

THE COMMENTATOR



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MEETING HIGHLIGHTS

College Council convened on Saturday, March 7, 2015 for a regularly scheduled Council meeting. The following are highlights from the meeting:

- Approved the 2014 audited financial statement.
- Approved the 2014 Annual Report for publication and distribution to the Minister of Health and Members.
- Approved bursary award funding to seven successful applicants.
- Approved revisions to the College Code of Ethics for Minister of Health review and approval.
- Approved revisions to College Bylaws and Special Rules of Order for presentation to the membership at the 2015 Annual General Meeting.
- Approved revisions to College Operational Finance and Program policies.

NOMINATIONS

Council is currently accepting nomination forms for the following positions:

- 2016 - 2018 President Elect
- 2016 - 2018 Councilor (Two positions available)

If you are interested, please submit a nomination form available on the College [website](#).

The deadline is May 28, 2015.

EXECUTIVE DIRECTOR'S EXCHANGE

The Future of Voluntary Memberships

The College has offered voluntary memberships for

IN THIS ISSUE

- [Meeting Highlights](#)
- [Executive Director's Exchange](#)
- [2016 Dues Notice](#)
- [Professional Practice Perspectives](#)
- [Making Time for Professional Development](#)
- [New – Recognition of Excellence](#)

NOMINATIONS

[click here for details](#)

RECOGNITION OF EXCELLENCE

DEADLINE: December 31, 2015

[Click here for details](#)

over 20 years. The voluntary membership category included Medical Laboratory Assistants (MLAs), associate, retired, and honorary Members. Over the past five years, the number of voluntary memberships has steadily declined, especially in the MLA category. Historically, many employers supported and encouraged MLAs to obtain voluntary memberships with the College as a condition of employment. However, with healthcare restructuring, this practice faded out and as a result, there are only 40 MLAs with a voluntary membership in contrast to the approximated 1,500 MLAs working in the province.

As provided for in legislation, Council must be comprised of MLTs and public members as appointed by the government, and up until 2013, the College provided for an MLA representative on Council. Council recognized the important and direct relationship between MLAs and MLTs and sought MLA input on certain matters. Although the College solicited interest in the MLA position on Council, the role sat vacant for four years and it was at this time Council proposed changes to Bylaws to remove this non-voting MLA position from Council which were ultimately approved by the membership at the 2014 Annual General Meeting.

In light of the lack of MLA desire to maintain membership with the College and Council's commitment to a regulatory-only focus, Council decided to archive the voluntary membership category.

Other precipitating factors to archive the voluntary membership category include:

- Voluntary membership does not align with the mandated programs and services which must be offered by the College pursuant to the *Health Professions Act*.
- The ongoing lack of support of government to recognize the importance of MLAs and to regulate this group of professionals. Without MLA regulation, the College does not have legal jurisdiction over the practice and professional conduct of MLAs.
- The steady decline of individuals seeking a voluntary College membership highlighted the waning interest of non-regulated medical laboratory professions to maintain an affiliation with the organization.

- The CSMLS is the professional association for medical laboratory professionals and as such; offers a multitude of voluntary memberships such as non-practicing MLT, MLA, associate, certified retired, honorary, etc.

The archival of voluntary memberships does not diminish the important roles medical laboratory professionals other than practicing MLTs play in the healthcare continuum. Council acknowledges the contributions of all laboratory practitioners, but has chosen to allocate all revenues collected under the premise of self-regulation to be dedicated strictly to regulatory programs and services.

2016 DUES NOTICE

September 15-October 31: \$520 (early bird discount)

November 1-30: \$570 (regular dues)

December 1-31: \$695 (regular dues plus processing fees)

PROFESSIONAL PRACTICE PERSPECTIVES

Good Character and Reputation – The Registrar Knows Best! - Submitted by Chelsey Bailey, Partner, Field Law

Lum v. Alberta Dental Association and College (Review Panel), 2015 ABQB 12 is the first case in Alberta to determine the legal standard of review that applies to registration reviews by a Council. The Court held that the reasonableness standard generally applies when a College's Council reviews registration decisions. This means that the Council is to show deference and not interfere with registration decisions that are "reasonable", i.e. that are defensible and fall within the range of possible acceptable outcomes. The Court held the same standard applies if the Council's decision is further reviewed by the Court. The case will be important in protecting registration decisions provided those decisions are not "unreasonable". Jim Casey, QC and Chelsey Bailey of Field Law acted for the ADA+C.

The Alberta *Health Professions Act* requires applicants seeking registration with a College to provide evidence of good character and reputation, if the

profession-specific regulations require it. The *Dentists Profession Regulation* requires applicants seeking registration with the Alberta Dental Association + College (“ADA+C”) to provide evidence of good character and reputation. This can include reference letters and information about prior discipline and ongoing unprofessional conduct processes in other jurisdictions.

Dr. Lum was a member of the College of Dental Surgeons of British Columbia (“CDSBC”) when he applied for registration with the ADA+C. He submitted letters of reference and a consent for the ADA+C to obtain his discipline records from the CDSBC. The ADA+C obtained a report from the CDSBC confirming 22 complaints against Dr. Lum over a ten year period. Two of the complaints remained unresolved while the balance had been resolved informally or dismissed.

The ADA+C’s Registrar was concerned about the nature and the number of complaints. The Registrar concluded Dr. Lum had failed to provide satisfactory evidence of good character and reputation and denied his application. Dr. Lum sought a review by the ADA+C’s Review Panel, which is the Council’s delegate for registration reviews. The Review Panel applied the reasonableness standard of review and concluded the Registrar’s decision had been reasonable.

Dr. Lum then applied to the Court for judicial review. Dr. Lum argued that the Review Panel should have reviewed the Registrar’s decision to see whether it was correct, not just reasonable. Dr. Lum said it was not correct. Dr. Lum also argued that the Court should review the Review Panel’s decision to see whether it was correct. Dr. Lum said it was not correct either. Dr. Lum argued the review Panel had incorrectly assessed the evidence of his good character and reputation and that the Review Panel was incorrect in its application of the Trade, Investment and Labour Mobility Agreement (“TILMA”) between British Columbia and Alberta. Dr. Lum said it was not up to him to prove his good character and reputation. He argued the TILMA required the ADA+C to prove Dr. Lum did not have good character and reputation before his registration application could be denied.

The Court held that questions of good character and reputation are questions of mixed fact and law

reviewable on the reasonableness standard. The Court concluded that the reasonableness standard of review applies when the Review Panel reviews the Registrar's decisions. The Court also held that reasonableness applies where the Court reviews decisions of the Review Panel. The case is therefore important in protecting registration decisions from Council and Court interference, provided those decisions are "reasonable".

Lastly, the Court held that the interpretation of TILMA was an important general question of law that goes beyond the interpretation of the Review Panel's home statute and has implications for all professions and trades in Alberta so the correctness standard of review applies to it.

Applying these standards of review, the Court held that the Review Panel's decision upholding the Registrar's refusal to register Dr. Lum was reasonable. The decision displayed the necessary details, transparency and justification. The Court was not prepared to find the refusal to register Dr. Lum to be unreasonable even though he had never been found to have committed unprofessional conduct in BC.

As for TILMA, the Court held the Review Panel was correct in its analysis. Despite TILMA and labour mobility, regulatory bodies still need to consider public safety and consumer protection. The Court held that a primary responsibility of regulators is to ensure minimal qualifications for practicing professionals to protect the public. The Court said, in part, "Authorities that act as a rubber stamp have little credibility, and do not instill confidence that they have actually fulfilled an important role. Authorities that actively investigate and determine each matter on its own merits earn and enjoy a credible reputation." So regulators faced with applications under TILMA (or the Agreement on Internal Trade) can conduct their own assessments of good character and reputation and make their own decisions but the Court rejected the suggestion that the Registrar should have to prove Dr. Lum's lack of good character. It is up to the applicant to establish good character. The Court said it would be an error for a Registrar not to conduct his or her own evaluation and to rely on an evaluation done by another jurisdiction to determine good character and reputation.

Dr. Lum has filed a Notice of Appeal seeking to appeal the dismissal of his judicial review application to the Alberta Court of Appeal. Dr. Lum also has a pending complaint under the TILMA Dispute Resolution Provisions. Field Law will continue to be involved in this precedent setting case. A full copy of the decision is available [here](#).

Tips for Regulators:

- Registration decisions should apply the requirements in the governing legislation and decisions that refuse, or grant conditional registrations must be supported by good written reasons.
- Regulators who receive applications under TILMA or the Agreement on Internal Trade should conduct their own assessments of good character and reputation as required by their governing legislation.
- Regulators who are concerned that an applicant has not demonstrated the necessary good character and reputation may be able to deny registration, but there should be strong evidence of a lack of good character or reputation before doing so.
- Provided these registration decisions are reasonable, College Councils and Courts will not be able to interfere.

MAKING TIME FOR PROFESSIONAL DEVELOPMENT

By Michele Perry, MLT
Manager, Learning Services
Canadian Society for Medical Laboratory Science

We all know that professional development is important and necessary. For most of us we need it to maintain a licence or it's a requirement from our employer. Our lives are busy and finding time for PD is becoming an increasing challenge. If we can't find the time then we will just have to find a way to make it. Here are five ways to help make time for professional development.

1. Set attainable and specific goals: What professional development goals would you like to achieve? Is there a new position coming up

in your workplace? Would you like to complete a CSMLS Knowledge Certificate? A Certificate of Continuing Professional Studies (CPS)?

Complete the CSMLS Professional Enhancement Program (PEP)? Does your provincial regulatory body require you to complete a specified amount of continuing education? Make a list of goals and set a realistic time line to reach them. Make sure your goals are both short and long term.

2. Find a topic that interests you: It will be easier to find time for professional development if it is a topic that you are interested in. You will be engaged, involved and look forward to learning more about it. Don't be afraid to get out of your comfort zone. Have you been working in the hematology lab all of your life but are interested in knowing more about a particular chemistry topic? Challenge yourself. You may not find a new topic easy to understand but it will be rewarding when you do finally figure it out. Many kinds of learning opportunities exist. Informal learning can include reading laboratory related journals, magazines and online publications. For a more formal approach, take a course. Plenty of free courses are included with your CSMLS membership. Learn a new language or skill. Check out your local college as they often have learning opportunities that may only take a weekend. Use your professional membership for volunteer opportunities, free courses and seminars, and access to conferences and meetings.
3. Create a learning plan: Choose courses or education that will meet your specific goals. Sit down with a calendar (use your smart phone or your computer) and design a way to achieve them. There are many templates available to you online. Be realistic when planning as it is impossible to complete a year's worth of PD in one weekend. Start small by making a plan for 6 months or one year. Once you start achieving your goals you will be more likely to set more for the long term.
4. Block time: Make a "learning appointment". There will never be enough hours in the day for us to accomplish all the things we need to

do. You have to make it happen. Make your appointment as distraction free as possible. Don't answer the phone, reply to emails or watch TV. Make sure your family and friends are aware of your study time and you won't be available. If something unplanned cuts into your study time, make up for it as soon as possible.

5. Find hidden professional development opportunities: You may be learning and not even realize it. Volunteer to be on a committee. CSMLS, provincial societies and regulatory bodies all provide volunteer opportunities. These opportunities will open doors for further professional development. Volunteering will offer new, exciting and challenging opportunities. You will meet new people, create new professional relationships and help your profession grow. Remember, you don't have to sit in a classroom to learn.

CSMLS offers 3 exciting ways to set goals for professional development:

Knowledge Certificates:

- Offered in three skill levels, Refresher, Basic and Advanced.
- Complete a group of specified courses to obtain a certificate.

Professional Enhancement Program (PEP):

- Recognize your professional development activities
- Requires 60 hours of professional development over a consecutive two year period.

Continuing Professional Studies (CPS):

- Formal recognition of advanced knowledge and skills gained after initial certification.
- General and specialty options available.

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NEW – RECOGNITION OF EXCELLENCE

Don't work for recognition, but do work worthy of recognition. - H. Jackson Brown, Jr.

College Council reviewed the CMLTA's award programs in an effort to better align all programs and services with its regulatory-only mandate. As a result, Council archived the Award of Distinction and Award of Merit; however, there was consensus that acknowledgement of outstanding Medical Laboratory Technologists (MLTs) is essential. With this in mind, Council created the Recognition of Excellence. This new program provides peer recognition of MLTs who epitomize professional practice; who advance the profession; and who demonstrate to others the College's core values of integrity, accountability, commitment, respect, objectivity, sustainability, openness, and innovation. The foundation for the Recognition of Excellence is the vision, mission, and regulatory role of the College.

To view the Recognition of Excellence parameters or to nominate a deserving MLT, please click [here](#).

The College of Medical Laboratory Technologists of Alberta (CMLTA) is a recognized leader in the regulation and governance of medical laboratory services. As a trusted partner in healthcare regulation, the CMLTA acknowledges self-regulation is a privilege and endeavors to enhance public protection and patient safety, promote high standards for professional practice, and contribute to the overall wellness of Albertans. The CMLTA protects the public by regulating Medical Laboratory Technologists (MLTs) and fostering excellence in professional practice.

The Commentator e-newsletter is the CMLTA's primary communication vehicle and is distributed February, May, and October. It provides MLTs and the public with current and timely information about CMLTA programs, services, and topics relevant to MLTs and which may have an impact on the healthcare continuum.

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