

THE COMMENTATOR



Volume 5, Issue 1 - February 2016

COUNCIL'S CHRONICLES

FROM THE PRESIDENT'S PEN

Hello fellow CMLTA Regulated Members. I would like to begin by introducing myself. My name is April Hillman and I am your Council President for 2016. I graduated from the U of A in 2005 with a BSc in Medical Laboratory Science. My first job as an MLT was in Cold Lake, followed by the U of A Hospital, and Northwestern Memorial in Chicago. I have been with Calgary Lab Services at Foothills Hospital in Calgary since 2006.

It is customary for the President to pen an article for each issue of *The Commentator* and I wanted to share with you why I got involved with the CMLTA. So exactly why did I volunteer? Simple really - I was tired of listening to myself whine and complain about registration dues, feeling like the CMLTA was an adversary and roadblock between myself and MLT employment, and grumbling about having to submit my annual Learning Plan each year before I knew what continuing education opportunities might surface in the upcoming year.

I had reached a point where I needed to appreciate how a regulatory body operates and to understand the rationale in the decisions made by the CMLTA Council for my own personal satisfaction, and to then pass on this to my colleagues.

When I initially completed the volunteer form and submitted it to the CMLTA, I wanted to know how our annual registration dues were determined. I believe I found out the answer at my very first meeting. If the CMLTA was not self-sustaining and could not provide the mandated programs and services as outlined in the *Health Professions Act*, we (meaning myself and

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DEADLINE: December 31, 2016

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all other MLTs) could lose the privilege of self-regulation. If this occurred, an individual appointed by the government would direct the future of the CMLTA and most likely, this individual would not be an MLT or have an understanding of the profession.

When the CMLTA was created from the former society (ASMLT) in 2002, there was not a significant amount of money in the bank, and the organization actually ran a deficit and had to spend funds collected in advance of the new calendar year to subsidize initiatives from the current year. In an effort to ease the transition and financial strain on Regulated Members, Councils chose not to increase annual registration dues each year to keep stride with operational increases. This occurred for several years until the financial burden on the CMLTA heightened to the point where the organization had no choice but to increase annual dues to cover essential operational expenses. Regulated Members should be proud to know that the CMLTA is now in a secure financial position which has resulted in annual registration dues being decreased for 2016 and holding steady for 2017. And – fingers crossed – dues will remain at this level for a number of years. Most importantly our dues have been used responsibly to build a secure financial future for the CMLTA; ensuring our ability to self-regulate.

In retrospect, I didn't need to volunteer with the CMLTA to learn why I had to submit my Learning Plan in advance of a new year – it is clearly written in the legislation for anyone to read. The *Medical Laboratory Technologists Profession Regulation 12.2 (b)* states *a written learning plan that sets out the continuing competence goals of the regulated member for the next registration year and the continuing competence activities to be undertaken by the regulated member during that year to achieve the continuing competence goals.* I've come to appreciate the personal ownership I must take of my continuing education regardless of the mandatory requirements set out in legislation. When I sit down in September or October to complete my online annual MLT Practice Permit renewal, I need to think about what I need to learn to be a better MLT and to enhance my overall competence in the workplace, and not simply what professional development

opportunities might be offered by my employer. I have a choice and an active role in my continuing education – not a passive one. Do I want to learn something that will assist me in my current position or do I want to advance my knowledge in another area that may just help me move into another role I have been considering? The point is I get to decide and the CMLTA is not directing what I need to learn or the style of learning activity I am best suited for. I am proud to be in a profession that values continuing education and I am happy to actively pursue learning with personal satisfaction and accomplishment as the driver.

I have also had the opportunity to meet many dedicated individuals in my volunteer experience with the CMLTA. Our Public Members, as appointed by the Minister of Health, have been inspiring in their interest in our profession, their selflessness to volunteer and contribute, and in their commitment to patient safety and public protection. I welcome their point of view as although it is from another professional's perspective since they are not MLTs, it is consistently insightful and valuable. The CMLTA staff are highly competent, efficient, and organized and I have heard firsthand compliments of this nature from other professions. By getting to know the CMLTA Council and staff, I have come to appreciate the mandate of self-regulation and I have a better understanding of the CMLTA and its role in patient safety and public protection.

I recognize that the CMLTA is not an opponent, but rather they are a champion for patient safety and public protection – which also includes protection all MLTs. The CMLTA ensures that we are formally and consistently assessed for initial registration, that we maintain competency in the workplace, and that we develop our profession with the interests of patient safety being paramount. This mandate is a delicate balance that the CMLTA Council and staff must always keep in mind while interacting with our Regulated Members and the public at large.

The true definition of volunteering is to contribute without the expectation of personal gain or benefit, but in my experience this has not been the case. I volunteered for the CMLTA Council simply to

understand, but in my time on Council, I have gained knowledge and a network of new colleagues. It is an eye-opening and rewarding experience I encourage you to take part in as volunteers are vital for self-regulation to endure.

– April Hillman, 2016 CMLTA President

MEETING HIGHLIGHTS

The CMLTA Council convened on November 21, 2015 for a regularly scheduled Council meeting. The following are highlights from the meeting:

- Approved new Strategic Plan for 2015 – 2018.
- Approved the 2016 CMLTA meeting schedule.
- Approved 2016 budget, including 2017 annual registration and MLT Practice Permit dues to remain unchanged at \$570.
- Approved the 2015 AGM minutes for distribution and membership approval at the 2016 AGM.
- Approved appointment of Karen Matejka to 2016 President Elect and Christine Choma (three year term) and Gloria Paulet (one year term) to Councilor positions effective January 1, 2016.
- Approved the appointment of Myron Pilip and Jodi Luckwell to three year terms on the Legislation Sub-Committee beginning January 1, 2016.
- Approved a new Risk Management Plan.
- Approved a new [Value Proposition Statement for CMLTA Volunteers](#).
- Conducted the annual Executive Director/Registrar/Complaints Director performance review.

UPDATING BYLAWS

As a consultant, I work extensively with Alberta's regulatory healthcare Colleges on matters related to governance. One service area which has recently kept me busy is assisting Colleges in updating and amending their Bylaws to ensure that they are current, enforceable, and consistent with effective governance practices. When Alberta's regulatory healthcare Colleges were formed following passage of the *Health Professions Act* (HPA) in 1999, their Bylaws were often based on the Bylaws of the associations that were their predecessors.

Ensuring that a regulatory College has Bylaws that are appropriate to a health regulator should be a governance priority for any College. Arising from CMLTA's strategic planning session in October, 2015, your Council has committed to completing a review of the CMLTA's Bylaws in 2016. In this article, I would like to share with you some thoughts on what Regulated Members should expect from your Bylaws.

The Role of Bylaws

It is important to understand what Bylaws are, and what they are not. Bylaws are the rules of operation for an organization's governing body. These operational rules play a pivotal role in how the governing body is structured, how it makes business decisions, and how it sets the direction for the entity as a whole.

The CMLTA is regulated by a hierarchy of guiding documents. At the top is the HPA and the *Medical Laboratory Technologists Profession Regulation* passed by the province of Alberta. The former defines the mandate of a College and sets out the requirements for College functions, and the latter outlines specific requirements for Medical Laboratory Technologists.

Below the Provincial legislation is the College's Bylaws which should set guidelines for key areas of College governance and operations. While there are no limitations, within reason, on the content of a College's Bylaws, they should contain, at minimum:

1. The object or purpose of the College;
2. The process for electing or appointing the College's Councillors, Executive, and Officers;
3. The powers and obligations of Councillors, Member of the Executive and Officers;
4. Categories and guidelines for Membership;
5. Core governance and operational practices which must be followed; and
6. The process for Bylaw amendments.

A College's Bylaws should be brief, clear, enforceable, accessible to Regulated Members, and always adhered to.

Below the Bylaws are a College's policies, which

guide Council procedures, administrative practices, and decision making. This is a hierarchy because the College's Bylaws cannot, in any way, contradict or circumvent Provincial legislation, and the College's policies can not contradict or circumvent the Bylaws.

Common Pitfalls and Leading Practices

As I have reviewed the Bylaws of many regulatory organizations, I have identified some common pitfalls that CMLTA should be mindful of when completing its Bylaw review.

- **Including content contained in the HPA or other legislation.** It is unnecessary to quote or repeat content verbatim from the HPA or other legislation. Provincial legislation always takes precedence. Quoting or citing legislation creates the possibility that Bylaws will have to be amended following changes to legislation, and it makes the Bylaws unnecessarily lengthy.
- **Including too much detail, especially detail that could be covered under policy.** Ideally, Bylaws are kept brief. Since these documents are legal and binding, a governing body can find itself significantly restricted by Bylaws that are too rigid. Often, it is sufficient to say that a College's Council must establish policy in specific areas, without placing too much detail in the Bylaws themselves. For example, Bylaws may state that Council must establish a policy outlining governing procedures for Council meetings. It is not necessary to state all of the procedures within the Bylaws themselves. Unlike Bylaws, policies can be readily amended and as required.
- **Defining powers for the College or the Council which already exist.** Colleges have *Natural Person Powers*, which means they have broad authority to act as any individual or legal entity would act. You do not have to state, for example, that a College has the power to collect outstanding debt. All legal entities have the right to collect outstanding debt. A College may choose to pass policies on how bad debt shall be collected, but a Bylaw isn't required to empower the activity. I have seen organizations establish the power in Bylaws to maintain a website, hire staff, or rent office space - powers of this type exist with or without Bylaws.

- **Over-empowering the Members.** This one is often controversial among Members, and goes back to the days when Colleges were established from predecessor associations, such as the Alberta Society of Medical Laboratory Technologists (ASMLT). The fact is that the College is your regulator and makes you a Regulated Member and not simply a Member. It is in part the terminology that creates an issue as Members of an association collectively control the organization, whereas Regulated Members or Regulated Practitioners of a College have their powers and authority established in provincial legislation with a primary mandate of public protection and patient safety. Some Colleges have retained, in Bylaws, the power for Regulated Members to inappropriately direct the operations of the organization.

A troubling example of over-empowering Regulated Members that I have seen in many Colleges is the power, established in Bylaws, for Regulated Members to put forward resolutions at a meeting or at an AGM that are voted on by other Regulated Members and which are ultimately binding on the Council or the College. Council, as established under the HPA, must be the profession's governing body. Self-regulation means that Regulated Members elect the majority of their Councillors and that, once elected, Council acts in the best interests of public protection, protection of the integrity of the profession and the College. While Regulated Members are an important stakeholder, the College does not exist to act in the best interest of Regulated Members. Direct, participatory Member-control is an association model of governance – and not a particularly effective one.

Role of Regulated Members in Bylaw Amendments

Some individuals believe that control over Bylaw amendments should reside with the Regulated Members of the College. It is believed that retaining final approval for Bylaw amendments keeps control or power with the Regulated Members in regard to any Bylaw changes that could adversely impact the Regulated Member. As a governance leading practice, this is not the case.

If a College is operating within its mandate, and has well developed Bylaws, the Bylaws should not do anything more than reflect the power of the College to regulate in accordance with Provincial legislation. The details relating to how this is done, and how decision-making which impacts Regulated Members occurs, should actually exist within policy. If your Bylaws contain significant details about the power of the College to regulate the activities of its Regulated Members, I would suggest that the Bylaws are either unnecessarily repeating the content of Legislation, or are needlessly stating details that should be in policies. If your Bylaws are written at an appropriate level of content and detail, Bylaw amendments should be infrequent, and should have little to no impact on the Regulated Members of the College. As a result, many healthcare regulatory Colleges now place the power to amend Bylaws with Council. In these Colleges, the Bylaws state that Council has a duty to consult with Regulated Members in regard to potential Bylaw amendments, but the ultimate approval for amendments rests with Council.

Final Comments

If the focus of the Regulated Member is on the Bylaws, the focus is at the wrong level. It is Council and the College's governing structures that ultimately have the authority to govern the profession, and it is the policies of the College that should define how regulation is accomplished. So, where is the power of the Regulated Member? It is in your role as volunteers and as active participants in the profession. You have the opportunity to volunteer on governance committees or to be nominated by your peers to serve as Councillors. You also have the power to vote in elections for the Councillors who represent you.

*Russell Farmer, President
Russell Farmer and Associates Consulting Ltd.*

NOMINATIONS

Council is currently accepting expressions of interest for the following vacant positions:

- 2017 - 2019 President Elect

- 2017 - 2019 Councilor
- 2016 - 2018 Legislation Sub-Committee Member (1 vacancy available immediately)
- 2017 - 2019 Legislation Sub-Committee Member (2 vacancies)

If you are interested, please contact Lori Kmet at registrar@cmlta.org.

EXECUTIVE DIRECTOR'S EXCHANGE

When thinking about an article for this issue of *The Commentator*, I originally thought it is a New Year so let's begin on a positive note with an uplifting and inspiring topic, but then I read an article in the Edmonton Journal on a health worker's breach of confidentiality, and later that same day received a complaint regarding allegations of a Regulated Member breaching confidentiality through the inappropriate access of their personal medical information and that of their family members.

The Edmonton Journal article cited the former administrative assistant at Alberta Children's Hospital was charged recently with 26 counts under the province's *Health Information Act* after an investigation by the Office of the Information and Privacy Commissioner (OIPC).

The province's health authority has said a regular audit of a patient database in April 2014 red-flagged what appeared to be inappropriate access to private information. After conducting an internal investigation, Alberta Health Services (AHS) notified the privacy commissioner of the breach in mid-June of that year. But the worker continued to poke around in the database for another two months, AHS officials said. The health authority initially said the employee had looked through the records for 14 months, but subsequent figures suggest the problem continued for much longer — 20 months — before it was halted. AHS officials said the worker was fired for the breach. The database contained patient histories, dates of birth, names of relatives, and contact information. The maximum penalty for each offence is \$50,000.

It is still shocking, in light of the prevalence of the *Health Information Act* and confidentiality breaches in the news in a number of unrelated professions, that individuals continue to foray into this taboo arena and access the medical records, including laboratory test results, of themselves, family members, friends, and colleagues. I cannot stress strongly enough that individuals must resist the temptation to treat Netcare/EHR as a Google search tool with or without any malicious intent as the end result is the same.

Since 2011, the CMLTA has had six complaints of unprofessional conduct related to Regulated Members deliberately breaching patient confidentiality and privacy with the unauthorized and inappropriate access of patient records. In each of these complaints, the Hearing Tribunal found the Regulated Member guilty of unprofessional conduct and ordered the payment of fines, proceeding costs, and the completion of coursework at the individual's personal expense. For lack of a better phrase, convictions on complaints of this nature are "a slam dunk" as IT audit logs present indisputable evidence of an individual's electronic activities and which information accesses were essential in the performance of their job and the reporting of accurate laboratory test results and which activities were not.

The OIPC penned [an article for the October 2013 issue of this newsletter](#) which heeds reprinting and perhaps posting in the workplace as a constant reminder that the unauthorized access of medical information can result in a multitude of consequences: OIPC investigations, CMLTA investigations and Hearing Tribunals, criminal charges, civil charges, and ultimately termination of employment.

I would be a very happy and fortunate Complaints Director if a complaint of this nature never crossed my desk again during my tenure with the CMLTA.

September 15-October 31, 2016: \$520 (early bird discount)

November 1-30, 2016: \$570 (regular dues)

December 1-31, 2016: \$695 (regular dues plus processing fees)

COMPETENCE AND PROFESSIONAL DEVELOPMENT DIALOGUE

Supporting Documentation and Confidentiality

A fundamental component of the Continuing Competence Program (CCP) is the recording of learning activities on the CCP Activity Log. Most commonly requested on the CCP Activity Log are: date(s), hour(s), title, and topic. In a few learning activity categories, the CMLTA requests a supporting document to be attached. Examples of such supporting documentation are a certificate of attendance at a professional event or a transcript from a formal course. Due to the sensitive or confidential nature of the content, the CMLTA does not request supporting documents such as:

- Standard Operating Procedures (SOP)
- Sign-off sheets
- Copies of course material
- Copyright or confidential documents

The online CCP Activity Log requests the data elements as listed on the [Documentation Guidelines for Learning Activities](#).

GREY AREAS

[A Commentary on Legal Issues Affecting Professional Regulation](#)

CCP COMPLIANCE AUDIT NOTICE

CCP Compliance Audit notices were emailed and mailed January 15, 2016. Please ensure your contact information with the CMLTA is up to date.

NEW: STANDARDS OF PRACTICE, CODE OF ETHICS, VOLUNTEER VALUE PROPOSITION STATEMENT

- Effective January 1, 2016, the CMLTA has revised its [Standards of Practice and Code of Ethics](#). As the Standards of Practice and Code of Ethics will be incorporated into the new Continuing Competence Program effective for the 2017 MLT Practice Permit renewal season and may form the basis for a complaint of unprofessional conduct, it is recommended that all Regulated Members familiarize themselves with these documents.
- Council has approved a [Volunteer Value Proposition Statement](#).

RECOGNITION OF EXCELLENCE

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

Council has created the Recognition of Excellence program which provides peer recognition of MLTs who epitomize professional practice; who advance the profession; and who demonstrate to others the CMLTA'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 CMLTA.

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

CSMLS PLI COVERAGE

The CSMLS is pleased to offer a new service to practicing MLTs who may need assessment of competencies outside their original certification to attain Professional Liability Insurance (PLI) coverage for current position. This service only applies to specific competencies under Diagnostic Cytology and General Medical Laboratory Technology. For more

information, [download the PDF](#).

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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All regulated Members are responsible for receiving The Commentator and being aware of its contents.

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