal, insurance, or accounting advice. Readers are advised to consult their own legal, accounting, or insurance representatives to obtain suitable professional advice in those regards.
