College of Medical Laboratory Technologists of Ontario

Professional Practice Learning Program

Legislative framework for MLT practice

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EXCELLENCE ACCOUNTABILITY LEADERSHIP

College of Medical Laboratory Technologists of Ontario

Introduction

This resource describes the legislative framework that governs medical laboratory technologists' (MLTs) professional practice. These frameworks ensure MLTs adhere to their professional standards and prioritize patient safety and quality laboratory services for the public of Ontario. This module provides a comprehensive overview of the *Regulated Health Professions Act, 1991* (RHPA), the *Medical Laboratory Technology Act, 1991* (MLT Act), the College of Medical Laboratory Technologists of Ontario's (CMLTO) statutory programs, and MLT obligations.

Regulated Health Professions Act, 1991

The RHPA sets out the framework for health regulatory Colleges in Ontario. The RHPA:

- Delegates the responsibility for the regulation of health professions to the Minister of Health
- Sets out the controlled act/scope of practice model
- Contains strict confidentiality provisions which govern all employees, appointees, and agents of regulatory Colleges, and requires that all information be kept strictly confidential, except in certain limited circumstances
- Has two Schedules:
    - Schedule 1, lists the self-regulated healthcare professions
    - Schedule 2, the Health Professions Procedural Code (the Code), outlines the mandate, committee structure, and procedures for all regulatory Colleges. This ensures consistency in procedural rules, statutory framework, and committees (e.g., Registration, Executive, Fitness to Practise, etc.) across all health regulatory Colleges.

Controlled acts and scopes of practice

Section 27 of the RHPA details 14 controlled acts to be performed by qualified healthcare professionals within their defined scope of practice. However, overlapping scopes of practice may exist among the different professions.

This allows for evolving scopes of practice that meet the changing needs of the healthcare system. MLTs are authorized to:

In the practice of their profession, to take blood samples from veins or by skin pricking, which is a part of the controlled act of performing a procedure on tissue below the dermis.

Healthcare professionals may be authorized to perform one or more controlled acts within their scope of practice, while others may not have any authorized acts. Healthcare professionals are permitted to perform a controlled act(s) if:

- the controlled act is authorized to them,
- the controlled act is delegated to them by a healthcare professional who is authorized to perform it, or
- an exemption exists.

Exemptions
While performing a procedure below the dermis is a controlled act, there are exemptions in the RHPA and other legislation. This includes ear or body piercing for jewelry, electrolysis, cosmetic tattooing, and male circumcision for religious tradition. Regulations under the RHPA exempt the taking of blood samples from veins or by skin pricking, if done by personnel employed at a lab or specimen collection centre licensed under the *Laboratory and Specimen Collection Centre Licensing Act, 1991*. This exemption allows medical laboratory assistants and technicians to perform phlebotomy in licensed laboratories and specimen collection centres, as they are not currently regulated or authorized to perform any controlled act.

Delegation

The RHPA permits the delegation of the ability to perform a controlled act from one healthcare professional to another, following any applicable regulations. There are no restrictions on which controlled acts can be delegated or to whom, aside from the overarching obligation to prioritize public safety and to delegate only to

someone who is competent to perform the controlled act. Regulated healthcare professionals are accountable for the delegation that is given to others or undertaken within their own practice.

For example, if a lab assistant needs to take blood samples from patients in a health practitioner's office or fertility clinic (i.e., a non-licensed laboratory), a healthcare professional authorized to perform the controlled act of performing a procedure on tissue below the dermis in their scope of practice (i.e., MLT, physician, or nurse), would delegate this act to the lab assistant.
Another example would be an MLT who has the authorized act of putting an instrument, hand, or finger beyond the larynx, delegated to them to take throat swabs. The healthcare professional delegating the authority would need to ensure that the MLT has the necessary knowledge, skill, and judgment to perform this delegated authority competently.

The delegation of a controlled act by a registrant must adhere to any relevant regulations under the RHPA governing their profession. While the CMLTO does not have any regulations on delegation, there is a Delegation Guideline that exists to support registrants. Additionally, resources supporting the development of medical directives are available through the Health Professions Regulators of Ontario (HPRO).

Harm clause

There is a general harm clause under the RHPA that applies generally to the provision of healthcare:

"No person, other than a member treating or advising within the scope of practice of his or her profession, shall treat or advise a person with respect to his or her health in circumstances in which it is reasonably foreseeable that serious physical harm may result from the treatment or advice or from an omission from them[1]."

This clause applies to aspects of treatment and care not explicitly covered by controlled acts. For example, while performing laboratory tests on human specimens isn't listed as a controlled act under the RHPA, it's foreseeable that

serious physical harm could occur, if conducted by someone other than a regulated health professional working within their scope of practice.

Medical Laboratory Technology Act, 1991

While the RHPA provides the basic framework for the self-regulation of health professions, each profession has its own profession-specific statute. These statues define the profession's scope of practice and any controlled act(s) that are authorized to the profession. For MLTs, the profession specific act is the *Medical Laboratory Technology Act, 1991* (MLT Act).

The MLT Act specifies the number of professional and public members that will sit on the Board of Directors. The CMLTO Board is required to have between seven and eleven professional members, one academic member whose primary employment is to teach in an accredited education program in medical laboratory technology, and between seven and ten public members who are appointed by the Public Appointments Secretariat branch of the Ontario government.

Restricted titles

Profession specific legislation also describes the title(s) that may only be used by regulated members of the profession. For example, the MLT Act states:

> "No person other than a member shall use the title 'medical laboratory technologist', a variation or abbreviation or an equivalent in another language[2]. "

Under the MLT Act, Ontario Regulation 198/23 describes an exemption to the restricted title. The exemption applies to individuals who meet a series of criteria including registration with a College in another Canadian jurisdiction (i.e., other than Ontario), the person has no findings nor the current subject of a professional misconduct, incompetence or incapacity matter, they must hold professional liability insurance that extends coverage to Ontario, they hold the equivalent of a Practising certificate of registration, etc. The legislation also describes when individuals lose access to the exemption.

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MLT Scope of practice

The practice of medical laboratory technology, as defined in the MLT Act is:

> **"the performance of laboratory investigations on the human body or on specimens taken from the human body and the evaluation of the technical sufficiency of the investigations and their results[2]."**

While engaging in the practice of medical laboratory technology, a registrant is authorized, subject to any restrictions that may have been imposed on their certificate of registration, to take blood samples from veins or by skin pricking.

Laboratory and Specimen Collection Centre Licensing Act, 1991

Another profession-related act is the *Laboratory and Specimen Collection Centre Licensing Act, 1991.* It defines certain laboratory roles by outlining specific responsibilities and qualifications for individuals working in licensed laboratories and specimen collection centers. These roles include technologists, technicians, supervisors, and directors. The act describes specific educational and training requirements that are required for each role to ensure competence and proficiency of these individuals.

The act details an exemption that allows individuals working in licensed laboratories and specimen collection centers to perform phlebotomy. There are specific criteria that must be met to enable this to occur.

Role of College

Under the RHPA, Colleges have a very clear public protection mandate. In fact, the RHPA specifically states:

> **"In carrying out its objects, the College has a duty to serve and protect the public interest."**

The RHPA further states:
"It is the duty of the College to work in consultation with the Minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals."

The RHPA also sets out a series of "objects" for regulatory Colleges that define their statutory obligations related to registration, quality assurance, professional conduct, and support for interprofessional collaboration.

Statutory Committees

All regulatory health Colleges are required to have the following seven statutory committees:

1. Executive
2. Registration
3. Inquiries, Complaints and Reports Committee
4. Discipline
5. Fitness to Practise
6. Quality Assurance
7. Patient Relations

These committees carry out the statutory duties assigned to them by the legislation in the various program areas of the College and including decisions related to registrant cases. Committees include Board members, both professional and public, and Non-Board professional members.

CMLTO programs

The RHPA requires all College to have certain programs. These programs are further defined by profession-specific acts, other regulations, and the College's By-Law. The regulatory program areas include Registration, Quality Assurance, and Professional Conduct.

1. Registration

CMLTO entry to practice requirements are set out in Ontario Regulation 207/94 under the MLT Act. Applicants are issued certificates of registration if they fulfill all the requirements. If an applicant does not meet the requirements, the Registrar may refer their application to the Registration Committee for review. CMLTO's registration requirements are exemptible, meaning the Registration Committee has the discretion to waive a requirement in an appropriate case, such as if an

applicant can demonstrate equivalent education or experience to that described in the regulation. Applicants can appeal a Registration Committee's decision through the Health Professions Appeal and Review Board (HPARB).

The RHPA and CMLTO By-Law describe the College's requirement to maintain a Public Register. Every CMLTO registrant is listed on the Public Register which includes information regarding the registrant's name, registration number, Discipline Committee decision(s), their employer's address and telephone number, certificate of registration, registered specialties, etc.

Practising MLTs must have professional liability insurance coverage that complies with the requirements described in the CMLTO By-Law.

2. Quality Assurance

Each College is required to have a quality assurance program (QAP) in place for its registrants aimed at ensuring their continuing competence. The RHPA sets out what the QAP must include:

"A quality assurance program shall include,

- continuing education or professional development designed to,
    - promote continuing competence and continuing quality improvement among the members,
    - address changes in practice environments, and
    - incorporate standards of practice, advances in technology, changes made to entry to practice competencies and other relevant issues in the discretion of the Council;
- self, peer and practice assessments; and
- a mechanism for the College to monitor members' participation in, and compliance with, the quality assurance program[2]."

Ontario Regulation 207/94 defines the specific CMLTO QAP components:

- Professional Portfolio
- Practice Review

- Competence Evaluation.

All Practising CMLTO registrants are required to participate in the QAP.

3. Professional Conduct

Regulatory bodies require processes and procedures to ensure professionals adhere to the standards and regulations related to their practice. Regulated health Colleges have committees responsible for the screening, investigating, and hearing of concerns related to a health professional's practice.

Employers have an obligation under the RHPA to file a mandatory report to the CMLTO if they terminate, revoke, or suspend an MLT's employment or impose restrictions on an MLT's practice as a result of professional misconduct, incompetence, or incapacity. If an MLT quits before the disciplinary action can be taken, the mandatory report must still be submitted to the CMLTO.

The Inquiries, Complaints & Reports Committee (ICRC) is responsible for investigating all complaints received against registrants, considering investigation reports regarding registrants, and conducting inquiries related to registrants' possible incapacity. The ICRC is the only committee with the authority to refer allegations of professional misconduct or incompetence to the Discipline Committee, or allegations of a registrant's incapacity to the Fitness to Practise Committee.

The CMLTO has a Patient Relations Program which is administered by the Patient Relations Committee. This Committee's mandate includes ensuring there are resources and measures for preventing or dealing with sexual abuse of patients which must include:

- educational requirements for registrants
- guidelines for the conduct of registrants with their patients
- training for the College's staff
- the provision of information to the public.

MLT Professional responsibilities

In addition to the RHPA, MLT Act, and CMLTO By-Law, there are other important pieces of legislation that define the boundaries of MLT professional practice, including:

- *Laboratory and Specimen Collection Centre Licensing Act, 1990*
- *Occupational Health and Safety Act, 1990*
- *Personal Health Information Protection Act, 2004*
- *Child, Youth and Family Services Act, 2017*
- *Health Care Consent Act, 1996.*

As described by the CMLTO Standards of Practice, all MLTs must understand and comply with the ethical, legal, and professional expectations of their practice.

Important MLT professional responsibilities to be aware of:

- MLTs are required to report to the Registrar immediately if they have been charged with or convicted of an offence.
- MLTs are required to report changes in home address, contact information, and/or employment within 30 days.
- MLTs, like all other health professionals regulated under the RHPA, must report if they have knowledge, obtained during their practice, that a patient is being sexually abused by a health professional. The report must be made to that health professional's regulatory College and cannot contain the name of the patient unless the patient has given their written consent for it to be included.
- MLTs are required to make a report to the Children's Aid Society if they have reason to believe a child needs protection.

Conclusion

MLTs need to be aware of the legislative framework that supports their professional practice. This includes the RHPA, the MLT Act, the CMLTO By-Law, and the CMLTO statutory programs. When MLTs adhere to their professional

obligations and expectations the public is assured they will receive the highest level of professional and ethical care.

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References

1. *Regulated Health Professions Act, 1991* (RHPA). Accessed on April 29, 2024, from: Regulated Health Professions Act, 1991, S.O. 1991, c. 18 (ontario.ca)

2. *Medical Laboratory Technology Act, 1991* (MLT Act). Accessed on April 29, 2024, from: Medical Laboratory Technology Act, 1991, S.O. 1991, c. 28 (ontario.ca)