College of Medical Laboratory Technologists of Ontario

Fitness to Practise Committee Rules

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College of Medical Laboratory Technologists of Ontario

FITNESS TO PRACTISE COMMITTEE RULES
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RULE 1 - INTERPRETATION AND APPLICATION

1.01 Definitions

(1) In these Rules, unless the context requires otherwise, words that are not defined in sub- rule 1.01(2) have the meaning defined in the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 and the *Statutory Powers Procedure Act*, R.S.O 1990 c. s.22.

(2) In these Rules,

"Business Day"	means any day other than a Holiday.
"Case Conference Officer" Committee Chair	means the person designated by the to preside over the case conference.
"Code"	means the *Health Professions Procedural Code*, which is Schedule 2 to the *Regulated Health Professions Act, 1991.*
"College"	means the College of Medical Laboratory Technologists of Ontario.
"Committee"	means the Fitness to Practise Committee of the College.
"Committee or Panel Chair"	means the chair of the Committee or Fitness to Practise Panel.
"Deliver"	means to serve a document on every other party or in the case of a Motion, Motion participant, and to file it with the Hearings Office with proof of service.
"Fitness to Practice Panel"	means a panel of Committee members selected by the Committee Chair.
"Electronic or electronically" Or videoconference	means the use of conference telephone call or videoconference, or some other

	form of electronic technology allowing persons to hear and communicate with one another at the same time.
"Hearing"	means the process before a Fitness to Practise Panel constituted under either section 64 of the *Code* (in the case of allegations of incapacity) or sections 72 and 73 of the *Code* (in the case of an application for reinstatement).
"Hearings Office"	means the employee or employees of the College who provide administrative assistance to the Fitness to Practise Committee.
"Holiday"	means (a) any Saturday or Sunday; (b) New Year's Day; (c) Family Day; (d) Good Friday; (e) Victoria Day; (f) Canada Day; (g) Civic Holiday; (h) Labour Day; (i) Thanksgiving Day; (j) Christmas Day; (k) Boxing Day; (l) Where New Year's Day, Canada Day, Christmas Day, or Boxing Day falls on a

Saturday or Sunday, the additional day designated by the College as a holiday;

(m) Any special holiday proclaimed by the Governor General or the Lieutenant Governor; and

(n) Any other day designated by the College as a holiday.

"Independent Legal Counsel"	means the lawyer appointed to provide advice to the Committee and/or a Fitness to Practise Panel.
"Member"	means a member or former member of the College who has been named in a Notice of Hearing. "Member" may be used interchangeably with "Registrant".
"Motion"	means a request made to the Fitness to Practise Committee to make an order in a proceeding.
"Motion Record"	means a Record filed in support of a Motion.
"Notice of Hearing"	means a document issued by the College under the *Code* which contains allegations of incapacity in respect of a Registrant.
"Proceeding"	means any step in the Fitness to Practise Hearing process, and includes a Motion, a case conference, and a Hearing.
"Prosecutor"	means the lawyer or lawyers appointed by the College to prove allegations of incapacity before the Fitness to Practise Committee.
"Record"	means a copy of all exhibits from a proceeding and all written Reasons for Decision, Decision and Orders, and includes any transcripts of the Hearing.

"Registrant"	means a registrant or former registrant of the College who has been named in a Notice of Hearing. "Registrant" may be used interchangeably with "Member."
"Representative"	means a person authorized under the ***Law Society Act*** to represent a party or other participant in a proceeding.
"Vulnerable Witness"	means a witness who, in the opinion of the Committee Chair, or a Fitness to Practise Panel, will have difficulty testifying or will have difficulty testifying in the presence of a party for appropriate reasons related to age, disability, illness, trauma, emotional state or similar cause of vulnerability.
"Written Hearing"	means a Hearing under Rule 8 held by a Fitness to Practise Panel by means of the exchange of written documents.

1.02 Interpretation of Rules

(1) Where matters are not specifically provided for in these Rules, the *Regulated Health Professions Act, 1991* or the *Statutory Powers Procedure Act*, the practice will be determined by analogy to them.

(2) Where there is an inconsistency between these Rules and the *Regulated Health Professions Act, 1991* or the *Statutory Powers Procedure Act*, the provisions of those statutes will govern.

(3) Anything these Rules require or permit a Representative to do can be done by the Registrant, if the Registrant is not represented.

(4) The College may issue practice directions or guidelines to explain or clarify these Rules.

1.03 Application of Rules

(1) These Rules apply to all proceedings before the Fitness to Practise Committee

of the College including, with all necessary modifications, applications for reinstatement made under sections 72 and 73 of the *Code*.

1.04 Time

(1) A Fitness to Practise Panel may extend or shorten any time required by these Rules on such terms as are just, even after an applicable time period has expired.

1.05 Substantial Compliance

(1) If a party substantively complies with a form or notice required by or under these Rules in every important way, the party will be deemed to have met the requirements of a Rule.

(2) No proceeding is invalid only because of a defect or other irregularity in form.

1.06 Waiving a Rule

(1) A Rule may be waived if all parties consent or by order of a Fitness to Practise Panel.

(2) A Motion to waive a Rule may be made at any time. However, a Fitness to Practise Panel may refuse to waive a Rule where a person does not make a request to waive a Rule, by bringing a Motion, promptly.

(3) The Fitness to Practise Committee may waive a provision of these Rules on its own initiative if it first gives notice to the parties or Motion participants and provides an opportunity for submissions to be made in the format requested by the Committee.

1.07 Power to Control Process

(1) Despite anything in these Rules, the Fitness to Practise Committee may make any order that is necessary to control its process. In making such an order, the Fitness to Practise Committee must take into consideration the public interest, the interests of witnesses and the Registrant's right to make full answer and defence to the allegations.

RULE 2 – PROCEDURES PRIOR TO HEARING

2.01 Location of Hearings

(1) All Hearings will be held at the offices of the College, 25 Adelaide Street East, Suite 2100, Toronto, ON M5C 3A1, unless otherwise directed by the Hearings Office. If the Hearing is to be held anywhere other than the offices of the College, the Hearings Office shall provide notice to the parties by email or in writing as soon as is practical to do so.

2.02 Serving or Delivering Documents

(1) A document is properly served or delivered if it is:

(a) sent in accordance with section 39 of the *Regulated Health Professions Act, 1991*;

(b) served personally and service is proven;

(c) sent by e-mail and in that case is deemed to have been delivered on the same day the email was sent, if receipt of the e-mail is confirmed by the recipient (and every recipient has a duty to confirm receipt of all email messages in proceedings covered by these Rules);

(d) sent by courier and in that case is deemed to have been delivered on the same day of delivery service receipt; or

(e) sent as directed by the Committee.

(2) Documents served or delivered after 5:00 p.m. will be deemed to have been received on the next day that is not a Holiday.

2.03 Filing of Documents

(1) A document may be filed with the Hearings Office by:

(a) leaving it with the receptionist at the College;

(b) sending it by courier to the College;

(c) faxing it to the College at (416) 861 0934; or

(d) sending it by email to the College at hearings@cmlto.com.

(2) A document to be filed with the Hearings Office must be clearly marked, "Attention: Hearings Office".

RULE 3 - CASE CONFERENCES

3.01 Scheduling

(1) A case conference shall be scheduled by the Hearings Office if a party requests a case conference. Additional case conferences may be scheduled at the request of a party.

(2) When a case conference is to be held, the Committee Chair will designate a person to act as the Case Conference Officer at the case conference. The Case Conference Officer must not be a member of the Fitness to Practise Panel presiding over the Hearing.

(3) The case conference may be conducted either electronically or in person.

(4) The Case Conference Officer may request that Independent Legal Counsel attend a pre-hearing conference.

3.02 Case Conference Memorandum

(1) Not less than 20 days before the case conference, the College will prepare a case conference memorandum, which may be in the form set out in Form 3 and provide a copy to the Registrant and to the Case Conference Officer. The case conference memorandum must identify the factual and legal issues in dispute, and briefly set out the College's position.

(2) The Registrant may deliver a case conference memorandum to the College, with a copy to the Case Conference Officer, not less than 10 days before the case conference.

(3) Case conference memoranda shall be filed with the Hearings Office in accordance with Rule 2.03.

3.03 Confidentiality and Use of Case Conference Officer's Report

(1) The case conference will not be open to the public. Unless both parties consent, all communications at a case conference, with the exception of formal orders made by the Case Conference Officer, must be kept confidential and constitute without prejudice settlement discussions. This includes any case conference memoranda and the Case Conference Officer's notes and records.

3.04 Procedure at Case Conference

(1) The parties to a case conference shall be prepared to discuss all of the topics set out in the case conference memorandum, including the following:

(a) whether any facts can be agreed to;

(b) whether any or all of the issues can be settled or narrowed;

(c) the content and timing of any additional disclosure;

(d) the scheduling of any Motions to be heard before the Hearing;

(e) the delivery and form of documents, written arguments and books of authorities that will be used at the Hearing and whether the Fitness to Practise Committee will review them before the Hearing;

(f) the estimated length and scheduling of the Hearing; and

(g) any other matter that may assist in the just and expeditious disposition of the proceeding.

(2) The Case Conference Officer may give directions or make any order(s) that they consider necessary or advisable with respect to the conduct of the proceeding.

(3) Any orders, directions, undertakings and agreements made at a case conference shall be recorded in a report prepared by or under the direction of the Case Conference Officer and a copy of the report shall be distributed to the parties.

(4) If a party disagrees with the accuracy of the Case Conference Officer's report, the party shall, within 7 days after receiving the report, deliver to the Hearings Office and the other party, written notice of the specific area of disagreement. The party receiving written notice shall, within 5 days, deliver any responding comments to the other party and to the Hearings Office, after which time the Case Conference Officer may revise the report at their discretion.

RULE 4 – ADJOURNMENTS

4.01 Timing

(1) Where both parties have received formal notification of the date for a step in a Proceeding, requests for adjournment of such step shall be made at the earliest opportunity after the party or Representative making the request becomes aware that an adjournment is required.

4.02 Consent to be Obtained

(1) A party seeking an adjournment shall attempt to obtain the consent of the other party before bringing a request before the Fitness to Practise Committee. If consent is obtained, the Hearings Office shall be informed of the adjournment and of any new dates agreed to by the parties and there shall be no requirement for consideration of the adjournment request by a member of the Fitness to Practise Committee.

4.03 Where Consent Not Obtained

(1) Where consent of the other party is not obtained, requests for an adjournment of a step in a Proceeding should be made in writing in advance of the previously scheduled date, after consulting the other party, using the Adjournment Request Form 4 included in these Rules or obtained through the Hearings Office.

4.04 Method of Hearing

(1) Requests for adjournment of a step in a Proceeding made in advance of the previously scheduled date shall be heard and decided by the Chair, or a member of the Fitness to Practise Committee appointed by the Chair, and shall be considered in writing or electronically.

(2) If the Proceeding has already commenced, any request for an adjournment shall be brought to the Fitness to Practise Panel presiding over for the step in the Proceeding. The Fitness to Practise Panel may:

(a) dispose summarily of a request for adjournment that is on consent or unopposed; or

(b) direct that the request proceed by way of a formal Motion before the Hearing panel.

4.05 Factors to Be Considered

(1) In deciding whether to grant an adjournment (and if so, on what terms), the following factors will be considered:

(a) balancing of the right of the parties to a fair hearing against the desirability of an expeditious hearing;

(b) whether there is prejudice to a person;

(c) how long the requesting party had to prepare for the proceeding;

(d) whether the request for an adjournment was made promptly;

(e) the efforts made to avoid the adjournment;

(f) the number of prior requests for an adjournment;

(g) whether the public is at risk if an adjournment is granted; the proposed length of the adjournment;

(h) the costs of an adjournment;

(i) the public interest; and

(j) any other factor deemed relevant to determine whether the adjournment request should be granted.

4.06 Conditions May Be Imposed

(1) The Chair or a Fitness to Practise Panel may grant an adjournment on such terms and conditions as they consider just.

RULE 5 – MOTIONS

5.01 Initiating Motions

(1) A person may initiate a Motion by filing with the Hearings Office and delivering to the parties and any other Motion participants a Motion Record, which shall include the Notice of Motion in accordance with the Notice of Motion Form 1, and all affidavits and any materials to be relied upon, unless the nature of the Motion or the circumstances make a Motion Record impractical.

(2) All issues shall be raised in a Motion as soon as possible, unless the nature of the Motion requires that it be heard during the Hearing itself.

5.02 How Motions to Be Heard

(1) A Motion in a proceeding may be heard and determined by way of oral argument, in writing or electronically as determined by the person or persons presiding over the Motion.

5.03 Timing, Delivery and Filing of Materials

(1) The person initiating a Motion shall file with the Hearings Office and deliver to the responding party/Motion participants the Motion Record, at least 15 days before the date the Motion is to be heard.

(2) The responding party/Motion participants shall file with the Hearings Office and deliver to the initiating party their materials in the form of a responding Motion Record, at least 10 days before the date the Motion is to be heard.

(3) Where a party/Motion participant intends to rely on a factum, written submissions and/or a book of authorities, those documents shall be filed with the Hearings Office and delivered, in the case of the person initiating the Motion, at least 7 days before, and in the case of a responding party/Motion participant, at least 3 Business Days, before the date the Motion is to be heard.

(4) Motion participants shall file a document with the Hearings Office in accordance with Rule 2.03.

5.04 Assigning a Motion Panel

(1) The Chair or the Chair's delegate shall assign one or more members of the Fitness to Practise Committee to hear a Motion.

(2) A Motion participant who believes that the Hearing should not be heard by the member(s) of the Fitness to Practise Committee who sat on the Motion panel shall request a direction from the Motion panel in the Notice of Motion.

5.05 Scheduling

(1) Where a Motion is to be heard in person, the Hearings Office will contact the participants to schedule a date for the Motion after the person initiating the Motion has filed their Motion Record with the Hearings Office, unless a mutual date has already been set.

(2) Where a Motion is to be held in writing or electronically, the member(s) of the Fitness to Practise Committee assigned to decide the Motion shall do so after all the materials referred to in this Rule have been filed.

5.06 Evidence

(1) Evidence on a Motion shall be given by affidavit unless the Chair or member of the Fitness to Practise Committee orders that it be given in some other form, or unless otherwise provided by law.

(2) All affidavits used on a Motion shall:

(a) be confined to the statement of facts within the personal knowledge of the affiant (the person signing the affidavit), except that the affidavit may contain statements of the affiant's information and belief, if the source of the information and the fact of the belief are specified in the affidavit; and

(b) be signed by the affiant and sworn or affirmed before a person authorized to administer oaths or affirmations, which person shall also mark all exhibits as such to the affidavit.

(3) A Motion participant may cross-examine the affiant filed by another Motion participant only if the parties consent or with the permission of the Chair or a member of the Fitness to Practise Committee, which shall be granted where the interests of the case require it.

(4) Sub-rule (3) does not prevent an affiant from being cross-examined on an affidavit during the Hearing.

5.07 Orders

(1) Immediately after a Motion has been decided, the person initiating the Motion shall, and any other Motion participant may:

(a) prepare a draft order;

(b) seek written approval from the responding party and any other Motion participants as to the draft order's form and content; and

(c) deliver the draft order, together with any written approval(s), to the Hearings Office.

5.08 Limitations on Submissions

(1) No Motion participant shall take more than one hour, including a reply, to make oral submissions on a Motion without the prior permission of the Chair or member of the Fitness to Practise Committee.

5.09 Communications

(1) Any communications to the Hearings Office regarding a Motion shall be in writing and copied to all Motion participants.

RULE 6 – NOTICE OF CONSTITUTIONAL QUESTION

6.01 Timing for Notice

(1) A party who intends to raise a constitutional issue or question at a Hearing or on a Motion must formally give notice of such to the Attorney General of Canada and the Attorney General of Ontario. Notice must be given not less than 15 days before the issue or question is to be argued before a Fitness to Practise Panel.

6.02 Submissions by Attorney General

(1) The Attorney General of Canada and the Attorney General of Ontario may give evidence and make submissions to the Fitness to Practise Panel regarding the constitutional issue or question.

RULE 7 – EXCHANGE AND USE OF DISCLOSURE

7.01 Exchange of Documents

(1) Each party to a proceeding shall deliver to every other party, in advance of the Hearing, a list of, and if not previously produced, copies of, all documents and things that the party intends to produce or enter as evidence at the Hearing.

(2) Each party to a proceeding shall deliver to every other party, in advance of the Hearing, a list containing the identity of any witnesses the party intends to call.

(3) The College must produce the information set out in (1) and (2) above as soon as is reasonably practicable after the Notice of Hearing is served, but in any case, not less than 15 days before the commencement of the Hearing.

(4) Subject to Rule 7.01(5), any other party must produce the information set out in (1) and (2) above as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case, not less than 10 days before the commencement of the Hearing.

(5) In the event that the College produces any information set out in (1) and (2) above less than 15 days before the commencement of the Hearing, any other party who wishes to produce information set out in (1) and (2) above in response to same must produce the information as soon as is reasonably practicable after disclosure by the College under this Rule, but in any case not less than 5 days after disclosure by the College and prior to the commencement of the Hearing.

(6) A party who does not disclose a document or thing in compliance with this Rule may not refer to the document or thing or introduce it in evidence at the Hearing without the permission of the Fitness to Practise Panel, which may be granted on any conditions that the Fitness to Practise Panel considers just.

7.02 No Waiver of Privilege

(1) Despite anything in these Rules, a party or participant in the proceedings is not required to disclose or produce any document or evidence that is privileged or otherwise protected from disclosure by law.

7.03 Order for Disclosure

(1) At any stage in a proceeding, a Fitness to Practise Panel may:

(a) order that a party provide to another party and to the Fitness to Practise Panel any particulars that the Fitness to Practise Panel

considers necessary for a full and satisfactory understanding of the subject of the Proceeding; or

(b) make any other disclosure order required by these Rules, within the time limits and on any conditions that the Fitness to Practise Panel may specify.

7.04 Motions for Production of Documents from a Third Party

(1) A Motion by a party relating to the production of documents in the possession of a third party cannot be brought before the commencement of the Hearing. The Notice of Motion relating to the production of documents must be provided to the person possessing the documents and to any other person having a significant interest, including a privacy interest, in the documents.

(2) In considering such a Motion, the Fitness to Practise Panel must take into account:

(a) the relevance of the document to a significant issue in the Hearing;

(b) whether it would be unfair to require the party bringing the Motion to proceed to the Hearing without the document;

(c) any claim that the document is privileged; and

(d) whether any person has a significant interest in the document, including a privacy interest.

(3) A panel of the Fitness to Practise Committee or the Fitness to Practise Committee Chair or their delegate may, on motion by a party, order that a person who has possession or control of the document produce the document or part of the document to the Fitness to Practise Panel or Committee Chair if the panel or the Committee Chair is satisfied that the party has established that the document is likely relevant to an issue in the Hearing or to the competence of a witness to testify in the Hearing and the production of the document is necessary in the interest of justice.

(4) Where after reviewing a document produced pursuant to this Rule, the Fitness to Practise Panel, or the Fitness to Practise Committee Chair or their delegate, is satisfied that the document or any portion thereof is

likely relevant to an issue in the Hearing or to the competence of a witness to testify in the Hearing and that the production of the document is necessary in the interest of justice, such document or portion thereof shall be produced to the parties.

(5) In determining whether to grant an order for the production of documents in accordance with this Rule, the Fitness to Practise Panel shall consider,

(a) the regulatory nature of the proceedings;

(b) the primary purpose of the proceedings, which is to protect the public and regulate the profession in the public interest;

(c) the privacy interest of the witness or the third party in the document sought; and

(d) the nature and purpose of the document sought in the Motion.

(6) Despite anything in these Rules, the Fitness to Practise Panel shall, upon the application of any person who has a privacy interest in the documents referred to in this Rule, grant the person standing on the Motion for production of the documents.

RULE 8 – HOW HEARINGS AND PROCEEDINGS ARE TO BE HEARD

8.01 Hearing or Proceeding to Proceed Electronically unless Oral or Written Hearing is Ordered

(1) A Fitness to Practise Proceeding shall proceed electronically, unless otherwise ordered by the Committee Chair or Fitness to Practise Panel.

(2) A Fitness to Practise Panel may allow all or part of a Proceeding to be heard in writing or orally if the Fitness to Practise Panel, after hearing submissions from the parties, makes an order that the Proceeding should be heard in this way.

8.02 Electronic Hearings

(1) This sub-rule applies to any Proceeding or part of a Proceeding that is held electronically, including motions, case conferences and hearings.

(2) At least 48 hours before an electronic Proceeding is scheduled to

commence, the Hearings Office shall instruct participants on how to participate in the electronic Proceeding and the participants shall comply with those instructions.

(3) Unless otherwise provided for in the Rules, every person participating in the Proceeding shall deliver to every other party and the Hearings Office, at least 3 Business Days before the Proceeding, every document upon which the person intends to rely, in sequentially numbered pages.

(4) Every person participating in a step in a Proceeding shall provide to the Hearings office at least 7 days before the a telephone number at which they can be reaching during the Proceeding at least 7 days before the proceeding and shall ensure that they can be reached at the telephone number provided to the Hearings Office beginning at 5 minutes before the Proceeding is scheduled to commence.

(5) Where all or part of a Proceeding is to be conducted electronically and the Proceeding involves witnesses, the electronic Proceeding shall be conducted through a platform that permits the Fitness to Practise Panel and the parties to both see and hear the witnesses simultaneously.

8.03 Written Proceedings

(1) The Fitness to Practise Panel may hold all or part of a Proceeding in writing with the consent of the parties.

(2) All documents in a written Proceeding shall be delivered according to the schedule ordered by the Fitness to Practise Panel or agreed to by the parties.

RULE 9 – PROCEDURE RELATED TO THE HEARING

9.01 Closed Hearing

(1) Hearings of the Fitness to Practise Committee shall be closed in accordance with section 68 of the *Code* and not be open to the public, subject to subsection 68(2) of the *Code*.

9.02 Electronic Devices and Publication of Proceedings

(1) No person may:

(a) take or attempt to take a photograph, audio or video recording or other record by any means at a Proceeding; or

(b) publish, broadcast, reproduce or otherwise disseminate a photograph, audio or video recording or other record taken, whether in compliance with or in contravention of this sub-rule.

(2) Sub-rule 9.02(1) does not apply to:

(a) a person unobtrusively making handwritten or typed notes, or sketches at a Proceeding;

(b) a party or a party's Representative unobtrusively making an audio recording at a Proceeding that is used only as a substitute for handwritten or typed notes for the purposes of the Proceeding;

(c) a person taking a photograph, audio or video recording or other record with the prior written authorization of the Fitness to Practise Panel;

(d) the court reporter assigned to the proceeding; or

(e) a person using a device to compensate for a disability.

9.03 Access to Hearing Record by the Public

(1) The public does not have a right to access the Record of a Hearing.

9.04 Oral and Written Arguments

(1) A Fitness to Practise Panel may place reasonable limits on the length of oral and/or written submissions.

(2) A Fitness to Practise Panel may, after hearing submissions, order the parties to submit written arguments on some or all of the issues at the Hearing, and may give directions as to the form and timing of such written arguments.

9.05 Use of Evidence by Fitness to Practise Panel

(1) The Panel may admit as evidence at a Hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the Panel may exclude anything unduly repetitive.

(2) Nothing is admissible in evidence at a Hearing,

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the *Code* or any statute.

9.06 Obtaining a Summons to Compel the Attendance of a Witness

(1) A party who requires a witness to attend the Hearing and believes they require a summons to compel them to attend must complete the Summons to Witness Form (obtained from the Hearings Office) and provide the completed Summons to Witness Form to the Hearings Office for signature by the Committee Chair or their delegate.

(2) The summons may require the person summonsed to produce at the Hearing documents and things specified in the summons.

(3) The summons must be served personally on the person to be summonsed.

(4) The person summonsed is entitled to receive the same fees or allowances for attending or participating in the Hearing as are paid to a person summonsed to attend before the Superior Court of Justice. The party obtaining the summons must pay the fees or allowances.

9.07 Excluding Witnesses

(1) A Fitness to Practise Panel may order that one or more witnesses be excluded from the Hearing until called to give evidence.

(2) An order under sub-rule (1) may not be made in respect of a party to the Proceeding or a witness whose presence is required to instruct counsel, but the Fitness to Practise Panel may require any such witness to give evidence before other witnesses are called to give evidence on behalf of that party.

(3) Where an order is made excluding one or more witnesses from the Hearing, no person shall communicate or permit the communication to an excluded witness of any evidence given during the witness' absence from the Hearing until after the witness has been called and has given evidence.

9.08 Vulnerable Witnesses

(1) A Fitness to Practise Panel may make such orders as are necessary to facilitate the testimony of a vulnerable person a vulnerable witness.

9.09 Expert Witnesses and Reports

(1) If the College intends to call an expert witness at a Hearing, it must, at least 10 days before the Hearing, provide to the Registrant the identity of the expert and a copy of the expert's written report, or if there is no written report, a written summary of the evidence.

(2) If the Registrant intends to call an expert witness at a Hearing, the Registrant must, at least 10 days before the Hearing, provide to the College the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence.

(3) A panel may, in its discretion, allow a party to introduce evidence that does not comply with this Rule and may make directions it considers necessary to ensure that the other parties are not prejudiced.

(4) Each party must inform any prospective expert witness that it is the duty of an expert to assist the Fitness to Practise Panel on matters within the expert's expertise, and that this duty overrides any obligation to the person from whom they have received instructions or payment. The expert must certify, by signing an Acknowledgment of Duty of Expert Witness Form, that the expert is aware of and understands this duty.

(5) Where the Fitness to Practise Panel hears testimony of an expert witness, it may also admit the expert witness' report as an exhibit at the Hearing.

(6) This Rule does not apply to a witness who is the Registrant's treating health professional.

RULE 10 – REINSTATEMENT APPLICATIONS

(1) This Rule applies to applications for reinstatement made under sections 72 and 73 of the Code.

(2) A Registrant making an application for reinstatement must deliver a Notice of Application specifying:

(a) the order sought;

(b) the grounds of the application;

(c) the evidence that the Registrant intends to rely on; and

(d) the anticipated length of the Hearing.

(3) Unless the Committee directs otherwise, the Registrant making an application for reinstatement must deliver 8 copies of:

(a) the Record of the original Hearing;

(b) the Record of any previous applications for reinstatement (including the transcript of any previous reinstatement Hearing);

(c) the transcript of the original Hearing; and

(d) any document upon which the Registrant intends to rely.

(4) The Committee will not schedule a reinstatement application for a Hearing until the Registrant complies with or makes a reasonable attempt to comply with sub-rules (2), (3) and (4).

(5) Once a reinstatement application has been scheduled, the Hearings Office shall deliver a Notice of Reinstatement Hearing to the parties.

RULE 11 – MOTION TO VARY ORDER

(1) An application to the Fitness to Practise Committee under subsection 69(3) of the *Code* for an Order directing the Registrar to remove or modify any term, condition and limitation imposed on the Registrant's certificate of registration as a result of paragraph 69(1)3 of the *Code*, shall be made by Motion under Rule 5.

(2) A party making a Motion to vary shall deliver a Motion Record containing copies of previous decisions and reasons, and orders and reasons, if any, of the Fitness to Practise Committee and any supporting material to be relied upon.

(3) The Hearings Office shall not schedule a Motion to vary for a Hearing until the party bringing the Motion complies with sub-rule (2).

College of Medical Laboratory Technologists of Ontario

FORM 1 - NOTICE OF MOTION

FITNESS TO PRACTISE COMMITTEE

OF THE COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

B E T W E E N:

COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT]

NOTICE OF MOTION

THE [IDENTIFY MOVING PARTY] WILL make a Motion to the Fitness to Practise Committee of the College of Medical Laboratory Technologists of Ontario, on [day], [date], at [time], or as soon after that time as the Motion can be heard, electronically/in writing, at 25 Adelaide Street East, Suite 2100, Toronto, Ontario.

THE MOTION IS FOR [set out the specific Order that is sought].

THE GROUNDS FOR THE MOTION ARE [specify the grounds to be argued, including a reference to any statutory provision or rule to be relied on].

THE FOLLOWING DOCUMENTARY EVIDENCE WILL be used at the Hearing of the Motion: [list the affidavits or other documents to be relied on].

[Date]
[Name, address, telephone and fax number and email of the moving party or their representative]

TO: [Name, address, telephone and fax number and email of responding party or their representative]

College of Medical Laboratory Technologists of Ontario

FORM 2 - ORDER

FITNESS TO PRACTISE COMMITTEE

OF THE COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

[Names of Fitness to Practise Committee Panel Members]	**)** **) [day and date(s) of hearing]** **)**

B E T W E E N:

COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT]

ORDER

THIS MOTION, made by [identify moving party] for [state the relief sought in the Notice of Motion], was heard by the Fitness to Practise Committee of the College of Medical Laboratory Technologists of Ontario at 25 Adelaide Street East, Suite 2100, Toronto, Ontario on [day], [date] [or by conference call].

ON READING the [list the material filed on the Motion] and on hearing the submissions of [(name of the moving party) or representative for (name of moving party)], [where applicable, add "(name of moving party) appearing in person" or "no one appearing for (name of moving party)"], although properly served as appears from (indicate proof of service)],

THE FITNESS TO PRACTISE COMMITTEE ORDERS that

[signature of Chair]

College of Medical Laboratory Technologists of Ontario

FORM 3 - CASE CONFERENCE MEMORANDUM

FITNESS TO PRACTISE COMMITTEE

OF THE COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

B E T W E E N:

COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

and

[INSERT NAME OF REGISTRANT]

CASE CONFERENCE MEMORANDUM OF [THE COLLEGE OR THE REGISTRANT]

Date of Case Conference:

College Counsel:

Registrant/Registrant's Representative (if applicable):

BACKGROUND INFORMATION

1. Please attach a copy of the Notice of Hearing to this memorandum.

2. Set out a brief statement of the College's [or Registrant's] case, including factual disputes and the anticipated evidence of witnesses.

3. Provide a description of the legal issues to be determined at the hearing.

4. Attach a copy of any document that would assist the Case Conference Officer at the case conference.

ADDITIONAL STEPS BEFORE THE HEARING

5. Motions:

    - Will you be bringing any motions?
    - If so, what order will you seek and on what grounds?
    - When do you intend to bring each motion?

6. Disclosure

    - Are there any issues with respect to disclosure?
    - Has the College made full disclosure to the Registrant?
    - Have both parties produced all of the expert reports upon which they intend to rely?
    - If disclosure has not yet been completed, can the parties agree on a date by which it will be done?

7. Admissions:

    - Are there any facts or allegations that can be admitted?
    - Can the admissibility of documents be agreed upon?
    - Is it possible to develop an Agreed Statement of Facts?
    - Is it possible to develop a Joint Submission on an Incapacity Order?

8. Joint Book of Documents:

    - Is it a possible to develop a Joint Book of Documents?
    - If so, by what date will the Joint Book be delivered?
    - Should the Fitness to Practise Panel be able to review the Joint Book before the hearing?

9. Written arguments:

    - Are there any issues which should be dealt with through written

argument instead of oral argument during the Hearing or during a motion?

- When should written arguments be delivered by?
- Should the Fitness to Practise Panel be able to review written arguments before the Hearing?

PLANNING THE HEARING

10. Hearing:

- Are you ready for the Hearing?
- Should the matter be expedited?
- Are there any special considerations affecting the setting of a date (such as the availability of witness)?
- How long will the Hearing last?
- Estimate the length of time it will take to hear any Motions you anticipate bringing during the Hearing.
- List your witnesses and estimated length of time you anticipate it will take to hear their evidence.
- Will you be requesting that the Committee issue a summons (to require a person to attend or provide evidence at the Hearing)? If so, identify the person(s).
- Do you object to the Committee issuing a summons requested by a party and, if so, on what grounds?

11. Report or Directions:

- Should the Case Conference Officer provide a signed report or written directions to the parties to record facts, documents or issues where the parties have reached agreement?
- Are there any matters that should be included in a report or written directions to be given by the Case Conference Officer?

[Date]	[Signature of party or representative of who will be attending hearing]

College of Medical Laboratory Technologists of Ontario

FORM 4 – REQUEST FOR ADJOURNMENT FORM

FITNESS TO PRACTISE COMMITTEE

OF THE COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

REQUEST FOR ADJOURNMENT

IN THE MATTER OF the *Regulated Health Professions Act*, *1991*, S.O., 1991, C. 18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Medical Laboratory Technology Act*, *1991*, as S.O. 1991, C.28, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of allegations of incapacity referred to the Fitness to Practise Committee of the College of Medical Laboratory Technologists of Ontario regarding [enter Registrant's name].

REQUEST FOR ADJOURNMENT

A. A request for adjournment is being made by:

☐ Both parties jointly
☐ The College
☐ The Registrant

B. The adjournment is requested in respect of:

☐ A scheduled case conference
☐ A Hearing that has not commenced but is scheduled for_____ .
☐ A Hearing that commenced on _____ and was scheduled as follows:
Dates heard:
Dates remaining:

C. The reason for the request is:

D. The nature of the allegations against the Registrant are:

(or attach a copy of the Notice of Hearing):

E. If the request has not been made jointly, please confirm that the other party has been advised that the request is being made

☐ Yes
☐ No

F. If the request has not been made jointly, please summarize the other party's position on your adjournment request:

G. Please provide at least 5 alternative dates, or set of dates, that the parties would be available for the matter to proceed which fall within 60-90 days of the date(s) requested to be adjourned:

Name, address, telephone number and email of the requesting party or their representative:

Today's Date: _____

Name, address, telephone number and email of the responding party or their representative:

Date: _____