



COLLEGE OF
MEDICAL LABORATORY
TECHNOLOGISTS
OF ALBERTA

www.cmlta.org



Jurisprudence Learning Module

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INTRODUCTION

JURISPRUDENCE IS THE STUDY OF THE THEORY, PHILOSOPHY, AND SCIENCE OF A BODY OF LAWS. IT ALSO ENCOMPASSES THE DISCRETION, FORESIGHT, EXERCISE OF GOOD JUDGMENT, COMMON SENSE, AND EVEN CAUTION IN THE PROFESSIONAL PRACTICE OF AN MLT.

The CMLTA Jurisprudence Learning Module acts as a study guide and preparation tool for the jurisprudence examination which is a required element for all online registration applications (initial and reinstatement) and as a supplement and reference for all online registration renewals. The Jurisprudence Learning Module focuses on information and knowledge which is foundational to understanding the legal and professional duties and obligations of being a regulated member of the CMLTA as well as the application of the legislation governing the practice of medical laboratory technology in Alberta. It was developed in consultation with other regulated health professions and legal counsel. The Jurisprudence Learning Module is revised annually to capture

any new developments in self-regulation and other timely subjects Council deems to be essential for MLTs to become familiar with, such as principles of good governance, policy updates, trends in the profession, etc. This module covers five main areas necessary to successfully challenge the jurisprudence examination, but MLTs are encouraged to visit the CMLTA website for more detailed information on each topic:

1. Legislation and Related Doctrines
2. Registration
3. Continuing Competence Program
4. Professional Conduct and Formal Discipline
5. Good Governance

LEGISLATION AND RELATED DOCTRINES

THE HEALTH PROFESSIONS ACT AND THE MEDICAL LABORATORY TECHNOLOGISTS PROFESSION REGULATION

The CMLTA is the self-regulating body for medical laboratory technologists (MLTs) in Alberta. The CMLTA is a quasi-government organization under the direction of the Minister of Health and is responsible for abiding by and enforcing the programs and services that are mandated by legislation and for ensuring that patient safety and public protection are paramount in the professional practice of MLTs.

Self-regulation is a privilege granted by government; and as with any privilege, it can be taken away if the CMLTA does not demonstrate it is acting in the best interest of the public. The designation of MLTs as a self-regulating profession implies a legal and formal agreement between the CMLTA and government. This agreement is founded on the belief that MLTs have the knowledge, skills, judgements, and attitudes to self-regulate, and conveys significant trust and respect on the part of government that MLTs are accountable practitioners. While it is the CMLTA that has an administrative responsibility, it is the MLT's professional responsibility to be versed in all legislated parameters, to ensure competent and safe practice, and to report individuals who are non-compliant with the legislation; and the legislation and other doctrines that govern and guide the practice of MLTs such as the *Health Professions Act* (HPA), the *Medical Laboratory Technologists Profession Regulation*, the CMLTA Standards of Practice, and the CMLTA Code of Ethics.

The HPA was enacted in 2000 and MLTs were the second healthcare profession to come under this

legislation in 2002 with the coming into force of the *Medical Laboratory Technologists Profession Regulation*. These two pieces of legislation combined are the foundational documents which set forth the required programs and services for the CMLTA.

The HPA empowers the CMLTA with five key responsibilities:

1. Establish a Council comprised of regulated members of the MLT profession and public members as appointed by government.
2. Establish, maintain, and enforce Standards of Practice, a Code of Ethics, and Bylaws.
3. Establish and enforce initial entrance to practice, reinstatement, and renewal of registration requirements.
4. Develop and administer a Continuing Competence Program (CCP).
5. Adjudicate complaints of unprofessional conduct through formal discipline processes.

A College or self-regulating body is governed by a Council of both elected regulated members and at least a minimum of 25% of public members appointed by government. In the case of the CMLTA, there are nine regulated members and three public members. The CMLTA Council directs and oversees the mandated programs and services which act as mechanisms to ensure patient safety and public protection and which are integral to the professional practice of MLTs. Indirectly by serving the interests of the general public, the CMLTA also protects other stakeholder interests such as government, employers, other healthcare professionals, and all regulated

members and their families. As the primary stakeholder of the CMLTA, the public is protected from unsafe and incompetent practice through a wide variety of means such as standardized registration practices and requirements, mandatory continued education and profession development via the CCP, and a formal mechanism to report complaints of unprofessional conduct against MLTs. The HPA also tasks the CMLTA Council with appointing a Registrar, Complaints Director, Hearings Director, and regulated members to serve on Hearing Tribunals and Complaint Review Committees.

Whereas the HPA is the omnibus legislation which governs the practice of the professions of the 29 health regulatory Colleges in Alberta, Schedule 11 of the HPA and the *Medical Laboratory Technologists Profession Regulation* combined set forth the specific requirements for MLTs. Schedule 11 outlines

THE STANDARDS OF PRACTICE AND THE CODE OF ETHICS

Section 133 of the HPA allows a Council to create and adopt Standards of Practice and a Code of Ethics for the profession. These documents undergo rigorous review by the government, regulated members, and other stakeholders. Once stakeholder and government consultation has occurred, they can be adopted by a Council and become binding on all practitioners of the profession. The CMLTA Standards of Practice (Standards) represent the minimum level of professional behaviour and complement the CMLTA Code of Ethics which set forth the ethical principles the CMLTA expects of every MLT. Together, these documents establish the framework to guide the practice of MLTs and

the profession-specific provisions including the protected “MLT” title, and the practice activities defined for MLTs. As per the legislation, MLTs do one or more of the following:

- (a) Collect and analyze biological samples, perform quality control procedures, and communicate results that have been critically evaluated to ensure accuracy and reliability.
- (b) Teach, manage, and conduct research in the science and techniques of medical laboratory technology.
- (c) Provide restricted activities authorized by the regulations.

The *Medical Laboratory Technologists Profession Regulation* also defines the specific registers or categories of registration for MLTs as well as the defined parameters for the CCP and renewal and reinstatement registration requirements.

serve as one measure to ensure MLTs practice safely, competently, and ethically. In conjunction with the HPA, the Standards and the Code of Ethics are used as the benchmark for the professional practice of MLTs and violation of either may be the grounds for a complaint of unprofessional conduct and could result in professional discipline proceedings.

The Standards are mandatory and apply to MLTs at all times in all dimensions of professional practice. They reflect both public and professional interests, provide guidance for MLTs and others in evaluating and maintaining competence, and provide a reference to the public and others

regarding the professional standards to which MLTs are accountable. Ultimately, the Standards relate to the provision of professional services, body of knowledge, application of knowledge and skills, safe practice, continued competence, professional responsibility and accountability, and ethics.

There are four main Standards:

1. **Professional Accountability** - The MLT must adhere to legislative and professional requirements governing professional practice.
2. **Knowledge Based Practice** - The MLT must provide knowledgeable, competent, safe, ethical, and timely service to each client.
3. **Professional Roles** - The MLT must demonstrate a professional approach to work collaboratively and effectively with clients to advance the profession of medical laboratory science.
4. **Ensuring Professional Boundaries with Patients and Prevention of Sexual Abuse and Sexual Misconduct** - The MLT must adhere to the legislated and professional requirements governing patient relationships.

As the Standards are integral to an MLT's professional practice, it is imperative an MLT review and understand the document in its entirety.

The Code of Ethics defines basic expectations and ethical principles and acts as a moral guide which governs the professional and at times, the personal, conduct of all MLTs. The Code of Ethics conveys to the

public the principles by which professional performance is adjudicated.

The CMLTA Code of Ethics has three main principles, and each has corresponding sub-principles.

1. Responsibility to the Public
 - Competent care
 - Respect
 - Dignity
 - Confidentiality
 - Collaboration
 - Client consent
 - Professional judgement
 - Professional boundaries
 - Record management
2. Responsibility to the Profession
 - Personal responsibility
 - Honesty
 - Boundaries of competence
 - Duty to report
 - Conflict of interest
 - Advancing the profession
 - Integrity and respect
 - Legislative requirements
 - Professional communication
3. Responsibility to Oneself
 - Personal conduct
 - Accountability
 - Fitness to practice

As the Code of Ethics is integral to an MLT's professional practice it is imperative an MLT review and understand the document in its entirety.

CMLTA PRACTICE ADVISORY STATEMENTS

With the goal of patient safety and public protection in the forefront of all CMLTA endeavors, Council created practice advisory statements in response to emergent and important matters affecting the professional practice of MLTs. Practice advisory statements are issued from time to time by Council and are cautionary and serve to increase an

MLT's awareness and understanding of professional obligations that may extend outside the parameters of the governing legislation.

These statements advise MLTs on critical and topical issues which have the potential to affect or have a direct impact on professional practice.

OTHER RELEVANT LEGISLATION

Other important legislation applies to the professional practice of MLTs and as such; it is an MLT's responsibility to understand and apply this legislation in their professional practice.

Health Information Act – establishes the rules for the collection, use, disclosure, and protection of health information by custodians. It also provides individuals with a right of access to their health information, the right to request a correction or amendment to their health information, and oversight over the legislation.

Protection for Persons in Care Act – requires all publicly funded service providers to protect clients from abuse and prevent abuse from occurring and requires that all abuse be reported to Protection for Persons in Care, the police, or another regulatory body.

Occupational Health and Safety Act – establishes the minimum standards for healthy and safe workplaces in Alberta. These laws are supported through the internal responsibility system and enforced through compliance activities.

Personal Information Protection Act (PIPA) – is provincial legislation which provides individuals with the right to access their own personal information while providing the private sector, including not-for-profit organizations (such as the CMLTA), with a framework for conducting the collection, use, and disclosure of personal information.

Personal Information Protection and Electronic Documents Act (PIPEDA) – is federal legislation which sets out national standards for privacy practices for how an organization must handle personal information in the course of conducting its business.

Both PIPA and PIPEDA share the same purpose – to govern the collection, use, and disclosure of personal information in a manner that recognizes both the right of the individuals to have their personal information protected and the need of the organization to collect, use, and disclose personal information for the intended purposes and that a reasonable person would consider appropriate.

CMLTA BYLAWS

Section 132 of the HPA empowers a Council to create and establish Bylaws. Bylaws are rules or laws established by a regulatory body to regulate itself as provided for in the HPA. If Bylaws are well drafted, they are in alignment with legislation and reflect the governance of the organization, the management and conduct of its affairs by Council and committees, the election and appointment of officers, meeting quorum, MLT practice permit renewal parameters, as well as numerous other aspects guiding the actions of the organization. CMLTA Bylaws are reviewed annually and proposed revisions are circulated for feedback as Council has a “duty to consult” with MLTs on Bylaw amendments that directly impact the profession. If amendments are considered general “housekeeping” matters, Council does not typically consult with MLTs but does circulate for information and feedback purposes.

It is important to note there is a hierarchy to all legislation and related doctrines.

The order of the hierarchy (from highest to lowest) which applies to the CMLTA is provincial and federal legislation, CMLTA Bylaws, Standards of Practice and Code of Ethics, and Council-defined policy. Each document lower in the hierarchy cannot violate or contradict any document ranked above it and in all legal matters the higher ranked document takes precedent. Council must be mindful of this regulatory framework and hierarchy when making decisions, developing programs and services, and formulating policy affecting the CMLTA.

REGISTRATION

Legislation sets forth the requirements for mandatory registration as an MLT and CMLTA policy further defines the requirements and specific parameters Council deems essential for all MLTs. Part 2 of the HPA is devoted to registration and outlines in detail the criteria and parameters applicable to initial registration, annual renewal, and reinstatement applications. There are significant consequences for both the individual and the employer if this legislation is not adhered to for all registration matters.

Pursuant to Section 46(1) of the HPA, a person must apply for registration if the person is qualified to meet the requirements for registration as a regulated member, and intends to provide one or more of the following:

- (i) Professional services directly to the public
- (ii) The manufacture of dental appliances or conducting of laboratory tests that are used by other regulated members to provide professional services directly to the public.
- (iii) Food and nutrition professional services that are used by other regulated members and individuals to provide services directly to the public.
- (iv) The teaching of the practice of a regulated profession to regulated members or students of the regulated profession.
- (v) The supervision of regulated members who provide professional services to the public.

It is important to note that mandatory registration applies to all facets of MLT employment including the acceptance of a formal offer of MLT employment, training and orientating, and testing/reporting/interpreting laboratory test results.

Pursuant to Section 47 of the HPA, an employer must not knowingly employ a person who meets the requirements of Section 46 to provide professional services of an MLT unless that person is a regulated member of the CMLTA. And before being employed, the applicant must provide the employer with evidence of registration and an MLT Practice Permit in good standing. Furthermore, it is an MLT's responsibility to notify the employer if there are conditions or restrictions on their practice permit or if it is suspended or cancelled. Pursuant to Section 48 of the HPA, a person who meets the requirements of mandatory registration but does not comply, is guilty of an offence as is an employer who knowingly employs a person in contravention of mandatory registration. Both of these offences can result in fines and/or imprisonment.

The *Medical Laboratory Technologists Profession Regulation* sets out the categories of registration or registers as the following: General, Clinical Genetics, Diagnostic Cytology, Provisional, and Courtesy.

The entrance to practice or initial registration requirements include:

- Successful completion of an accredited formal MLT training program
- Successful completion of the Canadian

Society for Medical Laboratory Science (CSMLS) national certification examination

- Evidence of English language proficiency
- Evidence of good character and reputation (declaration of professional conduct discipline history and criminal record history)
- Minimum of 900 MLT practice hours in the four years immediately preceding the date of the registration application (new graduates are exempt)
- Remittance of the required registration dues and applicable fees

In other Canadian jurisdictions where MLTs are self-regulated, Professional Liability Insurance (PLI) is a mandatory requirement for registration.

Even though PLI is not mandatory for Alberta MLTs, it is advisable that all MLTs have PLI. PLI is insurance which provides professional liability (a complaint of unprofessional conduct or malpractice) and legal defense (disciplinary hearing and criminal proceedings). This is offered by the CSMLS and other organizations or insurance companies.

New graduates of Canadian MLT training programs may apply for provisional registration prior to having successfully challenged the CSMLS certification examination by submitting the CSMLS *Admission to Examination* notice. This notice will serve as evidence an individual is waiting to challenge the examination or has written and is awaiting confirmation of marks.

Internationally educated MLTs (IEMLTs) are individuals who have completed a formal program of study outside of Canada that has been deemed equivalent to a Canadian MLT training program. IEMLTs must also provide an original stamped copy of a CSMLS Prior Learning Assessment (PLA) along with all the initial registration requirements.

Individuals satisfying the initial registration requirements are issued registration and an MLT practice permit on the appropriate register. The appropriate register is determined by the formal program of study completed and the corresponding CSMLS certification examination that was successfully challenged. For example, if an individual completed a formal General MLT program of study and successfully challenged the General CSMLS certification examination, this individual would be issued a registration and General MLT practice permit.

There are distinct and important differences between the CMLTA and the CSMLS. The CMLTA is the self-regulating body for MLTs in Alberta and serves the interests of patient safety and public protection through mandated programs and duties. The CSMLS is the national certification body and professional association for laboratory professionals (including medical laboratory assistants). The CSMLS represents the interests of its members and advocates and lobbies on behalf of the membership. Whereas CSMLS certification is a one-time process, CMLTA registration is a process that can occur each consecutive year (in the case of a registration renewal) or may occur after an absence from professional practice (in the case of a

registration reinstatement where there is a lapse of even just one day in registration).

Just as there are legislated requirements for initial applications for registration, there are also detailed requirements for annual renewal of an MLT practice permit. Annual renewal requirements include:

- Completion of a renewal application by the date specified by Council.
- Evidence of good character and reputation since the last registration application.
- Minimum of 900 MLT practice hours in the four years immediately preceding the date of the registration renewal application.
- Remittance of appropriate annual registration dues.

CMLTA Council also created a currency of practice (or reinstatement) policy for individuals who have been out of professional practice or who are currently employed as an MLT but do not have the required 900 MLT practice hours to satisfy registration renewal requirements. The CMLTA currency of practice policy requires an individual to complete refresher education prior to applying for registration with the CMLTA. Before the CMLTA will consider an application for reinstatement, an individual must pay any outstanding fees and comply with any outstanding requests, such as a CCP Compliance Audit.

The CMLTA Council has designated a registration year to be from January 1 to

December 31 of each calendar year. An individual employed as an MLT on or after January 1 of a given year and who is not in possession of a valid MLT practice permit for the new registration year is in contravention of the HPA. This may result in an additional \$500.00 penalty and a potential complaint of unprofessional conduct resulting in formal discipline sanctions.

It is an MLT's professional responsibility to ensure the CMLTA has current personal contact information (email and mailing address) and employment data on file. An MLT may request access to their personal information on file with the CMLTA, review and update their personal information on file by accessing the online regulated member portal, or submit a written request to the CMLTA to update specific information and data retained on file.

The CMLTA is only required by legislation to communicate with an MLT using the last known contact information on file. If an individual does not receive nor comply with any notices/requests for information and incurs additional costs or a complaint of unprofessional conduct due to non-compliance, there is no recourse. Prior to a leave from professional practice (such as long-term disability, retirement, or a move out of the province) an MLT must submit a completed Notice of Non-Practice to the CMLTA. It is critical that the CMLTA have current information on all MLTs as the provision of a daily data extract to Alberta Health is a requirement of a self-regulating healthcare profession in Alberta.

CONTINUING COMPETENCE PROGRAM

Legislation required the CMLTA to create a Continuing Competence Program (CCP) which came into effect in 2007. The CCP was a collaboration with Alberta Health, numerous MLTs, and other healthcare professions in the province. The CCP is a systematic means of assessing and tracking the ongoing knowledge, skills, judgments, and attitudes of practitioners applied in the MLT workplace. A structured and formal requirement for mandatory education benefits patient safety and public protection, but also has positive impacts for the individual MLT, including professional integrity, personal growth, career advancement, and the increased utilization and application of knowledge, skills, judgments, and attitudes. The *Medical Laboratory Technologists Profession Regulation* provides for an annual review and audit process to evaluate participation and the enforcement of the CCP with consequences for non-compliance. This legislation sets out the specific CCP requirements an MLT must complete on an annual basis which include:

- (a) A Self-Assessment based on the Competency Profile developed by the CMLTA indicating the areas where continuing competence activities are to be undertaken by an MLT in the next registration year.
- (b) A written Learning Plan that sets out the continuing competence goals of the MLT for the next registration year and the continuing competence activities to be undertaken by the MLT during that year to achieve the continuing competence goals.

- (c) A completed Learning Plan from the previous registration year documenting the competence activities that were completed by the MLT.

The CCP represents the minimum mandatory continuing education an MLT is required to complete on an annual basis – it is neither inclusive nor representative of all annual learning and professional development undertaken by a practitioner. The regulatory mandate of the CMLTA includes a provision for the development and administration of a CCP; however, it does not mandate the CMLTA to provide continuing education and professional development opportunities for MLTs. It is also important to note that the CCP is not static and evolves from time to time in response to regulatory, legal, and ethical expectations.

The CCP has several components including:

- MLT Competency Profile
- Self-Assessment of Practice
- New Learning Plan
- Completed Learning Plan (and corresponding Activity Log)

The MLT Competency Profile was created using the CMLTA Standards as they are integral to an MLT's professional practice. The Standards are a foundational and fundamental doctrine which lends itself to be adapted as an assessment tool for determining continuing competence within the numerous practice environments of MLTs. Each of the four main Standards (professional

accountability, knowledge-based practice, professional roles, and ensuring professional boundaries) contains a list of statements which qualify the main Standard and further expand on the practical application of the Standard in the workplace. These qualifying statements in the Standards are referred to in the context of the MLT Competency Profile as Enabling Competencies.

To provide safe, competent, and ethical medical laboratory services, MLTs must be able to demonstrate the necessary knowledge, skills, judgments, and attitudes and the practical application of such in their chosen area of practice. The Self-Assessment of Practice is a systematic and organized approach for the self-reflection of practice strengths and weaknesses and aids in establishing a purposeful annual Learning Plan to guide the maintenance and/or development of competence in the workplace. MLTs self-assess by selecting the Self-Assessment of Practice Statement which most accurately describes their abilities and circumstances for each Enabling Competency as derived from the Standards.

There are two Self-Assessment of Practice statements:

1. Competent (COM) – I have self-assessed this Enabling Competency as competent because I have the necessary knowledge, skills, judgments, and attitudes to adequately meet all the requirements for this Enabling Competency.
2. Developmental/Advancing/ Expanding (DEV) – I have self-assessed this Enabling Competency as developmental/advancing/expanding because I have identified weaknesses/gaps in my knowledge, skills,

judgments, and attitudes in this Enabling Competency, and/or I would like to supplement my knowledge, skills, judgments, and attitudes in this Enabling Competency.

If an Enabling Competency is not relevant to a professional role as an MLT and neither COM nor DEV are accurate practice statements, it is not mandatory to select a practice statement for this specific Enabling Competency; only Enabling Competencies applicable to an area of practice are required. The Self-Assessment of Practice statements do not imply unskilled or incompetent professional practice, but simply allow for an MLT to expand or augment their current skill set.

A Learning Plan is a self-directed learning path to maintain currency and enhance performance within the profession and to supplement inter-professional collaboration with other healthcare professions. Learning Plans are based on an MLT's current or anticipated area of practice and are derived from the Enabling Competencies identified in the Self-Assessment of Practice as Developmental/Advancing/Expanding (DEV). A new Learning Plan must contain a minimum of three and up to a maximum of six Learning Objectives for each registration year. Over the course of the registration year, an MLT must document Learning Activities undertaken to satisfactorily complete a Learning Objective. An MLT assumes personal responsibility for learning and evaluating progress in attaining specific competency goals. At the end of each registration year during the stipulated renewal period, an MLT must submit a completed Learning Plan.

MLTs are required to complete a minimum of three of the stated Learning Objectives and to document this on a completed Learning Plan. A

supplemental and required tool for documentation (that is also required for a CCP Compliance Audit) is the CCP Activity Log. The CCP Activity Log outlines the learning activities undertaken by an MLT to complete a Learning Objective. Any Learning Activity listed in the Documentation Guidelines for Learning Activities may be utilized to complete a Learning Objective. An uncompleted Learning Objective may be applied to a subsequent year's Learning Plan provided it is still relevant and supported by the Self-Assessment of Practice. If a Learning Objective can no longer be completed due to a change in employer, area of practice, or an extenuating circumstance, the MLT must promptly submit a written request, to make changes to their current Learning Plan, to the Manager of Professional Practice /Deputy Registrar no later than August 1 of a given registration year. The intent of the CCP is to ensure learning is intentional, purposeful, and directly applicable to professional practice and not to simply hold an MLT accountable to a Learning Plan that is no longer relevant. However, it does require that an MLT is pro-active and seeks alternative learning solutions to comply with the CCP.

Legislation stipulates that a self-regulating body must have an established process for the review and evaluation of a previous and current regulated member's compliance with the CCP. To fulfill this mandate, at the beginning of each year, the CMLTA randomly selects MLTs from the previous year's registration roster to participate in the CCP Compliance Audit. The Compliance Audit is a tool used by the CMLTA that serves a two-fold purpose: to systematically assess the integrity of the CCP as mandated by Alberta Health and to monitor MLTs' compliance with the CCP.

Individuals randomly selected for the Compliance Audit must participate and submit evidence of continuing education and professional development activities for at least one and up to five previous registration years. Participation in the CCP Compliance Audit is mandatory and, as it is an audit of the previous registration year(s). The CCP Compliance Audit requires individuals to submit specific documentation and evidence of learning in accordance with stipulated deadlines outlined in CMLTA policy. The documentation requirements include a completed Learning Plan, a completed Activity Log, a completed Verification of MLT Practice Hours form, and a completed declaration. Documentation is reviewed in conjunction with an MLT's annual registration renewal application to determine if they adhered to their stated Learning Plan, completed the necessary learning activities, and in essence fulfilled the obligations implied by a Learning Plan. It should be noted that once a Compliance Audit notice has been issued, it remains outstanding on an MLT's file until the MLT has successfully complied. Non-compliance may result in fines and a complaint of unprofessional conduct. The CMLTA periodically evaluates the CCP structure, format, content, and requirements as part of a good governance model. The CMLTA utilizes the Compliance Audit as a hands-on tool to monitor levels of CCP compliance. As the pass rate reflects the effectiveness of this element of the CCP, when pass rates fall below targeted levels, the CMLTA examines Compliance Audit specifics with the intent to revise, improve, or provide the necessary clarification to MLTs.

PROFESSIONAL CONDUCT AND FORMAL DISCIPLINE

Professional conduct and formal discipline refers to the standardized and structured processes to adjudicate complaints of unprofessional conduct directed against regulated members and the various avenues of complaint disposition pursuant to Part 4 of the HPA. The complaint process allows for an employer, other healthcare professionals, a patient, or any member of the public to initiate a complaint of unprofessional conduct against an MLT. The grounds for making a complaint include alleged incompetence, unskilled practice, negligence, a lack of integrity, a lack of diligence, or another offence under the HPA and *Medical Laboratory Technologists Profession Regulation*. The CMLTA has jurisdiction over all currently registered individuals as well as up to two years from the date an individual ceased to be a regulated member.

A written and signed complaint must contain:

- The name of the MLT or former regulated member
- Specific allegations which form the basis of the complaint
- Key facts – a detailed description of the events, including dates, times, and specific location of the alleged event.
- Other information and documentation supporting the allegation(s)

The HPA defines “unprofessional conduct” as one or more of the following, whether or not it is disgraceful or dishonorable:

- (i) Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services
- (ii) Contravention of the HPA, Code of Ethics or Standards of Practice
- (iii) Contravention of another enactment that applies to the profession.
- (iv) Representing or holding out that a person was an MLT and in good standing while the person’s registration or MLT practice permit was suspended or cancelled.
- (v) Representing or holding out that person’s registration or MLT practice permit is not subject to conditions when it is or misrepresenting the conditions.
- (vi) Failure or refusal to comply with the requirements of the CCP, or to cooperate with the Competence Committee or a person appointed to undertake a practice visit.
- (vii) Failure or refusal to comply with an agreement that is part of a ratified settlement, to comply with a request of or cooperate with an investigator, to undergo an examination for an incapacity assessment for physical or mental health, or to comply with a notice to attend or a notice to produce.
- (viii) Contravening an order or conditions imposed on an MLT practice permit or a direction.
- (ix) Carrying on the practice of the regulated

profession with a person who is contravening partnership restrictions, or an order, or conditions imposed on an MLT practice permit.

- (x) Conduct that harms the integrity of the MLT profession.

Section 57 of the HPA is sometimes referred to as a “mandatory reporting” component of the legislation. Pursuant to Section 57(1) if, because of conduct that in the opinion of the employer is unprofessional, the employment of an MLT is terminated or suspended or the MLT resigns, the employer must give written notice of that conduct to the CMLTA Complaints Director. It is important to note “employment” includes being engaged to provide professional services on a full-time or part-time basis as a paid or unpaid employee, consultant, contractor, or volunteer. The employer retains the discretion to determine whether the conduct of the MLT constitutes possible unprofessional conduct as defined by the HPA.

Additionally, Section 56 includes a provision that despite not having received a written and signed complaint, if the Complaints Director has reasonable grounds to believe that the conduct of an MLT or former regulated member constitutes unprofessional conduct, is given notice under Section 57, is given information orally, or is aware of non-compliance, the Complaints Director may also treat a notice, information, or non-compliance as a complaint and act on it.

The HPA allows 30 days for the Complaints Director to give notice to the complainant as to the course of action taken with respect to the complaint. The Complaints Director:

- (a) May encourage the complainant and the investigated person to communicate with

each other and resolve the complaint.

- (b) May, with the consent of the complainant and the investigated person, attempt to resolve the complaint.
- (c) May refer to an alternative complaint resolution process.
- (d) May request an expert to assess and provide a written report on the subject-matter of the complaint.
- (e) May conduct, or appoint an investigator to conduct, an investigation.
- (f) If satisfied that the complaint is trivial or vexatious, may dismiss the complaint.
- (g) If satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint.
- (h) May request an incapacity assessment for physical and/or mental health.

If the Complaints Director dismisses the complaint for insufficient evidence of unprofessional conduct or other reasons, the Complaints Director must, within 30 days, give written notice to the complainant of the dismissal and their right to apply for a review (appeal) by the Complaint Review Committee. If there is sufficient evidence of unprofessional conduct, the Complaints Director must refer the matter to a Hearing. At this juncture, the Hearings Director must set a date for the Hearing with respect to the complaint within 90 days.

One of the professional obligations of the CMLTA and MLTs under the HPA is an adequate complement of volunteers to serve on the Regulated Member Resource List (RMRL). As per the HPA, Council must appoint a minimum of four MLTs to sit on Hearing Tribunals and Complaint Review Committees to

adjudicate complaints of unprofessional conduct. It is imperative the CMLTA have the required number of volunteers to adjudicate at a Hearing and to render written decisions regarding guilt or innocence, and any corresponding penalties, sanctions, or other general orders. Individuals appointed to the RMRL play a crucial dual role of “judge and jury” in matters of unprofessional conduct and are instrumental in the CMLTA fulfilling its regulatory obligation. In addition to MLTs serving on a Hearing Tribunal, the government also appoints public members to serve in this capacity. The requirement of a minimum of 25% of the Hearing Tribunal be comprised of public members is much the same as the requirement for the complement of CMLTA Council.

A Hearing Tribunal:

- Acts as judge and jury.
- Balances patient safety and public protection with the rights of the accused MLT.
- Hears evidence, witness testimony, and consider case law.
- Determines guilt or innocence.
- Propose penalty sanctions (general orders, fines, costs).
- Seeks guidance from their independent legal counsel.
- Submits a written decision.

The written orders of a Hearing Tribunal may include one or more of the following:

- (a) Caution the investigated person.
- (b) Reprimand the investigated person.
- (c) Impose conditions on the investigated person’s MLT practice permit generally or in

any area of the practice of medical laboratory technology, including conditions that the investigated person:

- (i) practice undersupervision.
 - (ii) practice with one or more other regulated members.
 - (iii) not practice in an area of the practice of the regulated profession until the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order.
 - (iv) not practice in an area of the regulated profession, or
 - (v) report on specific matters to the Hearing Tribunal, Council, committee, or individual specified in the order.
- (d) Direct the investigated person to satisfy the Hearing Tribunal, committee, or individual specified in the order that the investigated person is not incapacitated and suspend the investigated person’s MLT practice permit until the Hearing Tribunal, committee or individual is so satisfied.
 - (e) Require the investigated person to undertake counselling or a treatment program that in its opinion is appropriate.
 - (f) Direct that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the Hearing Tribunal, committee, or individual specified in the order as to the investigated person’s competence generally or in an area of the practice of the regulated profession.

- (g) Suspend the MLT practice permit of the investigated person for a stated period or until:
 - (i) the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order, or
 - (ii) the Hearing Tribunal or a committee or individual specified in the order is satisfied as to the competence of the investigated person generally or in a specified area of the practice of the regulated profession.
- (h) Cancel the registration and MLT practice permit of the investigated person.
- (i) If, in the opinion of the Hearing Tribunal, the investigated person's fees for professional services were improper or inappropriate or the professional services that the investigated person provided were improperly rendered or required the complainant to undergo remedial treatment, the Hearing Tribunal may direct the investigated person to waive, reduce, or repay the fee for professional services provided by the investigated person.
- (j) Direct, subject to any regulations under section 134(a), that the investigated person pay within the time set in the order all or part of the expenses of, costs of and fees related to the investigation or Hearing or both, including but not restricted to:
 - (i) the expenses of an expert who assessed and provided a written report on the subject-matter of the complaint.
 - (ii) legal expenses and legal fees for legal services, provided to the college, Complaints Director and Hearing Tribunal.
 - (iii) travelling expenses and a daily allowance, as determined by the Council, for the Complaints Director, the investigator and the MLTs of the Hearing Tribunal.
 - (iv) witness fees, expert witness fees and expenses of witnesses and expert witnesses.
 - (v) the costs of creating a record of the proceedings and transcripts and of serving notices and documents.
 - (vi) any other expenses of the CMLTA directly attributable to the investigation or Hearing or both.
- (k) Direct that the investigated person pay to the CMLTA, within the time set in the order, a fine not exceeding the amount set out in the column of the unprofessional conduct fines table that is specified for the CMLTA in Schedule 11 of the HPA for each finding of unprofessional conduct or the aggregate amount set out in that column for all of the findings arising out of the Hearing.
- (l) Any order that the Hearing Tribunal considers appropriate for the protection of the public.

The Hearing Tribunal must, within a reasonable time after the conclusion of a Hearing, make a written decision on the matter in which it describes each finding made, states the reasons for each finding, and states any penalty order(s). The Hearings Director must, on receiving the decision and record of the Hearing, give a copy of

the decision to the Complaints Director and Registrar, the complainant, the investigated person, and the Minister of Justice and Attorney General, if so directed or requested.

As any complaint of unprofessional conduct forms the professional conduct and discipline history of an MLT, it is essential all MLTs abide by the legislation governing the profession; other applicable privacy legislation; Standards; Code of Ethics; and employer workplace standard operating procedures, policies, and expectations.

GOOD GOVERNANCE

Governance refers to the process of decision-making and the processes by which decisions are implemented (or not implemented). Good governance in the case of self-regulating Colleges relates to consistent management of administration and resources, cohesive policies, guidance, and processes and appropriate delegation of authority for a given area of responsibility, and adequate oversight and accountability for all affairs. Good governance is responsive to current and projected future needs for the organization, incorporates prudence in policy-setting and decision-making, and ensures the best interests of all stakeholders are considered. The major tenets of good governance include:

- Participation – involvement needs to be informed, organized, allow for freedom of expression, and conscientious concern for the best interests of the organization and its stakeholders.
- Consensus-orientated – consultation to understand the varied interests of all stakeholders to reach consensus on the appropriate course of action and how it can be achieved in a sustainable and prudent manner.
- Accountability – answerability to those affected by its decisions or action as well as the statutory obligations.
- Transparency – information is freely available and accessible to those affected

by governance policies and practices and enforcement of such is in compliance with legislation.

- Responsiveness – designed to serve the best interests of stakeholders within a reasonable timeframe.
- Effectiveness and efficiency – processes produce favorable results that meet the needs of stakeholders while at the same time best utilizing human, financial, and technological resources.
- Equity and inclusiveness – an organization that provides an opportunity for stakeholders to maintain, enhance, or improve well-being justifies its reason for existence and its value.
- Fair legal framework – impartial regulatory structure for the protection of all stakeholders

The responsibility of ensuring good governance is the cornerstone of the CMLTA Council. Part 1 of the HPA outlines the roles of a self-regulating College including:

- (a) Must carry out its activities and govern its regulated members in a manner that protects and serves the public interest.
- (b) Must provide direction to and regulate the practice of the regulated profession by its regulated members.
- (c) Must establish, maintain, and enforce standards for registration and of continuing competence and standards of

- practice of the regulated profession.
- (d) Must establish, maintain, and enforce a code of ethics.
 - (e) Carry on the activities of the College and perform other duties and functions by the exercise of the powers conferred by the HPA.
 - (f) May approve programs of study and education courses for the purposes of education requirements.

Pursuant the HPA, a Council is responsible for managing and conducting the activities of the College; exercising the rights, powers, and privileges and carrying out the duties of the College in the name of and on behalf of the College; and carrying out the powers and duties of the Council under the HPA and Bylaws. In plain language what does this mean?

Ultimately, the CMLTA Council is accountable to the Minister of Health and must act in accordance with legislation and its programs and services must clearly support its commitment to patient safety and public protection. In a practical sense, the CMLTA Council must chart the strategic direction of the organization, make resolutions, and set policy to ensure the organization acts in the best interests of the public and that all practices are fair, consistent, and transparent.

For the CMLTA and Council to operate at its optimum, good governance principles are essential. Role separation between Council and administration (CMLTA Executive Director) is also necessary for effective and efficient governance. It is important for both parties to understand each other's role, but success is

predicated upon respect and trust and independent authority for each party. The governance role of Council involves establishing the strategic direction and vision for the CMLTA, overseeing financial and other policy directives that guide the operations of administration, and ensuring goals and key initiatives are met on target and on budget. Administration is responsible for the day-to-day operations of the organization and for ensuring policy and established processes are adhered to when making decisions that relate to the organization as a whole or to individual MLTs. Council's commitment to good governance is demonstrated through continued awareness of role separation and the delegation of all matters that are operational in nature to administration.

There are two important concepts that are key in understanding the governance role of the CMLTA Council: primacy of Council and fiduciary responsibility.

The primacy of Council refers to the CMLTA as a singular entity with the power to govern and does not grant authority to individual Council members. Only Council as a whole, or the "collective will" of Council, can direct the activities of the CMLTA and make decisions through binding resolutions and policy directives. Individual Council members cannot commit the CMLTA to any course of action, direct the activities of the administration or office staff, or expend funds on behalf of the CMLTA.

While serving on Council, individuals have a *fiduciary responsibility* which means they are held

to the highest standard of conduct and care. The CMLTA *Councilor's Code of Conduct* holds individual Council members to a higher standard of behaviour in their capacity as a Council member. Each Council member must adhere to the spirit and intent of the *Councilor's Code of Conduct* by demonstrating high standards of personal and ethical conduct in all actions both inside and outside of the CMLTA boardroom. As an MLT, you elect individuals to serve on Council and ultimately place your trust, confidence, and reliance in these individuals on the understanding that they will serve the best interests of the public and the profession as a whole and will not advance their own personal interests. MLTs are held to a high standard of care in the provision of medical laboratory services to the public. However, Council members are held

to an even higher standard when acting on behalf of the CMLTA and public's best interests.

CMLTA Council is highly aware that self-regulation for MLTs is a privilege and every effort to secure the trust of all stakeholders, especially the public as the primary stakeholder, is made. It is essential that an MLT also understand their key role and professional responsibility to serve on Council and committees, such as the Regulated Member Resource List, and engage in good governance to fulfill their obligations pursuant to legislation. Engaged and committed volunteers not only ensure sustainability of the organization and the privilege of self-regulation, but also affords an MLT the opportunity to directly impact the profession and set high standards for, and the execution of, leading self-regulatory practices for the CMLTA.

BILL 21 AND SEXUAL MISCONDUCT/SEXUAL ASSAULT INFORMATION

For information regarding Bill 21 and CMLTA Standard 4: Ensuring Professional Boundaries with Patients and Prevention of Sexual Abuse and Sexual Misconduct, please consult the CMLTA website.