



SSMLT Discipline Handbook

DISCIPLINE COMMITTEE

CMLPSK
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1. THE LEGISLATED AUTHORITY OF THE DISCIPLINE COMMITTEE

The Government of Saskatchewan has granted the College of Medical Laboratory Professionals of Saskatchewan (CMLPSK) also known as the Saskatchewan Society of Medical Laboratory Technologists (SSMLT) the authority and responsibility to regulate Medical Laboratory Technologists (MLTs) in Saskatchewan.

The purpose of professional regulation is to protect the public from risk and reduce harm to those the MLT profession serves. MLTs are regulated because the practice of medical laboratory technology can pose a risk to the public if performed incompetently, unethically, or by unqualified individuals.

The *Medical Laboratory Technologists Act, 1995 (MLT Act)* establishes two statutory committees: The Counselling & Investigation Committee and the Discipline Committee.

The Discipline Committee manages hearings against registrants (members) when the Counselling and investigation committee recommends a hearing. The decision-making function of the committee is independent with administrative support by college staff.

The processes and decision-making of the committee is guided by the principles of natural justice and procedural fairness such as:

- Participation rights:
 - Complainant given a full and fair opportunity to present their case
 - The MLT is provided notification of the case and the opportunity to respond to allegations
- Fair and impartial decision-making process
- Process that ensures timely proceedings
- Reasons provided for decision-making

2. DEFINITIONS

Affidavit Evidence: An affidavit is written evidence used to state facts, not to provide argument or conclusions. It is sworn or affirmed to be true before a Commissioner for Oaths or Notary Public.

Agreed Statement of Facts: A written list of the facts and documents that are agreed by the Counselling & Investigation Committee and the registrant (member) and therefore do not have to be proven through oral testimony of witnesses.

Code of Ethics: A Code of Ethics is a document that articulates the ethical values and responsibilities that MLTs uphold and to which they are accountable.

Council: The governing body or 'board' authorized in the *MLT Act* to regulate the MLT profession in Saskatchewan. The council oversees the management and affairs of the organization.

Conflict of Interest: A conflict of interest occurs when a party has competing interests or loyalties because of their duties to more than one person or organization.

Counselling & Investigation Committee (CIC): The Committee authorized in the *MLT Act* to investigate complaints alleging professional misconduct or professional incompetence.

Discipline Committee: The Committee authorized in the *MLT Act* to hear the formal complaint and determine whether the registrant (member) is guilty of professional misconduct or professional incompetence.

Discipline Hearing: A formal prosecutorial hearing in which the Discipline Committee hears the evidence presented by the CIC and the registrant (member) who is the subject of a complaint.

Evidence: Statements, information, or objects that are used to prove or disprove an alleged fact.

Executive Director: The college Employee responsible for registration and licensure functions, as prescribed in the *MLT Act* and bylaws.

Investigator: Individual contracted by the college to conduct the investigation of a complaint. The investigator presents the information gathered during the investigation to the CIC.

Prosecutor: The Counselling & Investigation Committee acts as the prosecutor when a registrant's (member's) case is referred to a formal hearing heard by the Discipline Committee.

Professional Incompetence: s. 26 of the *MLT Act*- Professional incompetence is a question of fact, but the display by a registrant (member) of:

- (a) *a lack of knowledge, skill, or judgment; or*
- (b) *a disregard for the welfare of members of the public served by the profession; of a nature or to an extent that demonstrates that the member is unfit to continue in the practice of the profession is professional incompetence within the meaning of this Act.*

Professional Misconduct: s. 27 of the *MLT Act*- Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) *it is harmful to the best interests of the public or the members;*
- (b) *it tends to harm the standing of the profession;*
- (c) *it is a breach of this Act or the bylaws; or*
- (d) *it is a failure to comply with an order of the counselling and investigation committee, the discipline committee or the council.*

Registrant (Member): A person who is registered with the CMLPSK (SSMLT), and in the context of the complaints and discipline process includes former registrants (members) set out in s.20.2 of the Act.

Standards of Practice: The minimum expected levels of practitioner performance or behaviour, against which actual practitioner performance or behaviour is measured.

Undertaking: The term "undertaking" is a legal promise or obligation made by the registrant (member) to the Counselling and Investigation committee and regulator to resolve a complaint. Undertakings as set out in s.22(3)(g) and must be clear, unambiguous, and explicit and should state the time within which the undertakings must be fulfilled, or the

conditions met.

3. COMPLAINT PROCESS

The college receives complaints against MLTs for allegations of professional misconduct or professional incompetence. The Counselling & Investigation committee conducts the investigation.

When the Counselling & Investigation Committee makes a decision as set out in *subsection 22(2) of the MLT Act*, the Committee will complete a report.

The Counselling & Investigation Committee may refer a case to the Discipline committee, if the Committee is unable to resolve the case by using any of the options listed in s.22(3)(g) of the *Act*, or if based on the evidence it is not in the public interest to offer an undertaking.

A hearing is a formal process like a court of law, where the medical laboratory technologist is charged with Professional Incompetence and/or Professional Misconduct as defined in *The Medical Laboratory Technologists Act*. Discipline hearings are public as set out in s. 24(14).

4. DISCIPLINE COMMITTEE OBLIGATIONS

Where the Discipline Committee has been recommended to hear and determine a formal complaint by the Counselling & Investigation Committee, a panel of at least 3 members are assigned to hear the case.

4.1 CONFLICT OF INTEREST

The office will contact the discipline committee to determine if there is any conflict of interest. Any identified risk of a conflict or perceived conflict is reported to the Executive Director and an alternate committee member is assigned to the case. The office also contacts the Legal Counsel to determine any conflict of interest. If a conflict is identified, an alternate legal counsel is contracted.

5. DISCIPLINE HEARING PROCEDURE

5.1 REGISTRANT (MEMBER) NOTIFICATION

When a formal complaint is referred for hearing to the Discipline Committee, the Executive Director shall, at least 30 days before the date of the hearing:

- send a copy of the formal complaint to the registrant (member) whose conduct is the subject of the hearing; and
- serve notice on the registrant (member) whose conduct is the subject of the hearing of the date, time and place or format of the hearing

5.2 REGISTRANT'S (MEMBER'S) RIGHT TO LEGAL REPRESENTATION

The registrant (member) may wish to be represented at a discipline hearing by legal counsel. Any associated costs are the responsibility of the registrant (member).

5.3 THE DISCIPLINE HEARING PROCESS

- Any member of the public may attend discipline hearings.
- During the hearing, the Counselling & Investigation Committee will act as prosecutor and present evidence to the Discipline Committee.

- The Counselling & Investigation Committee will disclose all documentation, in its possession, and a listing of witnesses to the registrant (member) or the registrant's (member's) legal counsel.
- The registrant (member) or the registrant's (member's) legal counsel is responsible for obtaining a subpoena to compel the attendance of any witnesses they wish to testify during the hearing.
- Witness testimony occurs under oath or affirmation of the committee chair and both the registrant (member) and the Counselling & Investigation Committee have full right of examination, cross examination, and re-examination of all witnesses.
- the registrant (member) has the right to present evidence in defense and reply.

5.4 HEARING EVIDENCE

Evidence heard by the Discipline Committee may be received in the form of:

- Witness Testimony
- Affidavit Evidence
- Agreed Statement of Facts

5.5 PRIVACY

The Discipline Committee has the discretion to exclude the public and the complainant from any part/parts of the hearing to protect the privacy of a person other than the registrant (member) whose conduct is the subject of the hearing.

5.6 FAILURE TO APPEAR BEFORE THE DISCIPLINE COMMITTEE

Should the registrant (member) fail to appear before the Discipline Committee for the hearing, the process will proceed in their absence.

6. DISCIPLINARY POWERS

Where the Discipline Committee has found a registrant (member) guilty of professional misconduct or professional incompetence as defined in the *MLT Act*, the Committee has the power to:

- Expel the member from the SSMLT and have their name "struck from the register".
- Suspend a license for a specific period.
- Suspend a license until specific requirements have been met by the member.
- Allow the member to practice with certain conditions specified in the order.
- Reprimand the registrant (member).
- Assign a specified monetary fine, not to exceed \$2000, with a fixed deadline for payment.
- Order the repayment of all or some of the costs of the investigation and hearing.
- an order reprimanding the member.
- Other orders that the Discipline Committee determines are just.

7. THE DISCIPLINE COMMITTEE ORDER

After hearing the formal complaint, the Discipline Committee will deliberate in- camera and come to its decision. Its written decision and any order are provided to the Executive Director for distribution and publication as follows:

- The Executive Director will send a copy of the order to the registrant (member) who is the subject of the complaint and to the complainant.
- The Discipline Committee order is posted on the college website.
- Where the registrant (member) is expelled or suspended, the executive director shall strike the name from the register or indicate suspension on the register.
- The Discipline Committee may inform the registrant's (member's) employer.

8. DISCLOSURE OF IDENTITY

The registrant's (member's) name will be disclosed in the order unless the Discipline Committee has directed that the member's name be redacted to protect the health or security of the registrant (member) or some other person.

9. APPEAL PROCESS

9.1 APPEAL TO THE COUNCIL

A registrant (member) may appeal the decision or any order of the Discipline Committee to the Council by serving the Executive Director with a notice of appeal within 30 days after the decision.

The Executive Director shall present the Council with the following:

- The formal complaint that was submitted to the Discipline Committee or Report to Discipline that was submitted by the Counselling & Investigation Committee
- A transcript of the discipline hearing
- The decision and order made by the Discipline Committee.

9.2 THE COUNCIL'S DECISION

Upon hearing the appeal, the Council may:

- Dismiss the appeal.
- Quash the finding of guilt.
- Direct a new hearing or further inquiries by the Discipline Committee.
- Vary the order of the Discipline Committee.
- Substitute its own decision for the decision appealed.

9.3 APPEAL TO THE COURT

A registrant (member) whose conduct is the subject of an order of the discipline committee member may appeal to the Court of Queen's Bench instead of appealing to the SSMLT Council, or may appeal the Council's decision to that Court, by filing a notice of appeal with the Court within 30 days of the date of the decision. A decision of the Court of Queen's Bench can be appealed to the Court of Appeal only on a question of law.

9.4. COST FOR LEGAL REPRESENTATION FOR APPEAL

The registrant (member) may wish to be represented by legal counsel during the appeal process. Any associated costs would be the responsibility of the member.

History: January 2022
Approved by: Council
Previous versions: 2022, 2023, 2024, 2025
Revision #1: January 2026