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## CONDUCT DESERVING A SANCTION

As part of its self-regulating role, the Newfoundland and Labrador College of Medical Laboratory Science sets the standards of practice to which Medical Laboratory Technologists must adhere in order to provide the public with safe, effective and ethical care. Professional misconduct is an act or omission that is in breach of these accepted ethical and professional standards of conduct and will not be tolerated.

Conduct Deserving of Sanction: Section 34 (c) of the Health Professions Act determines conduct deserving of sanction as:

- i) professional misconduct
- ii) unprofessional conduct,
- iii) professional incompetence,
- iv) conduct unbecoming a health professional,
- v) incapacity or unfitness to practice as a health professional, and
- vi) acting in breach of this Act, the regulations or the by-laws

## Professional Misconduct

Professional misconduct is conduct by a Medical Laboratory Technologist while directly engaged in the practice of medical technology; acts that constitute a breach or abuse of the professional/patient relationship are considered professional misconduct, as is conduct that demonstrates a lack of integrity. In other words, conduct that is harmful in any way, or that undermines or detracts from the professional caring relationship with and for the patient and is not consistent with expected professional standards. Examples of professional misconduct include, but are not limited to, the following:

- Performing tasks outside the Scope of Practice, for example knowingly performing a task that is detrimental to a patient
- Failure to comply with informed consent policies and/or refusal of treatment
- Divulging confidential information of a patient or family without disclosure
- Failure to follow prescribed policies related to security and disclosure whether oral, written, by telephone, or electronic transfer of patient information
- Forging documents relating to the care of patients



- Falsifying a record, signing or issuing a false document
- Making a false or misleading statement, fraud or fraudulent practice is conduct intended to deceive.
- Selling used medical equipment without the client's knowledge
- Knowingly participating in the potential spread of a communicable disease
- Knowingly performing diagnostic tests or evaluations other than those permitted under approved protocols
- Reporting for work while under the influence of alcohol, drugs, or illegal substances resulting in impairment.
- Theft of controlled substances
- Failure to renew license as required / working without a license.
- Failure to provide notification to licensing body of termination or suspension of employment for cause.
- Failure to provide notification of change of employer.
- Failure to operate equipment in an acceptable manner, as determined by CSA standards and/or manufacturers recommendations. Or recognizing that previously mentioned standards or recommendations would put the safety of the patient at risk.
- Failure to report abuse or concerns for public safety such as illegal or unethical acts as described in College Policies.
- Altering quality controls to indicate that equipment is operating within acceptable range.
- Falsifying data, either patient or equipment.
- License denied or revoked in another jurisdiction.
- Failure to provide certificate of conduct and vulnerable sector check as requested.
- Providing false information on registration application form
- Performing new techniques or procedures without proper education and training



- Failing to take appropriate action or to follow policies and procedures in the practice situation designated to safeguard the patient
- Abandoning, neglecting, or otherwise physically or emotionally abusing a patient
- Intentionally or negligently causing physical or emotional injury to a patient
- Failing to safeguard the patient's dignity and right to privacy in providing services
- Violating the confidentiality of information or knowledge concerning the patient Inaccurate recording, falsifying or altering a patient or health care provider record
- Exercising undue influence on a patient, which includes the promotion or sale of services, goods, appliances or drugs, in such a manner as to exploit the patient for financial gain of the Medical Laboratory Practitioner or of a third party
- Practicing Medical Laboratory Technology when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological, or mental impediment
- Practicing Medical Laboratory Technology when physical or mental ability to practice is impaired by alcohol or drugs including, but not limited to, prescription and non-prescription drugs and alcohol
- Possessing, obtaining, furnishing or administering prescription drugs to any person, including oneself, except as directed by a person authorized by law to prescribe drugs
- Allowing another person to use one's Medical Laboratory Registration or authorization for practice for any person
- Impersonating another licensed Medical Laboratory Technologist; or Impersonating any applicant, misrepresenting a licensee, or acting as proxy for the applicant, in any Medical Laboratory licensure examination.
- The Inability to actually or potentially render care with reasonable skill and safety as a result of an illness – either mental or physical.
- Contravening a term, condition or limitation imposed on the member's certificate of registration.



- Providing therapy to a patient or client for a therapeutic, preventative, palliative, diagnostic, or health-related purpose in a situation in which consent is required by law and which consent was not obtained.
- Recommending, providing, or selling medical equipment and medical gases for an improper use.
- Discontinuing the provision of professional services without reasonable cause unless the patient/ client requests this action, and it has been confirmed that alternative services have been arranged
- Failure or refusal to comply with the requirements of the continuing competence program or with the CAC committee, or with a person conducting a practice visit  
failure or refusal
  - to comply with an agreement that is part of a ratified settlement
  - to comply with a request of or cooperate with an investigator
  - to undergo an examination to assess capacity to practice
  - to comply with a notice to attend or a notice to produce
- Failure to treat due to feelings of prejudice, personal or political views
- Falsely holding oneself out to be a physician, a nurse, or other type of healthcare practitioners
- Failure to fulfill the terms of an agreement for professional services
- Submitting an account or charge for services that the member knows is false or misleading
- Any abusive conduct toward a client, verbally, physically or emotionally making racially degrading remarks toward or about an individual or a group of individuals

## Unprofessional Conduct

Unprofessional conduct is defined as conduct that is contrary to the accepted code of conduct of a profession. This includes conduct by a Medical Laboratory Technologist while directly or indirectly engaged in the practice of Medical Laboratory Technology.

Examples of unprofessional conduct include, but are not limited to the following:

- conduct/behavior resulting from \*impairment, a conviction under the Criminal Code of Canada
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- Accepting sick pay from one facility (or Workplace Safety and Insurance Benefits) while working at another facility
- Falsifying a time sheet or pay card
- Failing to maintain the acceptable boundaries of a relationship with a client falsifying research data
- Accepting inappropriate gifts or borrowing money from clients
- Misrepresenting and enhancing credentials

## **Professional Incompetence**

Display by a member of a lack of knowledge, skill or judgment or disregard for the welfare of a member of the public to an extent that demonstrates that the member is unfit to continue in the practice of Medical Laboratory Technology or provide one or more services ordinarily provided as part of the practice of Medical Laboratory Technology.

Professional incompetence is a serious matter as it questions whether the member's conduct demonstrates that he or she is unfit to continue in some or all of the practice of the profession.

Examples include but are not limited to:

- Failure to maintain professional competency requirements,
- Failure to seek consultation and supervision when appropriate
- Acts of negligence
- Engaging in practice outside of one's knowledge or skill level.

## **Conduct Unbecoming a Health Professional**

Conduct by Medical Laboratory Technologist outside of the practice of Medical Laboratory Technology, such that it harms the standing of the profession in the eyes of the public and is contrary to the interests of the public served by the profession. Conduct unbecoming a health professional includes

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behaviors that are contrary to the College Code of Ethics and Standards of Practice. Examples include but are not limited to:

- a conviction under the Criminal Code of Canada
- Assault — sexual, aggravated or otherwise
- Attempted murder or murder
- Theft
- Trafficking of illicit drugs
- and conspiring to commit any of the above.

## **Incapacity or Unfitness to Practise as a Health Professional**

A medical laboratory technologist who is impaired\*, such that he/she is unable or unfit to carry out his or her professional responsibilities. Including the inability to actually or potentially render care with reasonable skill and safety as a result of an illness, either mental or physical.

\*Impaired or Impairment: A condition or circumstance which compromises professional judgment and work effectiveness. Impairment is often a result of complex stressors related to, emotional health, mental health, personal relationships, family relationships, physical health, financial difficulties, legal difficulties, substance abuse, employment stressors or burnout. (Reamer, F. (2009). *The social work ethics casebook: Cases and commentary*. P. 87-88, 121-122. Washington, D.C., NASW Press).

## **Acting in breach of this Act, the regulations or the by-laws**

Acting in breach of the Health Professions Act, the Medical Laboratory Technologists Regulations or the by-laws; is considered Conduct deserving of Sanction.

Conduct by a medical technologist that is in breach of the Health Professions Act, the regulations or the by-laws of the NLCHP, including the Code of Ethics which is adopted in the by-laws of the NLCMLS.

Conduct that demonstrates lack of integrity; dishonesty; abuse of power, access and authority; or disregard for the welfare and safety of members of the public, is conduct that cannot be tolerated by a

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health profession. Every type of conduct that may be the subject of professional misconduct discipline proceedings cannot be defined. This is a living document, amendments and elaborations will continually be made to reflect trends and experience.

<http://www.assembly.nl.ca>

<http://www.cno.org>

<http://www.crto.on.ca/pdf/annualrpts/annualrpt0506.pdf>

[http://www.aarc.org/resources/position\\_statements/ethics\\_detailed.html](http://www.aarc.org/resources/position_statements/ethics_detailed.html)

<http://www.health.gov.bc.ca/professional-regulation/hpc/reports/appsresptherapy.htm>

<http://www.maine.gov/pfr/professionallicensing/professions/respiratory/pdf/Rules.pdf>

<http://collegeofparamedics.sk.ca> <http://www.nlasw.ca/> (professional conduct review policy manual)

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