

# Under the Microscope



## THE OBJECTIVE LENS

### President and ED/R Message

The College receives numerous inquiries on the general conduct process and the expectations of the College for witnesses, employers, and members. Unless an individual has had a complaint of alleged unprofessional conduct directed against them, the conduct process is unfamiliar to most individuals. Part 4 of the *Health Professions Act* (HPA) outlines the conduct process in detail; however, to the average reader this can be confusing with multiple references to sections and subsections. The College has provided an overview of the conduct process with answers to your most frequently asked questions.

### What is “unprofessional conduct?”

Section 1(1)(pp) of 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 this Act, a 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 a regulated member and in good standing while the person’s registration or practice permit was suspended or cancelled;
- (v) representing or holding out that person’s registration or practice permit is not subject to conditions when it is or misrepresenting the conditions;
- (vi) failure or refusal
  - (A) to comply with the requirements of the continuing competence program, or
  - (B) to co-operate with a competence committee or a person appointed under section 11 undertaking a practice visit;
- (vii) failure or refusal

- (A) to comply with an agreement that is part of a ratified settlement,
- (B) to comply with a request of or co-operate with an investigator,
- (C) to undergo an examination under section 118, or
- (D) to comply with a notice to attend or a notice to produce under Part 4;
- (viii) contravening an order under Part 4, conditions imposed on a practice permit or a direction under section 118(4);
- (ix) carrying on the practice of the regulated profession with a person who is contravening section 98 or an order under Part 4 or conditions imposed on a practice permit or a direction under section 118(4);
- (x) carrying on the practice of the regulated profession of physicians, surgeons, osteopaths, dentists, chiropractors or optometrists on behalf of a corporation that does not meet the requirements of sections 104 to 115 or as a partner of a partnership that does not meet the requirements of section 98(3);
- (xi) carrying on the practice of the regulated profession of physical therapists on behalf of a corporation that does not meet the requirements of Schedule 20;
- (xii) conduct that harms the integrity of the regulated profession;
- (qq) “unprofessional conduct fines table” means the unprofessional conduct fines table in Part 10.

### What is the conduct process?

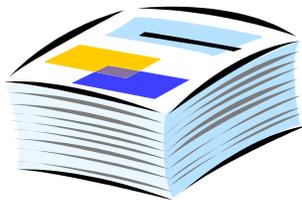
The HPA devotes section 4 to outlining the legislated requirements of the conduct process beginning with how to make a complaint, including the requirements for a formal complaint to be in writing and be signed by the complainant. The HPA outlines provisions a Complaints Director may exercise when acting upon a complaint. Some of the options

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## ILLUMINATING THE DARKFIELD



**2010 ANNUAL REPORTS ARE  
AVAILABLE ON-LINE:**

**Member Access - Publications**  
or can be mailed upon request



### **Renewal Notice for 2012**

- MLT Practice Permit Renewals will be on-line ONLY
- September 15: Renewal period begins
- September 15 - October 31: early bird discount (\$550)
- November 1-30: regular dues (\$600)
- December 1-31: regular dues plus processing fees (\$725)
- All voluntary renewals (MLA, Associate, Retired) will continue as hard-copy (\$160)

## **2011 National Medical Laboratory Week**

### **DID YOU KNOW?**

- The College is redeveloping the website with an anticipated launch date of July 1, 2011 . . . Watch for more!

Council approved funding for National Medical Laboratory Week activities for:

- ◆ Wetaskiwin Hospital and Care Center
- ◆ NAIT
- ◆ St. Mary's Hospital, Camrose
- ◆ Red Deer Hospital lab

Congratulations on a job well done and thank you for promoting the profession!

**YOUR STAGE**

**Award of Merit**

Deadline: June 1, 2011



**Congratulations to Linda Lowartz, who obtained a CSMLS CPS Certificate in General Medical Laboratory Technology!**

**Bursary Award**

Deadline: Dec. 31, 2011



**2010 Bursary Award Recipient**  
Congratulations to Hilary Dake who received a 2010 College Bursary Award!

**Award of Distinction**

Deadline: June 1, 2011



**College Professional Development Certificate Recipients**

CARTER, Kathleen

KLONTZ, Ellen



For more information and application forms, visit our website under:  
Member Access - Award Program

## Under the Microscope

### YOUR FIELD-OF-VIEW



Catch the freshest topics at

CSMLS NATIONAL CONGRESS OF MEDICAL LABORATORY SCIENCE  
**LABCON 2011**  
HALIFAX, NS

- Quality & Patient Safety
- Leadership in Change Management
- Green Building Sustainability
- Forensic Laboratory Investigation
- Inter-professional Collaboration
- Point of Care Testing
  - Specimen Integrity

...and many more.

World Trade and Convention Centre  
June 10-13, 2011  
[www.csmls.org/labcon2011](http://www.csmls.org/labcon2011)



SAIT Polytechnic offers multiple Continuing Education and Professional Development courses to prepare professionals for the challenges and changes in public health. Many courses have recently been reviewed by the Canadian Society for Medical Laboratory Science (CSMLS) and assessed for Professional Enhancement Program (PEP) hours to help meet your continuing competency objectives.

**Research Methodologies (MEDL-115):** Learn research methodologies and skills for critiquing research reports. PEP Hours: 30

**Lab Results Correlation (MEDL-125):** Study the role of the laboratory in disease diagnosis and management. PEP Hours: 32

**Management Skills (MGMT-301):** Explore behaviour in health care organizations and skills required for management. PEP Hours: 25

SAIT offers many more courses where PEP hours apply.

FOR MORE INFORMATION

CALL DONNA AT 403.210.4210

REGISTER TODAY: 1.877.284.7248



SCHOOL OF HEALTH AND PUBLIC SAFETY

**FURTHER YOUR PASSION**

sait.ca  POLYTECHNIC

### Council Highlights: March 12, 2011



- Approved Annual Report to the Minister of Health
- Approved the 2010 Audited Financial Statement
- Approved Bursary Award funding
- Approved funding requests for NMLW activities
- Expanded the Legislation Sub-Committee to include up to nine members (previous was five)
- Archived the Registration Committee and the Continuing Competence Committee

### Volunteer - Have a Voice

Volunteers are integral and essential to the mandated regulatory operations of the College as outlined in the *Health Professions Act (HPA)*. As per the HPA, the governing body of the College consists of the Council, which includes a president, regulated members, non-voting members as provided for in the Bylaws, as well as public members who are appointed by the Lieutenant Governor in Council.

One of the privileges of a self-regulating body is the opportunity to impact the future direction of your College and ultimately, your profession. The College encourages members to provide feedback and suggestions for improvement, but there is no better way to see your ideas come to fruition than to be a part of the team. The College supports you by providing information, resources, and training to assist you in fulfilling your volunteer role. This is “your College” so get involved and play a part.

### Call for Nominations 2012 College Council

We are currently looking for three MLTs to fill the role of President Elect and two Councilor positions!

Deadline: May 27, 2011

Nomination forms are available at [www.acmlt.org](http://www.acmlt.org) and follow:  
College Governance / Council / Nomination Process / Call for Nominations



# Under the Microscope

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for the Complaints Director include forwarding the complaint to an investigation, requesting an expert written report on the subject matter of the complaint, dismissal of the complaint, or making a direction under section 118 of the HPA for an incapacity assessment. Upon receipt of an investigator or expert report, the Complaints Director may forward the matter to the Hearings Director to schedule a Hearing Tribunal hearing, or may dismiss the complaint if it is deemed to be trivial or vexatious, or if there is insufficient or no evidence of unprofessional conduct. If the matter is directed to a Hearing Tribunal hearing, there is a formal exchange of evidence presented before the Hearing Tribunal. The Hearing Tribunal deliberates the evidence and renders a binding written decision regarding innocence or guilt on the charges at hand, and if there are one or more findings of guilt, the Hearing Tribunal also provides written penalty sanctions relative to the severity of the charges.

## What is a Hearing Tribunal?

The HPA outlines the composition for a Hearing Tribunal, which includes regulated College members and representative(s) of the general public which are appointed by government. The pub-

lic member component must comprise a minimum 25% of the Hearing Tribunal. The College refers to MLTs who participate on Hearing Tribunals as members of the Regulated Member Resource List (RMRL). The HPA stipulates the College must have a minimum of four members on this list to call upon to serve on Hearing Tribunals as needed. The College currently has eight RMRL members who serve on Hearing Tribunals. Regulated members who volunteer for Hearing Tribunals have taken extensive training and participate in annual education to ensure they are abreast of any trends in administrative law.

## Do I have to participate in an investigation or hearing?

Pursuant to the HPA, regulated members of a regulatory body must comply with all requests to participate in investigations and/or hearings. Participation in investigations and/or hearings is a professional obligation of all regulated members regardless of whether their conduct is the subject of the investigation, and failure or refusal to participate is in contravention of the MLT Standards of Practice and Code of Ethics. Furthermore, the HPA includes another definition of unprofessional conduct as “contravention of this Act, a code of ethics or standards of practice”.

## Why are so many witnesses called in some cases? Is this not increasing the costs for the ACMLT as well as the stress for those involved in the investigation?

Pursuant to section 63 of the HPA, an investigator may:

- ◆ require any person to answer any relevant questions and direct the person to answer the questions under oath,
- ◆ require any person to give the investigator any document, substance, or thing relevant to the investigation that the person possesses or that is under the control of the person
- ◆ require any person to give up possession of any document to allow the investigator to take it away to copy, in which case the investigator must return it within a reasonable time of being given it but must return it no later than after a hearing is completed

The College investigator is a “professional interviewer” and approaches each complaint on a case-by-case basis. Pursuant to section 52 of the HPA, an investigator in the course of an investigation may investigate all matters related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct. The investigator is not purposefully invasive and disruptive to an organization and its staff, but rather has to exercise due diligence to ensure all evidence is collected and presented to the College Complaints Director.

The College is mindful of costs related to conduct, and encourages a thorough investigation at the onset. If an investigator concludes an investigation and the Complaints Director determines the report is not complete or the investigation was not properly conducted, the Complaints Director must direct the same investi-



*(Continued from page 6)*

gator or another to undertake further investigation and submit a subsequent report, or may request an expert to assess and prepare a written report on the subject matter of the complaint or matters arising from the investigation of the complaint.

### **Why do I feel like I am on “trial” when I am called as a College witness at a hearing tribunal hearing?**

Individuals who appear on behalf of the College as witnesses are never purposefully made to feel like they are being interrogated or their professional integrity and conduct is being judged. The atmosphere in a Hearing Tribunal can at times be tense as an individual’s professional career and reputation is at stake. The rules of criminal law do not apply so the College does not have to prove its case beyond a reasonable doubt, but rather on the balance of probabilities. The College is doing its best to protect the public and the profession, and the opposing legal counsel is also doing its best to exonerate their client. In an attempt to defend their client, opposing legal counsel may “attack” a witness to attempt to discredit them.

### **What are the privacy obligations of the College with investigations and hearings?**

The College respects the confidentiality of all members during the course of an investigation and Hearing Tribunal hearing. In some cases, interviewed members are privy to sensitive information; however, they are briefed on the confidential nature of the interview and any matters which are

discussed. The College expects all regulated members who are interviewed or called as a witness at a Hearing Tribunal hearing to maintain confidentiality regarding the matters and information discussed. The “duty of confidentiality” is one of the professional obligations all regulated members have.

### **Does the College ever ask the complainant for penalty sanction suggestions?**

If one or more findings of unprofessional conduct are made by a Hearing Tribunal, the College



Complaints Director, in consultation with legal counsel, submits penalty sanction recommendations (including general orders, fines, and costs) to a Hearing Tribunal, but the ultimate discretion to make orders rests with the Hearing Tribunal. If an employer has an appropriate penalty sanction for an accused member, they could present this to the College for consideration; however the College must weigh several factors when proposing penalties to a Hearing Tribunal. Such factors include the harm to public, harm to integrity of the profession, the number of previous offences, cooperation of the accused, remedial or rehabilitative options,

and any mitigating or extenuating circumstances.

### **Under what circumstances would a MLT have their ACMLT practice permit suspended or cancelled?**

Under the HPA a Hearing Tribunal is given the authority to suspend or permanently cancel a practice permit and registration with a written order if a finding of unprofessional conduct is made. This type of order is only made where the unprofessional conduct is of a very serious nature, public safety is compromised, or both.

The College Registrar can cancel a regulated member’s practice permit and registration, after 30 days written notice, if the regulated member does not apply for a practice permit or is in default of payment of the appropriate dues/fee.

The College Complaints Director can also direct a regulated member cease providing professional services if the Complaints Director has grounds to believe a regulate member is incapacitated whether or not a complaint has been received (section 118 of the HPA).

### **If I am suspended or terminated from my MLT position, does the College need to know?**

Section 57(1) of the HPA states “if, because of conduct that in the opinion of the employer is unprofessional conduct, the employment of a regulated member is terminated or suspended or the regulated member resigns, the

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employer must give notice of that conduct to the complaints director”. Section 57(2) states “on being given notice under subsection (1), the complaints director must (a) treat the employer as a complainant (b) despite not receiving a complaint under section 54, treat the notice as a complaint in accordance with section 56 and (c) notify the employer and the regulated member accordingly”. It is important to note that “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 the nature of the conduct of the regulated member and whether or not this qualifies as unprofessional conduct as defined by the HPA. The HPA does not require an employer to report all suspensions, terminations, or resignations to the College; only those due to conduct that is “unprofessional” for a regulated member of the College.

**How many complaints does the College receive and why are costs so high?**

The College received eight complaints in 2008, nine complaints in 2009, and seven complaints of unprofessional conduct in 2010. Most complaints involved a detailed investigation and hearing with legal counsel both for the College and the Hearing Tribunal. A simple case can range from \$15,000 to \$20,000 and complex multi-day hearings increase costs to over \$100,000.

## **Who can I talk to if I have further questions?**

Individuals can contact the College Hearings Director or College Complaints Director at any time with questions. In some cases, an individual may be directed to speak with College legal counsel if a matter presents a conflict of interest for the College Complaints Director or Hearings Director.

Myron Pilip, MLT  
2011 College President

Lori Kmet, MLT, BSc (MLS), MBA  
Executive Director/Registrar/  
Complaints Director



# Learning Services Certificates

Enhance your skills and build your resume! CSMLS is proud to offer new certificates available through our Learning Services team. Discipline-specific and interdisciplinary certificates are available with more certificates in development.

Certificates available in three levels: Refresher, Basic and Advanced

- Refresher or Basic certificate you must complete at least 60 hours
- Advanced Certificate you must complete at least 90 hours

Refresher	Basic	Advanced
Certificate in Hematology Refresher	Certificate in Leukocytes	Certificate in Transfusion Medicine Challenges
Certificate in Transfusion Medicine Refresher	Certificate in Basic Microbiology	Certificate in Fungi
Certificate in Microbiology Refresher	Certificate in Pre-Analytical Procedures; <b>Great for MLAs!</b>	Certificate in Quality Systems
	Certificate in Laboratory Safety; <b>Great for MLAs!</b>	

For more information, visit [www.csmls.org](http://www.csmls.org)

# Under the Microscope

## 2011 Continuing Competence Program Audit Statistics

The following data summarizes Continuing Competence Program (CCP) statistics for the annual audit conducted on February 25-26, 2011.

- ◆ 81 members were selected for audit
- ◆ 4 members did not submit any documentation
- ◆ 6 members required remedial/additional documentation
- ◆ 69 members with an initial pass
- ◆ 1 member did not qualify for audit
- ◆ 1 member requested an extension



For more details see the College 2010 Annual Report available on-line.

## Hearing Tribunal Decisions

*The following Hearing Tribunal proceedings were held and written Hearing Tribunal decisions were rendered in 2011. Findings have been presented without the publication of identifying information. The discipline summaries are not intended to provide comprehensive information on the complaint, details of the investigation, or Hearing Tribunal proceedings; they are for educational purposes only.*

### Case 1

A Hearing Tribunal made a finding of unprofessional conduct against a member who did not spin patient samples in accordance with the employer's established standard laboratory operating procedures and/or College's Standards of Practice and did not run quality control material and/or background instrument checks in accordance with the employer's established standard laboratory operating procedures and/or the College's Standards of Practice. The member admitted to the unprofessional conduct and signed an Agreed Statement of Facts and a Joint Submission on Penalty in conjunction with the College. The Hearing Tribunal ordered fines in the amount of \$1500.00 and successful completion of a professional ethics course.



**The Hearing Tribunal reminds all MLTs of the importance of pre-analytical procedures and processes (including centrifugation) and the importance of placing patient safety in higher regard than the time involved to perform a procedure.**

### Case 2

A Hearing Tribunal made a finding of unprofessional conduct against a member who deliberately breached patient confidentiality and accessed medical information on family members and co-workers on numerous occasions without appropriate authorization. The member admitted to the unprofessional conduct and signed an Agreed Statement of Facts and a Joint Submission on Penalty in conjunction with the College. The Hearing Tribunal ordered fines in the amount of \$1750.00 and successful completion of a professional ethics course.

### Patient Information— A Laboratory Commodity

We should all view patient health information, even our own personal laboratory test results, as the laboratory's commodity. We don't own it and are very privileged to access it in performing our MLT roles.

Most employers' privacy and information security management policies are drafted to meet information security requirements as defined by the government, the *Health Information Act*, and other applicable statutes. Employers recognize the need to have effective mechanisms to protect the privacy of persons with respect to identifiable health information which is created or maintained in the provision of health services.

The protocol for accessing one's personal health information, or a family member's is addressed in your facility's specific policy, which would likely include submission of a formal request form to access health information records. An individual that accesses their laboratory test results or their family member's without the consent of their employer and in compliance with procedural protocol, is breaching confidentiality. This could result in serious and significant consequences, including suspension and/or termination of employment and a complaint of unprofessional conduct filed with the College.

Ultimately, the best course of action is to follow up with your physician and request a copy of your test results and do not put your professional and personal roles in conflict with one another.



# Under the Microscope

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*Soap and Water & Common Sense: The Definitive Guide to Viruses, Bacteria, Parasites, and Disease*

Written by Dr. Bonnie Henry

ISBN: 978-0-88784-812-4

House of Anansi Press, Toronto, 2009

A Book Review by John Buhler, MLT, BGS  
Edmonton, AB

Epidemiologist and preventative medicine specialist Dr. Bonnie Henry is the Director of Public Health Emergency Services at the British Columbia Centre for Disease Control and an Assistant Professor at the School of Population and Public Health at UBC. She has tracked Ebola and SARS, worked to eradicate polio in Pakistan and is the current chair of the Canadian Public Health Measures Task Group. Drawing upon her vast knowledge and experience, Dr. Henry has written *Soap and Water & Common Sense: The Definitive Guide to Viruses, Bacteria, Parasites, and Disease* - an accessible and captivating book which will appeal to anyone with a general interest in human disease. In it she profiles a long list of microbial culprits from ancient scourges – evidence of infection with tuberculosis, for example, has been found in 6000 year-old skeletons – to emerging pathogens.

Henry examines the modus operandi of these disease-causing organisms, and considers the various factors, such as basic hygiene, overuse of antibiotics, travel, and food processing which influence their transmission. In particular, Dr. Henry

raises concerns about food safety here at home, noting how modern industrialized methods of raising, warehousing, and processing livestock have created reservoirs for infectious agents and made our food supply vulnerable to pathogens like Salmonella, Campylobacter and E.coli O157:H7.

Cleverly, she uses the concept



of “*Microbes Inc.*” throughout the book – no doubt influenced by the title of the popular animated film *Monsters Inc.* – to demonstrate the world of microbes has different “divisions” with specialized characteristics. For readers without any knowledge of microbiology this tactic effectively illustrates the diversity within the microbial world, including viruses, bacteria, fungi and parasites. Present-

ing these divisions so clearly makes it easier for members of the general public to understand antibiotics are ineffective against viruses. The misuse of antibiotics is, in fact, a recurrent theme in *Soap and Water*.

Dr. Henry also examines the modern origins of epidemiology and the 1847 cholera outbreak in London. As Henry notes, “. . . more than 150 years later cholera is still active in some parts of the world as a result of human conflict and strife . . .” With the recent epidemic in earthquake-devastated Haiti, medical science is once again fighting the same foe.

Aimed at a general audience and published at the height of mobilization against the H1N1 flu, *Soap and Water* reflects concerns about the global pandemic and provides practical advice for avoiding many pathogenic microbes. As the title suggests, people can and should take very simple and basic steps – whether at home or when visiting some exotic destination – to protect themselves from the agents of *Microbes Inc.* But it is more than simply a how-to-book, and provides an interesting and insightful read to both specialists and members of the general public.

# 2011 ACMLT Professional Development Symposium Registration Form

Edmonton Marriott at River Cree | September 24, 2011



## Personal Information

Name	Email
Address	Phone
City	Province
Postal Code	ACMLT Member # (if applicable)
How did you hear about this ACMLT event? (please check one)	<input type="checkbox"/> ACMLT Symposium Email <input type="checkbox"/> <i>Under the Microscope</i> <input type="checkbox"/> ACMLT Website <input type="checkbox"/> My Employer <input type="checkbox"/> Friend / Colleague
Which ACMLT events have you attended? (please check one)	<input type="checkbox"/> 2010 Convention <input type="checkbox"/> 2009 Convention <input type="checkbox"/> Both 2009 & 2010 <input type="checkbox"/> This is my first ACMLT event

## Registration Fees (Hot luncheon is reserved for AGM attendees only)

Registration Type	Registration Fee	Selection (please check one)
Member Registration - Full Day	Free (\$49 'no-show' fee)*	<input type="checkbox"/>
Member Registration - AGM Only	Free	<input type="checkbox"/>
Non-Member Registration	\$99	<input type="checkbox"/>
Student	\$49	<input type="checkbox"/>

GST is included in the price | Refunds (if applicable) after September 14, 2011 will be charged \$49

\* If you choose not to attend the symposium, a "No Show" fee of \$49 will be charged to your credit card

## Payment Information

Full Name (as it appears on the credit card)	
Card Number	Expiry Date
Signature	

**Symposium attendees are entered for a chance to win some fantastic prizes!**

For prize details and program information visit: [www.acmltsymposium.com](http://www.acmltsymposium.com)

**Seating is Limited! Submit your registration early!**

Alberta College of Medical Laboratory Technologists  
301-9426 51 Avenue NW, Edmonton, Alberta T6E 5A6  
Phone: (780) 435-5452 | Fax: (780) 437-1442



# ACMLT

## Professional Development

### SYMPOSIUM

SEPTEMBER 24, 2011  
EDMONTON MARRIOTT AT RIVER CREE RESORT



## JOIN US

for the ACMLT Professional Development Symposium - for the second year the ACMLT is hosting this event at no cost to members!

This one day event features two exciting keynote speakers and the ACMLT Annual General Meeting.

Take advantage of fantastic networking and collaboration opportunities.

- Learn, gather, and share leading MLT practices.
- Be inspired by exceptional speakers and industry experts.
- Address your annual Continuing Competence Learning Plan.
- Relax and have fun!

Register online  
at [www.acmltsymposium.com](http://www.acmltsymposium.com)

### Editorial Policy

The purpose of this newsletter is to provide a means of communication between the members of the College and its Council. The opinions expressed in *Under the Microscope* are those of the contributors and do not constitute official policy of the College. The editor reserves the right to edit submissions as required.

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