

Discipline Hearing Summary

Tracy Atkinson

The CMLTO Discipline Committee held a hearing on October 26, 2017 at Victory Verbatim in Toronto to consider allegations of professional misconduct against member **Tracy Atkinson**, whose principal place of practice is Collingwood General and Marine Hospital in Collingwood.

Allegations

The allegations against the member are as follows;

1. Ms. Tracy Atkinson ("Ms. Atkinson") is a duly registered medical laboratory technologist in Ontario.
2. At the material times Ms. Atkinson practised medical laboratory technology, in either the microbiology or core laboratories at the Collingwood General and Marine Hospital (the "Hospital") in Collingwood, Ontario.
3. It is alleged that from in or about January 2015 to in or about May 2016 Ms. Atkinson made one or more of the following errors on or about one or more of the following dates:
 - a. BACT-1501-1 - Made two discordant errors by using expired Campylobacter media for an Institute for Quality Management in Healthcare ("IQMH") survey – January 2015;
 - b. Failed to properly identify mucous strands as part of a urinalysis competency assessment from the College of American Pathologists – between April 1, 2016 and May 5, 2016;
 - c. Incorrectly reported the results of a bilirubin survey as part of a competency test from the College of American Pathologists - between April 1, 2016 and May 5, 2016;
 - d. Failed to follow written instructions/procedure by not retesting to confirm an abnormal value with an IQMH external quality blood gas sample - between April 1, 2016 and May 5, 2016; and/or
 - e. Failed to test an IQMH drug survey on the assigned day as instructed – between April 1, 2016 and May 5, 2016.
4. It is alleged that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 752/93 under the Medical Laboratory Technology Act, 1991: paragraph 16 (failing to

maintain the standard of practice of the profession); and/or paragraph 20 (disgraceful, dishonourable or unprofessional conduct).

5. It is further alleged that from in or about October 2013 to in or about June 2016 Ms. Atkinson made one or more of the following errors on or about one or more of the following dates:

- a. Contaminated nine (9) allograft (bone) samples by using incorrect technique – October 2013 to October 2014;
- b. Reported two throat swabs as positive for group A streptococcus when subsequent testing showed staphylococcus but no group A streptococcus – on or about January 12, 2015;
- c. Urine sample – Failed to follow proper procedure and inappropriately reported two antibiotics (Clindamycin and Erythromycin) that should not have been reported - between October 2014 and mid-January 2015;
- d. Viral cultures - Failed to follow proper procedure when reporting to Public Health - between October 2014 and mid-January 2015;
- e. Rectal swab – Reported Enterococcus Faecium after processing a VRE screen when follow-up testing showed Enterococcus Faecalis - between October 2014 and mid-January 2015;
- f. Blood culture – Reported Coagulase-negative staphylococci but failed to keep a record of the antimicrobial susceptibilities - between October 2014 and mid-January 2015;
- g. Staphylococcus lugdunensis – Did not report the proper panel of antibiotics by reporting coagulase negative staph panel instead of S. aureus panel - between October 2014 and mid-January 2015;
- h. Methacillin resistant staphylococcus aureus (“MRSA”) screen – Recorded a growth of colonies when repeat testing showed no MRSA isolated – between October 2014 and mid-January 2015;
- i. MRSA screen - Ms. Atkinson’s original testing showed tube coagulase, questionable MHox and Vancomycin results and positive BHIV results – repeat testing shows no MRSA isolated - between October 2014 and mid-January 2015;
- j. Labelled and sent for testing to Public Health two specimens as coming from two different patients when Ms. Atkinson had actually inoculated both tubes from sample that came from only one patient - on or about February 2015;

k. Failed to label aliquot tubes in transfusion medicine following a type and screen procedure – between April 1, 2016 and May 5, 2016.

6. It is alleged that as a result of these errors, Ms. Atkinson was removed from the Microbiology discipline in or about April 2015, and Ms. Atkinson was also suspended by the Hospital for four days in or about June 2016.

7. It is alleged that the above conduct constitutes professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 752/93 under the Medical Laboratory Technology Act, 1991: paragraph 16 (failing to maintain the standard of practice of the profession); and/or paragraph 20 (disgraceful, dishonourable or unprofessional conduct).

Summary of Evidence

The Discipline panel was provided with an Agreed Statement of Facts which sets out as follows;

1. Ms. Tracy Atkinson (“Ms. Atkinson”) is a duly registered medical laboratory technologist in Ontario.

2. At the material times Ms. Atkinson practised medical laboratory technology, in either the microbiology or core laboratories at the Collingwood General and Marine Hospital (the “Hospital”) in Collingwood, Ontario.

3. It is agreed that, from January 2015 to May 2016 Ms. Atkinson made the following errors on or about the following dates:

a. BACT-1501-1 - Made two discordant errors by using expired *Campylobacter* media for an Institute for Quality Management in Healthcare (“IQMH”) survey- January 2015;

b. Failed to properly identify mucous strands as part of a urinalysis competency assessment from the College of American Pathologists -between April 1, 2016 and May 5, 2016;

c. Incorrectly reported the results of a bilirubin survey as part of a competency test from the College of American Pathologists – between April 1, 2016 and May 5, 2016;

d. Failed to follow written instructions/procedure by not retesting to confirm an abnormal value with an IQMH external quality blood gas sample - between April 1, 2016 and May 5, 2016; and

e. Failed to test an IQMH drug survey on the assigned day as instructed - between April 1, 2016 and May 5, 2016.

4. It is further agreed that, from October 2013 to June 2016, Ms. Atkinson made the following errors on or about the following dates:

- a. Contaminated nine (9) allograft (bone) samples by using incorrect technique - October 2013 to October 2014;
- b. Reported two throat swabs as positive for group A streptococcus when subsequent testing showed staphylococcus but no group A streptococcus - on or about January 12, 2015;
- c. Urine sample - Failed to follow proper procedure and inappropriately reported two antibiotics (Clindamycin and Erythromycin) that should not have been reported- between October 2014 and mid-January 2015;
- d. Viral cultures - Failed to follow proper procedure when reporting to Public Health - between October 2014 and mid-January 2015;
- e. Rectal swab - Reported Enterococcus Faecium after processing a VRE screen when follow-up testing showed Enterococcus Faecalis – between October 2014 and mid-January 2015;
- f. Blood culture - Reported Coagulase-negative staphylococci but failed to keep a record of the antimicrobial susceptibilities- between October 2014 and mid-January 2015;
- g. Staphylococcus lugdunensis - Did not report the proper panel of antibiotics by reporting coagulase negative staph panel instead of S. aureus panel- between October 2014 and mid-January 2015;
- h. Methicillin resistant staphylococcus aureus (“MRSA”) screen- Recorded a growth of colonies when repeat testing showed no MRSA isolated - between October 2014 and mid-January 2015;
- i. MRSA screen - Ms. Atkinson’s original testing showed tube coagulase, questionable MHox and Vancomycin results and positive BHIV results - repeat testing shows no MRSA isolated- between October 2014 and mid-January 2015; Incorrectly labelled a slide belonging to one patient as belonging to another - between October 2014 and mid-January 2015;
- j. Labelled and sent for testing to Public Health two specimens as coming from two different patients when Ms. Atkinson had actually inoculated both tubes from sample that came from only one patient - on or about February 2015; and
- k. Mislabeled two aliquots of plasma - on or about April 1, 2015.

5. It is agreed that, as a result of these errors, Ms. Atkinson was removed from the Microbiology discipline in April 2015, and Ms. Atkinson was also suspended by the Hospital for four days in June 2016.

Admission of Professional Misconduct

6. By this document, the Member admits to the truth of the facts referred to in paragraphs 1 – 5 above (the “Admitted Facts”).

7. The Member hereby acknowledges that the Admitted Facts constitute conduct which is professional misconduct and admits the allegations of professional misconduct against her, being more particularly breaches of section 1 of Ontario Regulation 752/93 under the Medical Laboratory Technology Act, 1991:

a. Paragraph 16: Failing to maintain the standard of practice of the profession; and

b. Paragraph 20: Engaging in conduct or performing an act relevant to the practice of medical laboratory technology that, having regard to all the circumstances, would reasonably be regarded by the members as unprofessional.

8. By this document the Member states that:

a. She understands fully the nature of the allegations against her;

b. She understand that by signing this document she is consenting to the evidence as set out in the Admitted Facts being presented to the Discipline Committee;

c. She understands that by admitting the allegations, she is waiving the right to require the College to prove the case against her and the right to have a hearing;

d. She understands that depending on the penalty ordered by the Discipline Committee, the decision of the Committee and a summary of its reasons, including reference to her name, may be published in its annual report and in any other publication of the College;

e. She understands that any agreement between her and counsel for the College with respect to the penalty proposed does not bind the Discipline Committee; and

f. She understands and acknowledges that she is executing this Agreement voluntarily, unequivocally, and with the knowledge that she is entitled to seek legal advice before signing this document.

9. In light of the Admitted Facts and circumstances and the admission of misconduct, the College and the Member submit that the Discipline Committee find that the Member has engaged in professional misconduct.

Decision and Reasons

The panel considered the Agreed Statement of Facts and found that the facts supported a finding of professional misconduct.

Penalty Decision

The panel was presented with a Joint Submission on Penalty and also heard submissions. After deliberations, the panel accepted the Joint Submission on Penalty and accordingly ordered as follows:

1. Directing the Registrar to impose the following specified terms, conditions or limitations on the Member's certificate of registration:

a. Prohibiting the Member from practising in the speciality of microbiology for a period of ten (10) years from the date of the Discipline Committee's order and furthermore, if the member wishes to practice in the specialty of microbiology after that ten (10) year period, she must first provide proof acceptable to the Registrar, that she has successfully completed, at her own cost, a refresher course in microbiology acceptable to the Registrar (such as Tutorials in Microbiology (The Michener Institute M1905) or Clinical Microbiology Theory Refresher (Southern Alberta Institute of Technology MB10-316)) no longer than 12 months before her return to practising microbiology; and

b. Requiring the member to provide proof, acceptable to the Registrar, of successful completion of the following courses or alternate equivalent courses pre-approved by the Registrar, within 24 months of the Discipline Committee's decision:

- 1) Introduction to Quality Control (LabCE 578-040-12);
- 2) Quality Control (LabCE 578-029-12);
- 3) Specimen Collection and Handling (Northern Alberta Institute of Technology MELT501);
- 4) General Laboratory Practices (Northern Alberta Institute of Technology MELT503); and

5) Tutorials in Transfusion Science (The Michener Institute IH903);
and

c. During the first three (3) months of the 24 month period during which the Member must successfully complete the courses listed in paragraph (b) above, the Member is permitted to practise medical laboratory technology only if she is cooperating with weekly assessments of her medical laboratory technology practice by a Monitor pre-approved by the Registrar who has signed such undertakings as may be necessary to implement this condition. For the next three (3) month period, the assessment and reporting by the Monitor shall be done every two (2) weeks; and for the remaining 18 month period, the assessment and reporting by the Monitor shall be done on a monthly basis. The monthly assessment and reporting by a Monitor requirement will be in place for a further period of twenty-four (24) months of practice after successful completion of the courses (and any periods in which the Member takes time off from practice will not count towards the second 24 month period of required monitoring); and

d. The Member is required to sign such documents as may be necessary to allow the Monitor to provide information to the College in fulfilment of these terms, conditions and limitations.

Reason for Penalty Decision

The panel recognized that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public. This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the member's practice. The Panel also considered the principle that the Panel should accept a joint submission on penalty unless it is contrary to the public interest and would bring the administration of justice into disrepute.

The panel concluded that the Joint Submission is reasonable and protects the public interest. The panel appreciates the risk of harm to patients from the Member's professional misconduct, however also considered the processes put in place will adequately mitigate these risks. These processes include the on-going supervision requirement for the member, which has already begun, and the imposed ban from practising microbiology for 10 years, with the proviso that the Member must successfully complete an approved course before re-entry into microbiology. The penalty imposed is proportionate to the professional misconduct and fits within the range of penalties imposed in similar cases. The Member, by agreeing to the facts and proposed penalty, has accepted responsibility for her

actions. In addition, the Member has saved the disciplinary process much time, effort and cost. We are satisfied that a clear message will be sent to the College's membership as a general deterrent, and to the Member in particular as a specific deterrent, particularly through the supervisory and course completion processes, that this conduct is not acceptable.