

Medical Laboratory Technology Act

CHAPTER 8 OF THE ACTS OF 2000

as amended by

2008, c. 3, s. 7; 2012, c. 48, s. 33



© 2013 Her Majesty the Queen in right of the Province of Nova Scotia
Published by Authority of the Speaker of the House of Assembly
Halifax

This page is intentionally blank.

CHAPTER 8 OF THE ACTS OF 2000
amended 2008, c. 3, s. 7; 2012, c. 48, s. 33

**An Act Respecting the Practice of
Medical Laboratory Technology**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Interpretation.....	3
Nova Scotia College of Medical Laboratory Technologists	
Continuation of body corporate	4
Objects	5
Powers	6
Annual meetings	7
Board	
Constitution, selection and terms of office	8
Eligibility	9
Regulations.....	10
Secret ballot.....	11
Treatment of ballots	12
Right to contest election.....	13
Vacancies.....	14
End of term of office.....	15
Executive Committee.....	16
Registrar and other officers.....	17
Power to appoint other employees.....	18
Meetings.....	19
Committees.....	20
Chair.....	21
Regulations.....	22
Registration	
Register	23
Entries on Register	24
Registration	25
Credentials Committee.....	26
Defined Register	27
Consequences of conviction of an offence	28
Application for registration.....	29
Change of address	30
Licence fees.....	31
Re-licensing	32
Restrictions on licences.....	33
Publication of annual list.....	34
Restriction	35
Prohibitions	
Offences	36

Offence.....	37
Prohibition	38
Offence.....	39
Prosecutions.....	40
Fines and penalties.....	41
Exemptions from application of Act.....	42
Injunctions	43
Discipline	
Manner of initiation.....	44
Specialized assistance.....	45
Confidentiality	46
Power to investigate other matters.....	47
Powers of disciplinary committee	48
Investigative committee.....	49
Duties and powers of investigation committee.....	50
Further duties and powers.....	51
Appeal.....	52
Further powers of investigation committee.....	53
Hearing committee.....	54
Settlement agreement.....	55
Investigation of non-member.....	56
Purpose and composition of hearing committee.....	57
Powers of hearing committee.....	58
Witnesses and attendance at hearing.....	59
Admissibility of evidence.....	60
Restriction on communications.....	61
Access to expert opinion.....	62
Restriction on public access to hearing.....	63
Right to attend hearing.....	64
Transcripts	65
Powers and duties of hearing committee.....	66
Inadmissibility of evidence in legal proceeding.....	66A
Costs	67
Jurisdiction preserved.....	68
Appeal.....	69
Rights of person whose license is revoked.....	70
General	
Manner of participating in meeting.....	71
Certificate as evidence.....	72
Evidence of registration and licensing.....	73
Service of documents.....	74
Exemption from liability.....	75
Exemption from liability.....	76
Publication of decision.....	77
Transitional provisions.....	78
Regulations	79
Proclamation.....	80

Short title

1 This Act may be cited as the *Medical Laboratory Technology Act*.
2000, c. 8, s. 1.

Interpretation

2 In this Act,
(a) “Board” means the Board of the College;

(b) “College” means the Nova Scotia College of Medical Laboratory Technologists;

(c) “committee” includes a committee of the Board, an investigation committee or a hearing committee, as the context requires;

(d) “complaint” means any complaint, report or allegation in writing and signed by a person regarding the conduct, actions, competence, character, fitness, health or ability of a member of the College, former member of the College, professional corporation or the employees thereof, or any similar complaint, report or allegation initiated by the Registrar or referred pursuant to subsection 50(2);

(e) “Credentials Committee” means the committee appointed by the Board that deals with the registration and licensing of members of the College and applicants for registration and such other matters as provided by the regulations;

(f) “disciplinary committee” means an investigation committee or a hearing committee;

(g) “disciplinary matter” means any matter involving an allegation of professional misconduct, conduct unbecoming a medical laboratory technologist or professional incompetence including incompetence arising out of physical or mental incapacity;

(h) “hearing committee” means a hearing committee appointed pursuant to this Act;

(i) “investigation committee” means an investigation committee appointed pursuant to this Act;

(j) “licence” means a valid and subsisting licence issued pursuant to this Act;

(k) “mediation” means any form of alternative dispute resolution;

(l) “medical laboratory technology” means the collection and handling of laboratory specimens, analysis of specimens and the interpretation of quality-control data to verify the accuracy and precision of test results for use by health-care practitioners in diagnosis, treatment and prevention of disease;

(m) “member of the College” means a person who is registered in the Register and holds a licence;

(n) “prescribed” means prescribed by regulations;

(o) “Register” means the Register of the College kept pursuant to this Act;

(p) “registered” means registered pursuant to this Act;

(q) “Registrar” means the person holding the office of Registrar pursuant to this Act. 2000, c. 8, s. 2.

Interpretation

3 The words “medical laboratory technologist” or any like words or expressions implying a person recognized by law as a medical laboratory technologist in the Province, when used in any regulation, rule, order or by-law made pursuant to an Act of the Legislature enacted or made before, at or after the coming into force of this Act, or when used in any public document, includes a person registered in the Register who holds a licence. 2000, c. 8, s. 3.

NOVA SCOTIA COLLEGE OF
MEDICAL LABORATORY TECHNOLOGISTS

Continuation of body corporate

4 (1) The Nova Scotia Society of Medical Laboratory Technologist, a society incorporated under the *Societies Act*, is hereby continued as a body corporate under the name of the Nova Scotia College of Medical Laboratory Technologists and is composed of its members.

(2) The College has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued. 2000, c. 8, s. 4.

Objects

5 In order that the public interest may be served and protected, the objects of the College are to

- (a) regulate the practice of medical laboratory technology and govern its members in accordance with this Act and the regulations;
- (b) establish, maintain and develop standards of knowledge and skill among its members;
- (c) establish, maintain and develop standards of qualification and practice for the practice of medical laboratory technology;
- (d) establish, maintain and develop standards of professional ethics among its members;
- (e) establish, maintain and develop standards of continuing education for its members;
- (f) establish or assist in establishing continuing education programs for its members; and
- (g) administer this Act and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act. 2000, c. 8, s. 5.

Powers

6 In addition to any other power conferred by this or any other Act, the College may do such things as it considers appropriate to advance the objects of the College and, without limiting the generality of the foregoing, may

- (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;
- (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (c) engage such agents, employees and such professional or other assistance as it, from time to time, deems expedient;
- (d) expend the moneys of the College in the advancement of its objects and the interests of the profession of medical laboratory technology in such manner as it deems expedient;
- (e) establish and maintain such offices and agencies as it deems expedient;
- (f) invest and deal with any moneys and funds of the College that are not immediately required, in such manner as it deems expedient;
- (g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the College;
- (h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as may be deemed expedient;
- (i) secure the repayment of money borrowed, in such manner and upon such terms and conditions as it considers fit and, in particular, by the execution and delivery of mortgages of all or any part of the real or personal property of the College, both present and future;
- (j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i). 2000, c. 8, s. 6.

Annual meetings

- 7 (1)** There shall be an annual meeting of the College at such time and place as is prescribed.
- (2)** An annual report shall be distributed at or before the annual meeting for review by the membership, and shall include a report by an auditor.
- (3)** Auditors shall be recommended by the Board but shall be subject to the approval of the College at the annual meeting.
- (4)** A resolution in writing, in one or more counterparts, signed by two thirds of all members of the College entitled to vote thereon at a meeting of the College is as valid and effective as if duly passed at a meeting of the members of the College. 2000, c. 8, s. 7.

BOARD

Constitution, selection and terms of office

- 8** (1) There shall be a Board consisting of
- (a) seven members of the College elected in the manner provided by this Act; and
 - (b) three persons appointed by the Governor in Council, all of whom are persons who
 - (i) are not members of the College, and
 - (ii) have shown an interest in serving on the Board.

(2) Members of the Board shall be elected or appointed to office for a term of two years.

(3) Notwithstanding subsection (2), the terms of office of members of the Board upon the first election or appointment of members of the Board shall be

- (a) three members of the College elected for a term of one year;
- (b) four members of the College elected for a term of two years; and
- (c) three persons appointed by the Governor in Council, one for a term of one year and two for a term of two years.

(4) Notwithstanding subsections (2) and (3), persons appointed by the Governor in Council hold office until such time as they are re-appointed, or until their successors are appointed, even if such appointment or re-appointment does not occur until after their specified term of office has otherwise expired.

(5) Elections required by this Section shall be held no later than six months after the coming into force of this Act. 2000, c. 8, s. 8.

Eligibility

9 (1) In this Section, “consecutive” means that twelve months or less occurred between the end of one term and the commencement of the next.

(2) Every member of the College in good standing is eligible to be nominated as and vote for a candidate for membership on the Board.

(3) Elected or appointed members of the Board may not be members of the Board for more than three consecutive terms but are eligible for re-election or appointment after an absence from the Board of at least two years. 2000, c. 8, s. 9.

Regulations

10 The Board may make regulations governing elections of members of the Board and, in those regulations, may

- (a) provide for the procedure for the nomination of candidates;
- (b) provide for the appointment or designation of presiding officers for the election;
- (c) prescribe the forms to be used;
- (d) subject to Section 11, prescribe the procedure to be used for the holding of the elections and for determining the persons elected as members of the Board. 2000, c. 8, s. 10.

Secret ballot

11 Members of the Board shall be elected by secret ballot. 2000, c. 8, s. 11.

Treatment of ballots

12 The ballots used at an election shall not be destroyed until all petitions pursuant to Section 13 in respect of the election have been decided and, until that time, the ballots shall be retained by the Registrar together with all other papers in connection with the election. 2000, c. 8, s. 12.

Right to contest election

13 (1) A person may petition the Board against the election of a person to the Board by filing a petition with the Registrar within fifteen days after the election.

(2) The petitioner shall state in the petition the grounds on which the election is disputed.

(3) The petitioner shall serve a copy of the petition upon the person whose election is disputed.

(4) Where a petition is filed with the Registrar pursuant to subsection (1), the Board shall hold an inquiry and, where

- (a) the election is found to be illegal; or
- (b) the person is found not to be eligible to be nominated as a candidate for membership on the Board,

shall order that a new election be held. 2000, c. 8, s. 13.

Vacancies

14 (1) In case of failure in an election to elect the required number of duly qualified members of the Board, the Registrar shall cause an election to be held within sixty days for the purpose of filling the vacancy.

(2) Notwithstanding subsection (1), where a vacancy occurs for any reason within six months before the date of an election of members of the Board, the vacancy shall be filled at such election.

(3) Where a vacancy occurs in the Board as a result of the death or resignation of a member of the Board elected pursuant to clause 8(1)(a) or from any other cause, the remaining members may appoint another member in good standing to fill the vacancy.

(4) Where an election is held pursuant to subsection (1) or an appointment is made pursuant to subsection (3) to fill a vacant Board position, the term of office for the position shall be the remainder of the unexpired term of such position.

(5) The Members of the Board may act notwithstanding a vacancy in the Board. 2000, c. 8, s. 14.

End of term of office

15 An elected member of the Board ceases to hold office where

- (a) the member resigns by notice in writing delivered to the Registrar;
- (b) the member ceases to be a member in good standing of the College, as defined in the regulations; or
- (c) the member is absent from three consecutive meetings of the Board, unless excused by the Board. 2000, c. 8, s. 15.

Executive Committee

16 (1) The Board shall elect annually from its members a Chair, a Vice-chair, a Secretary and a Treasurer who constitute the Executive Committee.

- (2) The Executive Committee
 - (a) may exercise all of the powers; and
 - (b) shall perform all the duties,

of the Board with respect to any matters that the Board may delegate to it or that, in the opinion of the Executive Committee, require immediate attention. 2000, c. 8, s. 16.

Registrar and other officers

17 (1) The Board shall appoint a Registrar who holds office during the pleasure of the Board, at such salary or other remuneration as the Board determines, and who shall perform such duties as may be assigned by the Board from time to time.

(2) The Board may appoint an Acting Registrar who shall exercise the powers and duties of the Registrar in the event of the death or incapacity of the Registrar or the Registrar's absence from the Province. 2000, c. 8, s. 17.

Power to appoint other employees

18 The Board may appoint such other officers, agents or employees at such salary or other remuneration, and for such term of office, as the Board considers necessary to assist it in carrying out its duties pursuant to this Act. 2000, c. 8, s. 18.

Meetings

19 (1) The Board shall meet at least three times in each calendar year.

(2) Where ten per cent of the membership of the College request in writing, whether by petition or otherwise, that a special general meeting be held, the Board shall hold such meeting within fifteen working days of determining that ten per cent of the members have requested such a meeting. 2000, c. 8, s. 19.

Committees

20 The Board may appoint annually such committees consisting of such members and non-members of the College as the Board considers necessary to assist it in carrying out its duties pursuant to this Act. 2000, c. 8, s. 20.

Chair

21 (1) Subject to subsection (2), the Chair shall preside at all meetings of the Board and of the College.

(2) Where the Chair is absent from a meeting, the Vice-chair or, in the Vice-chair's absence, some other member of the Board or of the College, as the case may be, chosen by the members present shall preside at the meeting.

(3) Except in the event of an equal number of votes being given for and against a resolution at any meeting, the Chair or other presiding officer shall not vote. 2000, c. 8, s. 21.

Regulations

22 (1) The Board shall, subject to this Act, govern, control and administer the affairs of the College and, without limiting the generality of the foregoing, may make regulations

(a) providing for the management of the College, including the keeping of the registers to be kept pursuant to this Act;

(b) providing for the holding of meetings of the College or the Board, setting the quorum for such meetings and regulating the conduct of such meetings;

(c) fixing the time and place for regular meetings of the Board, determining by whom meetings may be called, providing for emergency meetings and regulating the notice required in respect of meetings;

(d) providing for the appointment of such committees as the Board deems expedient;

(e) respecting the composition, powers and duties of such committees as may be appointed by the Board, and providing for the holding and conduct of meetings of such committees;

(f) respecting the powers, duties and qualifications of the Registrar and the officers, agents and employees of the College;

(g) prescribing fees payable pursuant to this Act by applicants and members of the College and, where the Board deems advisable, designating different classes of applicants and members and prescribing different fees for different classes;

(h) prescribing the fees and allowances of members of the Board and committees and providing for the payment of necessary expenses of the Board and committees;

(i) prescribing the seal of the College;

(j) providing for the execution of documents by the College;

(k) prescribing examinations to be written by applicants for registration;

(l) prescribing forms and providing for their use;

(m) providing procedures not inconsistent with this Act for the making, amending and revoking of regulations;

(n) respecting the information to be included in the Register;

(o) subject to approval by the College at an annual or special meeting, prescribing a code of ethics;

(p) governing elections of members of the Board.

(2) With the approval of the Governor in Council, the Board may make regulations

(a) respecting the recognition of schools and examinations as prerequisites to registration and licensing;

(b) respecting the educational qualifications of applicants for registration as members of the College;

(c) respecting the registration and licensing of members of the College;

- (d) respecting continuing-competency requirements, including continuing-education requirements or practice-hour requirements of members of the College;
 - (e) respecting the limiting or qualifying of a member's licence including, but not limited to, procedures and interventions;
 - (f) respecting the evaluation of, and licensing requirements of, members of the College and applicants for registration who have not practised medical laboratory technology for at least one year;
 - (g) respecting the disciplining of members of the College;
 - (h) respecting the revocation or suspension of licences issued pursuant to this Act;
 - (i) respecting the reporting and publication of decisions in disciplinary matters;
 - (j) regulating, controlling and prohibiting the use of terms, titles or designations by members of the College or groups or associations of members in respect of their practice;
 - (k) providing that the licence of a member of the College be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the re-instatement of a licence so suspended;
 - (l) notwithstanding subsection 8(1), changing the number and characteristics of appointments to the Board;
 - (m) determining the procedure to be followed at hearings by a disciplinary committee;
 - (n) prescribing the type of professional liability insurance or other form of malpractice coverage a member shall hold;
 - (o) defining any word or expression used but not defined in this Act;
 - (p) further defining any word or expression defined in this Act;
 - (q) respecting and governing such other subjects, matters and things as may be required to give effect to the objects of the College and this Act.
- (3)** All regulations of the College shall be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.
- (4)** A certificate purporting to be signed by the Registrar stating that a certain regulation of the College was, on a specified day or during a specified

period, a duly enacted regulation of the College in full force and effect constitutes *prima facie* evidence in any court of that fact without proof that the person who signed it is the Registrar or that it is the Registrar's signature. 2000, c. 8, s. 22.

REGISTRATION

Register

23 The Board shall keep a Register in which shall be entered the name, address and qualifications of all persons who are entitled pursuant to this Act to be registered in the Register. 2000, c. 8, s. 23.

Entries on Register

24 (1) The Board shall direct the Registrar to enter in the Register the name, address and qualifications of any person who

- (a) has successfully completed any prescribed certification exam;
- (b) has successfully completed a prescribed medical laboratory technology program;
- (c) satisfies the Board that the person possesses the qualifications required in the regulations for registration in the Register;
- (d) satisfies the Board that the person holds the prescribed professional liability insurance or other form of malpractice insurance;
- (e) complies with this Act and the regulations and any conditions imposed by the Registrar and the Board; and
- (f) complies with Section 29.

(2) Upon receiving a direction from the Board pursuant to subsection (1), the Registrar shall

- (a) enter the name, address and qualifications of the person named in the direction in the Register; and
- (b) issue a licence to the person. 2000, c. 8, s. 24.

Registration

25 (1) Notwithstanding anything contained in this Act, where a person applies to be registered pursuant to this Act and the Registrar is satisfied that the person

- (a) meets
 - (i) in a manner that would be satisfactory to the Board, the requirements for registration in the relevant register with such exceptions as may be prescribed by regulations, and

(ii) the requirements of Section 29; and

(b) has paid the prescribed fees,

the Registrar may, before the matter is brought to the Credentials Committee for its direction,

(c) enter the name, address and qualifications of the person in the relevant register; and

(d) issue a licence to the person, subject to such terms and conditions as may be prescribed, including the maximum period of validity of the registration and the licence.

(2) Every registration made and every licence issued pursuant to this Section is valid and remains in full force and effect until ratified, varied or vacated by the Credentials Committee at a meeting requested by such person or the Registrar, or held at the instigation of the Credentials Committee itself.

(3) Subject to subsection (7), where the registration or licence of a person is varied or vacated pursuant to subsection (2), the Registrar shall forthwith give notice to such person in accordance with subsection 74(1), and the registration or licence of that person is deemed to be varied or vacated as of the date on which service was made or deemed to have been made on the person.

(4) Where the registration or licence of a person is varied or vacated pursuant to subsection (2), the person may request the opportunity to appear before the next scheduled meeting of the Board, with or without legal counsel, where the Board shall consider the application in accordance with this Act.

(5) No member of the Board who considered the application pursuant to subsection (2) shall participate in the Board's consideration of the application.

(6) After hearing the applicant and the Registrar, the Board may

(a) direct the Registrar to issue to the applicant a licence;

(b) direct the Registrar to issue to the applicant a licence subject to such conditions, limitations or restrictions as the Board considers appropriate;

(c) adjourn further consideration of the application pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Board may designate; or

(d) direct the Registrar to refuse the application where the Board is not satisfied that the applicant meets the criteria set out in subsection (1).

(7) Where a hearing is requested pursuant to subsection (4), the registration or licence of the person requesting the hearing shall not be varied or

vacated until the Board has completed its consideration of the application. 2000, c. 8, s. 25.

Credentials Committee

26 (1) Where the Registrar is not satisfied with the evidence presented by a person applying for registration, the Registrar

- (a) may; or
- (b) where the applicant so requests in writing, shall,

refer the matter to the Credentials Committee.

(2) Upon a referral pursuant to subsection (1), the Credentials Committee, in consultation with the Registrar, shall consider the eligibility of the application and may make such inquiries or demand such further information as the Committee sees fit, and the Committee shall consider the application in accordance with this Act.

(3) Where the person requests the opportunity to appear before the Credentials Committee, this request shall be granted and the person may appear with legal counsel. 2000, c. 8, s. 26.

Defined Register

27 (1) The Board may keep a register, called the Defined Register, in which shall be entered the name, address, qualifications and terms and conditions of registration of all persons who may be entitled pursuant to this Act and the regulations to be registered in the register.

(2) The Board may make regulations, which shall take effect upon approval by a general meeting of the College and by the Governor in Council,

- (a) governing the persons or classes of persons who may be registered in the Defined Register;
- (b) dividing the Defined Register into parts representing the classes of persons who may be registered;
- (c) prescribing the qualifications required for registration in the Defined Register;
- (d) prescribing the extent to which and terms and conditions under which persons registered in the Defined Register may engage in the practice of medical laboratory technology;
- (e) prescribing by whom applications may be made pursuant to this Section, and the procedure on such applications.

(3) The Board may direct the Registrar to register in the Defined Register the name, address and qualifications and terms and conditions of registration of any person who

- (a) satisfies the Board that that person possesses the qualifications required for registration in the Defined Register; and
- (b) complies with Section 29.

(4) Upon receiving a direction from the Board pursuant to subsection (3), the Registrar shall enter in the Defined Register the name, address and qualifications and any terms and conditions of registration of the person named therein, and issue a licence to the person. 2000, c. 8, s. 27.

Consequences of conviction of an offence

28 Notwithstanding anything contained in this Act, where a person has been convicted or found to be guilty, by a court in or out of Canada, of any offence that is inconsistent with the proper professional behaviour of a medical laboratory technologist, including a conviction under the *Criminal Code* (Canada) or the *Narcotics Control Act* (Canada), and such person applies for registration, the Registrar and the Board may refuse to register the person, but the Board may, at any time, permit such person to be registered or to remain registered upon such terms and conditions as the Board may direct. 2000, c. 8, s. 28.

Application for registration

- 29** Any person who applies for registration pursuant to this Act shall
- (a) apply in the prescribed manner;
 - (b) satisfy the Board that that person is the person named in any diploma or documentation submitted in support of the application;
 - (c) provide proof of insurance as prescribed by the regulations;
 - (d) satisfy the Board that that person is of good character;
 - (e) provide such information as the Board may require; and
 - (f) pay the prescribed fee. 2000, c. 8, s. 29.

Change of address

30 A member of the College who changes address shall promptly inform the Registrar who shall enter the change in the Register. 2000, c. 8, s. 30.

Licence fees

- 31 (1)** Every member of the College shall pay to the Registrar, or such person as the Registrar may designate,
- (a) at the time that the member is registered; and
 - (b) on or before a date or dates prescribed by the Board in each year thereafter,
- the prescribed annual registration or licence fee.

(2) The licence of any member of the College who fails to pay prescribed annual fees as required by subsection (1) or who fails to comply within the prescribed period with any continuing competence requirements established in regulations shall be suspended in accordance with the procedure prescribed by the regulations.

(3) The Registrar shall forthwith notify, in writing, any person whose licence has been suspended pursuant to this Section.

(4) The prescribed annual licence fees payable by members of the College pursuant to subsection (1) shall be determined by the Board. 2000, c. 8, s. 31.

Re-licensing

32 (1) Where the licence of a member of the College has been suspended pursuant to subsection 31(2), or where there has been non-compliance with continuing competency requirements, or in any other case where the licence of a member has expired or lapsed pursuant to this Act for non-payment of fees, such person may apply to the Registrar for relicensing.

(2) Where a person referred to in subsection (1) satisfies the Registrar

(a) of the person's intention to practise medical laboratory technology in the Province;

(b) as to the person's activities since the date of the suspension or expiry or lapsing of the person's licence;

(c) that the person has maintained and possesses an appropriate level of skill and knowledge in medical laboratory technology;

(d) as to the person's good standing in all jurisdictions in which the person has practised medical laboratory technology since the date of the suspension or expiry or lapsing of the person's licence;

(e) that the person has paid all fees or any other amount owing to the College and such administrative fees as may be prescribed; and

(f) that the person has complied with the continuing competency requirements prescribed by the College,

the Registrar may issue a licence to such person.

(3) Where the Registrar is not satisfied with the evidence presented pursuant to subsection (2), the Registrar

(a) may; or

(b) where the applicant so requests in writing, shall,

refer the matter to the Credentials Committee.

(4) Upon a referral pursuant to subsection (3), the Credentials Committee, in consultation with the Registrar, shall consider the eligibility of the application and may make such inquiries or demand such further information as the Committee sees fit, and the Committee shall consider the application in accordance with this Act.

(5) Where, within thirty days of a referral pursuant to subsection (3), the applicant requests the opportunity to appear before the Credentials Committee, this request shall be granted and the applicant may appear with legal counsel.

(6) Where the registration or licensing of a person is refused pursuant to subsection (4), the person may request the opportunity to appear before the next scheduled meeting of the Board, with or without legal counsel, where the Board shall consider the application in accordance with this Act.

(7) No member of the Board who considered the application pursuant to subsection (4) shall participate in the Board's consideration of the application.

- (8) After hearing the applicant and the Registrar, the Board may
- (a) direct the Registrar to issue to the applicant a licence;
 - (b) direct the Registrar to issue to the applicant a licence subject to such conditions, limitations or restrictions as the Board considers appropriate;
 - (c) adjourn further consideration of the application, pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Board may designate; or
 - (d) direct the Registrar to refuse the application, if the Board is not satisfied that the applicant meets the criteria set out in subsection (2). 2000, c. 8, s. 32.

Restrictions on licences

33 Every licence issued pursuant to Section 32 is subject to any conditions, limitations or restrictions contained in the licence that had expired, lapsed or been suspended pursuant to subsection 31(2), unless the Board orders otherwise. 2000, c. 8, s. 33.

Publication of annual list

34 The Registrar shall, in each year, cause to be published in the manner prescribed an annual list that includes the names of those persons who hold a licence and who are listed in the Defined Register. 2000, c. 8, s. 34.

Restriction

35 (1) The licence of a member of the College may only be surrendered by the member after notice in writing to the Board and with the consent of the Board.

(2) Where a member of the College ceases to be a member for any reason, or where a person ceases to be registered or licensed for any reason, such person remains subject to the jurisdiction of the College in respect of any disciplinary matter arising out of the person's conduct while a member or while registered. 2000, c. 8, s. 35.

PROHIBITIONS

Offences

36 (1) A person licensed pursuant to this Act who practises medical laboratory technology in violation of any condition or limitation contained in the person's licence is guilty of an offence.

- (2)** A person who practises medical laboratory technology
- (a) while the person's licence is suspended or revoked; or
 - (b) without a licence,

is guilty of an offence. 2000, c. 8, s. 36.

Offence

37 (1) A member of the College who leaves the Province for longer than the prescribed period and practises medical laboratory technology on the member's return to the Province before providing the Registrar with a certificate of good standing from all jurisdictions in which the member had practised during such absence is guilty of an offence.

(2) The Board may waive the requirements of subsection (1) and may make regulations exempting members of the College from the requirements of subsection (1) where members have been absent from the Province for a period shorter than the prescribed period. 2000, c. 8, s. 37.

Prohibition

38 (1) Except as provided in this Act or the regulations, no person, other than a member of the College, shall

- (a) publicly or privately, for hire, gain or hope of reward, practise or offer to practise medical laboratory technology;
- (b) hold himself or herself out in any way to be entitled to practise medical laboratory technology;
- (c) use the title "Medical Laboratory Technologist" or assume any title or description implying or designed to lead the pub-

lic to believe that that person is entitled to practise medical laboratory technology; or

(d) use the designation “M.L.T.” or “MLT”, either alone or in combination with other words, letters or description, to imply that the person is entitled to practise medical laboratory technology.

(2) No person is entitled to receive a fee, reward or remuneration for professional services rendered to any person in the practice of medical laboratory technology unless registered and licensed at the time the services were provided. 2000, c. 8, s. 38.

Offence

39 A person who knowingly furnishes false information in an application pursuant to this Act, or in any statement or return required to be furnished pursuant to this Act or the regulations, is guilty of an offence. 2000, c. 8, s. 39.

Prosecutions

40 (1) In a prosecution for an offence contrary to this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise medical laboratory technology, or that a person comes within any of the exemptions provided by this Act, is on the person accused.

(2) Where a violation of this Act or the regulations by a person who does not have the right to practise medical laboratory technology continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(3) For the purpose of this Act, proof of the performance of one act in the practice of medical laboratory technology on one occasion is sufficient to establish that a person has engaged in the practice of medical laboratory technology. 2000, c. 8, s. 40.

Fines and penalties

41 (1) A person who violates this Act or a regulation made pursuant to clause 22(2)(j) is guilty of an offence and the *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act or the regulations.

(2) All fines and penalties payable under this Act as a result of a prosecution by or on behalf of the College belong to the College.

(3) Any information to be laid pursuant to this Act may be laid by the Registrar or any member of the College authorized by the Board. 2000, c. 8, s. 41.

Exemptions from application of Act

42 Nothing in this Act applies to or prevents

(a) the domestic administration of family remedies;

- (b) the practice of the religious tenets or general beliefs of any religious organization;
- (c) the furnishing of first aid or emergency assistance in the case of emergency, if such aid or assistance is given without hire, gain or hope of reward;
- (d) the practice of chiropractic by a person who is registered pursuant to the *Chiropractic Act*;
- (e) the practice of dentistry or dental surgery by a person who is registered pursuant to the *Dental Act*;
- (f) the practice of dental technology by a person registered pursuant to *Dental Technicians Act*;
- (g) the practice of denturology by a person who is licensed pursuant to the *Denturist Act*;
- (h) the practice of dispensing optician by a person who is registered pursuant to the *Dispensing Opticians Act*;
- (i) the practice of nursing by a person who is registered pursuant to the *Licensed Practical Nurses Act*;
- (j) the practice of medicine by a person who is registered pursuant to the *Medical Act*;
- (k) the practice of radiological technology by a person registered pursuant to the *Medical Radiation Technologists Act*;
- (l) the practice of occupational therapy by a person who is licensed pursuant to the *Occupational Therapists Act*;
- (m) the practice of optometry by a person who is licensed pursuant to the *Optometry Act*;
- (n) the practice of pharmacy by a person who is registered pursuant to the *Pharmacy Act*;
- (o) the practice of physiotherapy by a person who is licensed pursuant to the *Physiotherapy Act*;
- (p) the practice of dietetics by a person who is registered pursuant to the *Professional Dietitians Act*;
- (q) the practice of psychology by a person who is licensed pursuant to the *Psychologists Act*;
- (r) the practice of nursing by a person registered pursuant to the *Registered Nurses Act*; or
- (s) the carrying out of specific tasks constituting part of the practice of medical laboratory technology by persons authorized under the regulations and under the supervision and control of a medical laboratory technologist;

- (t) the carrying on of any occupation, calling or profession by a person authorized to carry on such occupation, calling or profession by any public or private act of the Legislature;
- (u) the carrying out of laboratory investigations by members in good standing of the Canadian Society of Clinical Chemists;
- (v) the carrying out of laboratory investigations by members in good standing of the Canadian College of Microbiologists, with training or certification in clinical microbiology;
- (w) the carrying out of laboratory investigations by scientists with a university degree at the Master's or Doctorate level with in-depth clinical knowledge in their field of laboratory medicine;
- (x) the carrying on of the occupation of a pathology assistant under the supervision of a pathologist authorized to practise medicine under the provisions of the *Medical Act*; or
- (y) the carrying out of blood gas measurements by a medical perfusionist or a respiratory technologist authorized to carry out such measurements. 2000, c. 8, s. 42.

Injunctions

43 (1) Where a member of the College whose licence to practise has been suspended pursuant to this Act or the regulations does or attempts to do anything contrary to this Act or the regulations, the doing of such thing may be restrained by an injunction of the court at the instance of the Board.

(2) Where a person other than a member does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the court at the instance of the Board. 2000, c. 8, s. 43.

DISCIPLINE

Manner of initiation

- 44** Complaints may be initiated by
- (a) any body corporate or association;
 - (b) the Registrar; or
 - (c) any other person. 2000, c. 8, s. 44.

Specialized assistance

45 The College or a disciplinary committee may employ, at the expense of the College, such legal or other assistance as it considers necessary for the purpose of the investigation of any disciplinary matter. 2000, c. 8, s. 45.

Confidentiality

46 Every person involved in the administration of this Act and any member of the Board, or a committee of the Board or the College, shall maintain confidentiality with respect to all health information that comes to that person's knowledge regarding clients except

- (a) in connection with the administration of Sections 44 to 70, and the regulations or proceedings thereunder;
- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the consent of the person to whom the information relates. 2000, c. 8, s. 46.

Power to investigate other matters

47 A person or disciplinary committee investigating a disciplinary matter concerning a member of the College may investigate any other disciplinary matter concerning the member that arises in the course of the investigation. 2000, c. 8, s. 47.

Powers of disciplinary committee

48 (1) Where a disciplinary committee

- (a) learns that the registration or licence of a member of the College has been suspended or revoked for reasons of professional misconduct, conduct unbecoming or incompetence by another licensing or regulatory authority;
- (b) has provided the member with such notice as it may prescribe of a hearing together with a copy of the relevant decision of the other licensing or regulatory authority; and
- (c) has heard such evidence as is offered by the member, if any, at the hearing as to why the member should not be subject to disciplinary action,

the disciplinary committee may take any of the actions contemplated by clause 66(2)(e).

(2) Where a member of the College has been convicted of an offence pursuant to the *Criminal Code* (Canada) or the *Narcotics Control Act* (Canada) or has been convicted of an offence as referred to in Section 28, the disciplinary committee may, by such notice as it prescribes, require the member to attend a hearing to establish why the member should not be subject to disciplinary action.

(3) For the purpose of subsection (2), a certificate of conviction of a member of the College is conclusive evidence that a person has committed the offence stated therein unless it is shown by the member that the conviction has been quashed or set aside.

(4) When a disciplinary committee is conducting a hearing pursuant to this Section, it may, if it deems proper, take any of the actions contemplated by clause 66(2)(e). 2000, c. 8, s. 48.

Investigative committee

49 (1) The Board shall appoint an investigation committee or committees.

(2) An investigation committee shall be composed of at least three persons.

(3) An investigation committee shall

(a) have a chair appointed by the Board who is a member or former member of the Board;

(b) have as a member at least one person who is a member or former member of the Board and a member of the College; and

(c) have as a member at least one person does not hold a diploma in medical laboratory technology or equivalent, who may be a member or former member of the Board.

(4) Notwithstanding subsection (3), any two members of an investigation committee constitute a quorum.

(5) The Board may appoint additional members to an investigation committee who are members of the College but who need not be members or former members of the Board. 2000, c. 8, s. 49.

Duties and powers of investigation committee

50 (1) An investigation committee shall

(a) investigate complaints regarding a disciplinary matter concerning any member of the College;

(b) investigate any matter referred to the committee by the Registrar; and

(c) perform such other duties as may be assigned to it by the Board.

(2) The Registrar may refer a matter to an investigation committee notwithstanding that a written complaint has not been filed with the Registrar.

(3) Without receipt of a written complaint, an investigation committee may

(a) do all things necessary to provide a full and proper investigation;

(b) appoint a person or persons to conduct an investigation or practice audit, or both.

(3A) The investigation committee and each member of the investigation committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

(4) Upon receipt of a written complaint respecting a member of the College and upon giving to the member a copy of the complaint, an investigation committee may require the member to

(a) submit to physical or mental examinations by such qualified persons as the committee designates; and

(b) submit to such examinations as the committee directs to determine whether the member is competent to practise medical laboratory technology.

(5) Where a member of the College fails to comply with subsection (4), the investigation committee may suspend or restrict the registration or licence, or both, of the member until the member complies.

(6) Where an investigation committee has, pursuant to clause 4(a) or (b), required a member of the College to submit to physical or mental examinations by a qualified person designated by the committee, the committee shall deliver to the member any report it receives from the designated qualified person.

(7) An investigation committee or person appointed to conduct an investigation pursuant to clause (3)(b) may

(a) employ such other experts as the committee or person deems necessary;

(b) require the member being investigated or any other member of the College, who may have information relevant to the investigation, to attend before the committee or the person conducting the investigation to be interviewed;

(c) investigate any other matter relevant to the conduct, capacity or fitness of a member of the College to practise medical laboratory technology that arises in the course of the investigation.
2000, c. 8, s. 50; 2012, c. 48, s. 33.

Further duties and powers

51 (1) An investigation committee may

(a) dismiss a complaint;

(b) attempt to resolve the matter informally;

- (c) with the consent of both parties, refer the matter, in whole or in part, to mediation;
- (d) refer the matter, in whole or in part, to a hearing committee;
- (e) counsel the member of the College complained of;
- (f) caution the member;
- (g) counsel and caution the member;
- (h) with the comment of the member, reprimand the member with the member's consent; or
- (i) with the consent of the member, require the member to undergo such treatment or re-education as the committee considers necessary.

(2) Where an investigation committee is considering a decision to counsel, caution or counsel and caution a member of the College pursuant to clause (1)(e), (f) or (g), the committee shall give notice to the member and the member shall be given the opportunity to appear, with or without legal counsel, before the committee prior to the committee making a decision.

(3) When making findings pursuant to clauses (1)(e), (f), (g), (h) or (i), an investigation committee may make any combination of the dispositions that are set out in those clauses, or the committee may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(4) The member of the College complained of and the complainant shall be advised in writing of the disposition of the committee. 2000, c. 8, s. 51.

Appeal

52 (1) A member of the College who has consented to a requirement for treatment or re-education pursuant to clause 51(1)(i) may consent to such requirement in principle, while reserving the right to appeal the actual content of the requirement for treatment or re-education to a hearing committee within fifteen days of receiving notice thereof.

(2) Parties to an appeal pursuant to subsection (1) shall bear their own costs.

(3) An appeal pursuant to subsection (1) shall be conducted without oral testimony and a hearing committee shall review an agreed statement of facts supplied by the legal counsel for the College and signed by the member of the College.

(4) Where an agreed statement of facts is not filed within thirty days of filing the notice of appeal, the consent of the member of the College is deemed to have been withdrawn and the matter referred back to the investigation

committee which may consider other actions or dispositions as authorized by this Act. 2000, c. 8, s. 52.

Further powers of investigation committee

53 (1) Notwithstanding anything contained in this Act, where

(a) an investigation committee receives information that indicates that a member of the College may be incompetent or guilty of professional misconduct or conduct unbecoming; and

(b) the investigation committee concludes that it is in the public interest to suspend from practice or restrict the practice of the member,

the investigation committee may, without a hearing,

(c) immediately suspend the registration or licence, or both, of the member on a temporary basis; or

(d) immediately impose restrictions on the registration or licence, or both, of the member on a temporary basis.

(2) The member of the College shall receive forthwith notice, in writing, with reasons, of a decision made pursuant to subsection (1).

(3) Subject to a determination pursuant to subsection (5), a decision pursuant to subsection (1) continues in force until final resolution by a hearing committee, which shall occur without undue delay.

(4) A member of the College who receives written notice pursuant to subsection (2) may request, in writing, an opportunity to meet with the investigation committee.

(5) Where a request is received pursuant to subsection (4), the investigation committee shall

(a) provide an opportunity for the member of the College to meet with the committee within ten days of the written request; and

(b) after meeting with the member, may confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1). 2000, c. 8, s. 53.

Hearing committee

54 Notwithstanding anything contained in this Act, where a decision is made pursuant to subsection 53(1), then, subject to any disposition made pursuant to subsection 53(5), a hearing committee shall be appointed pursuant to subsection 57(1) to proceed with a hearing to determine whether the member of the College is guilty of charges relating to a disciplinary matter. 2000, c. 8, s. 54.

Settlement agreement

55 (1) After an investigation committee refers a matter to a hearing committee pursuant to clause 51(1)(d), the member of the College complained of may, at any time before the beginning of the hearing, tender to the investigation committee a proposed settlement agreement, in writing, consented to by legal counsel for the College that includes an admission of a disciplinary-matter violation or violations and the member's consent to a specified disposition, conditional upon the acceptance of the agreement by a hearing committee.

(2) The investigation committee may, in its discretion, recommend or refuse to recommend acceptance of the proposed settlement agreement by a hearing committee.

(3) Where the investigation committee recommends the acceptance of the proposed settlement agreement, it shall instruct legal counsel for the College to advise the hearing committee appointed to hear the complaint of its recommendation.

(4) Where the investigation committee refuses to recommend the proposed settlement agreement, the hearing shall proceed without reference to the proposed settlement agreement.

(5) Where the hearing committee appointed to hear the complaint accepts the recommendation of the investigation committee, it shall confirm such acceptance by written decision that incorporates the settlement agreement.

(6) Where the hearing committee appointed to hear the complaint rejects the recommendation of the investigation committee,

- (a) it shall advise the Registrar of its decision;
- (b) it shall proceed no further with the hearing of the complaint;
- (c) a new hearing committee shall be appointed to hear the complaint and no member of the committee that considered the proposed settlement agreement shall be a member of the new committee; and
- (d) the investigation committee retains jurisdiction over a complaint until the commencement of the hearing by a hearing committee. 2000, c. 8, s. 55.

Investigation of non-member

56 The Registrar may request the committee to investigate the activities of a non-member of the College but the committee has no compulsory powers in relation to the investigation of the non-member, except that the committee may require a member of the College who may have information relevant to the investigation to attend before the committee or the person conducting the investigation to be interviewed. 2000, c. 8, s. 56.

Purpose and composition of hearing committee

57 (1) A hearing committee shall be appointed for the purpose of hearing any charges relating to a disciplinary matter against a member when a disciplinary matter is referred, in whole or in part, to a hearing committee.

(2) A hearing committee shall be composed of at least three persons, of whom one member shall be appointed by the Board as the chair.

(3) A hearing committee shall have as members

(a) at least one person who does not hold a diploma in medical laboratory technology or equivalent, who is a member of the Board; and

(b) at least two other members of the Board.

(4) Notwithstanding subsection (3), any two members of a hearing committee constitute a quorum. 2000, c. 8, s. 57.

Powers of hearing committee

58 (1) Subject to the regulations, a hearing committee may do all things necessary to provide a full and proper inquiry.

(2) In a matter over which a hearing committee has jurisdiction, the hearing committee and each member of the committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2000, c. 8, s. 58.

Witnesses and attendance at hearing

59 (1) Upon the application of

(a) any party to a disciplinary hearing;

(b) the chair of a hearing committee; or

(c) legal counsel for the College or a hearing committee,

the Registrar of the College shall sign and issue a summons to witness for the purpose of procuring the attendance and evidence of a witness before the hearing committee.

(2) It is the duty of the member of the College who is charged in a disciplinary matter to appear at the hearing, but in the event of non-attendance by such member, the hearing committee, upon proof by affidavit, statutory declaration or other evidence acceptable to the hearing committee of service of the notice, pursuant to subsection (3), may proceed with the hearing and, without further notice to such member, render its decision and take such other action as it is authorized to take pursuant to this Act.

(3) Unless the member has agreed to a shorter notice period, a notice of hearing shall be served at least thirty days before the holding of the hearing upon the member whose disciplinary matter is being heard.

(4) A notice of a hearing shall state the details of the charges and the time and place of the holding of the hearing, and shall be signed by the Registrar.

(5) The College shall place the notice as provided for in subsection (4) in such publications as it deems necessary in order to inform the public. 2000, c. 8, s. 59.

Admissibility of evidence

60 (1) Evidence is not admissible before a hearing committee unless the opposing party has been given, at least ten days before the hearing,

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of the evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) in the case of the evidence of a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a hearing committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make such directions it considers necessary to ensure that a party is not prejudiced. 2000, c. 8, s. 60.

Restriction on communications

61 No member of a hearing committee holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or a party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication, with the exclusion of communications where the sole purpose is to make administrative arrangements. 2000, c. 8, s. 61.

Access to expert opinion

62 Where a hearing committee obtains expert opinion regarding medical laboratory technology with respect to a hearing, it shall make the nature of the opinion known to the parties and the parties may make submissions with respect to the opinion. 2000, c. 8, s. 62.

Restriction on public access to hearing

63 (1) Subject to subsection (2), a hearing is open to the public.

(2) A hearing committee may make an order that the public, in whole or in part, be excluded from a hearing or any part of it if the hearing committee is satisfied that

(a) matters involving public security may be disclosed;

(b) personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or

(c) the safety of a person may be jeopardized.

(3) Where it thinks fit, a hearing committee may make such orders it considers necessary to prevent the public disclosure of matters disclosed at a hearing, including orders prohibiting publication or broadcasting of those matters.

(4) No order shall be made pursuant to subsection (3) that prevents the publication of anything that is contained in the Register and available to the public.

(5) A hearing committee may make an order that the public be excluded from the part of a hearing dealing with a motion for an order pursuant to subsection (2).

(6) A hearing committee may make any order necessary to prevent the public disclosure of matters disclosed in the submission relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters.

(7) Subject to any orders pursuant to this Section, a hearing committee shall state, at the hearing, its reasons for any order made pursuant to this Section. 2000, c. 8, s. 63.

Right to attend hearing

64 Where a hearing committee makes an order pursuant to subsection 63(2), wholly or partly, because of the desirability of avoiding disclosure of matters in the interest of a person affected,

(a) the committee shall allow the parties, the complainant and their legal and personal representatives; and

(b) the committee may allow such other persons as the committee considers appropriate,

to attend the hearing. 2000, c. 8, s. 64.

Transcripts

65 (1) A hearing committee holding a hearing shall ensure that

(a) the oral evidence is recorded;

(b) copies of the transcript of the hearing are available to a party at the party's request and expense, to the complainant at the complainant's request and expense and to other persons the hearing committee or the Registrar considers appropriate at those person's request and expense; and

(c) copies of the transcript of any part of the hearing that is not closed nor the subject of an order prohibiting publication are available to any person at that person's expense.

(2) Where a transcript of a part of a hearing that is the subject of an order for a closed hearing or an order prohibiting publication is filed with a court in respect of proceedings, only the court, the parties to the proceedings and the complainant may examine it unless the court or the hearing committee orders otherwise.
2000, c. 8, s. 65.

Powers and duties of hearing committee

66 (1) At a hearing of a hearing committee, a member of the College is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the hearing committee, to present evidence and to cross-examine witnesses.

(2) A hearing committee

(a) shall hear each case in such manner as it deems fit;

(b) may require the member of the College complained of
to

(i) submit to physical or mental examinations by such qualified persons as the committee designates, or

(ii) undergo such examinations as the committee directs to determine whether the member is competent to practise medical laboratory technology;

(c) where the member fails to comply with clause (b), may resolve that the registration or licence, or both, of the member be suspended until the member does comply;

(d) where the committee has, pursuant to subclause (b)(i), required a member to submit to physical or mental examinations, shall deliver to the member any report it receives from the designated qualified person;

(e) shall determine whether the member is guilty of charges relating to a disciplinary matter, and

(i) where there is a guilty finding, may determine
that

- (A) the registration or licence of the member be revoked and that member's name be stricken from the Register,
- (B) the licence of the member be suspended
 - (I) for a fixed period, or
 - (II) for an indefinite period until the occurrence of some specified future event or until compliance with conditions prescribed by the committee,
- (C) conditions, limitations or restrictions be imposed on the member's licence,
- (D) the member undergo such treatment or re-education as the committee considers necessary,
- (E) such fine as the committee considers appropriate to a maximum of fifteen thousand dollars be paid by the member to the College for the purpose of funding medical laboratory technology education and research as determined by the Board,
- (F) the member be reprimanded,
- (G) such other disposition as it considers appropriate be imposed, or
 - (ii) where there is a not guilty finding, the committee shall dismiss the charges; and
- (f) shall file its decision, including reasons, at the offices of the College.

(3) When making dispositions pursuant to clause (2)(e), the hearing committee may impose one or more of the penalties that are set out in that clause, or the committee may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(4) The Registrar shall provide the member of the College complained of, the complainant and such other persons as the Registrar considers appropriate with a copy of the decision of the hearing committee except that, where there are references identifying clients or other persons other than the complainant, those references as well as other personal information about those persons shall be deleted where, in the Registrar's opinion, it is appropriate.

(5) The decision of a hearing committee has effect immediately upon service on the member of the College complained of or from such time as the decision may direct.

(6) The hearing committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined. 2000, c. 8, s. 66.

Inadmissibility of evidence in legal proceeding

66A (1) In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the College, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the College.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the College.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act. 2008, c. 3, s. 7.

Costs

67 (1) In this Section, “costs of the Board” include

(a) expenses incurred by the College, the Board, the investigation committee and the hearing committee;

(b) honoraria paid to members of the investigation committee and the hearing committee; and

(c) solicitor and client costs and disbursements of the College relating to the investigation and hearing of the complaint.

(2) When a hearing committee finds a member guilty of charges relating to a disciplinary matter, it may order that the member pay the costs of the Board, in whole or in part.

(3) When a member is ordered to pay costs pursuant to subsection (1), the Board may make it a condition of the registration or licence of the member that such costs be paid forthwith, or at such time and on such terms as the Board may fix. 2000, c. 8, s. 67.

Jurisdiction preserved

68 Notwithstanding that a member or members of an investigation committee or a hearing committee have ceased to hold office by reason of the lapse of their appointments, such member or members are seized with the jurisdiction to complete any matter the committees have commenced if necessary to retain a quorum and, for this purpose, such member or members continue to have the same powers, privileges, immunities and duties as are provided by this Act and the regulations. 2000, c. 8, s. 68.

Appeal

69 (1) The member of the College complained of may appeal on any point of law from the findings of the hearing committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be served upon the Registrar and the complainant.

(3) The record on appeal from the findings of a hearing committee shall consist of a copy of the transcript of the proceedings, the decision of the committee and the evidence before the committee certified by the chair of the committee.

(4) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act apply *mutatis mutandis* to appeals to the Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the Court of Appeal has jurisdiction to, pending a decision by the Court of Appeal, grant a stay of any order made pursuant to this Act where, in its discretion, it deems it fit. 2000, c. 8, s. 69.

Rights of person whose license is revoked

70 (1) A person whose licence has been revoked by a resolution of a hearing committee pursuant to subclause 66(2)(e)(i), may apply to the Board for

(a) the entering of the person's name, address and qualifications on the Register or Defined Register; and

- (b) the issuance of a licence.
- (2) An application pursuant to subsection (1) shall not be made earlier than
- (a) two years after the revocation; and
- (b) six months after the previous application.
- (3) The Board may, upon
- (a) being satisfied that the interest of the public has been adequately protected;
- (b) being satisfied as to the intention of such person to practise medical laboratory technology in the Province;
- (c) being satisfied as to the activities of such person since the time of the resolution of the hearing committee;
- (d) such person producing a letter of good standing from all jurisdictions in which the person had practised medical laboratory technology since the date of such resolution of the hearing committee; and
- (e) such person undergoing such clinical or other examinations as the Board may designate,

direct the Registrar to enter the name, address and qualifications of such person in the Register or Defined Register and issue a licence to such person upon such terms and conditions as the Board may direct. 2000, c. 8, s. 70.

GENERAL

Manner of participating in meeting

71 (1) A member of the Board, or of a committee of the Board or of the College, may participate in any meeting of the Board or committee of the Board or of the College, with the exception of a hearing committee when it is conducting a hearing, as the case may be, by telephone or other communications facilities that permit all persons participating in a meeting to communicate with each other, and a member participating in a meeting by such means is deemed to be present at the meeting.

(2) A meeting of the Board, or of a committee of the Board, with the exception of a hearing committee when it is conducting a hearing, or of the College, may be held by conference telephone call or other communications facilities that permit all persons participating in the meeting to communicate with each other, and all members participating in the meeting by such means are deemed to be present at the meeting. 2000, c. 8, s. 71.

Certificate as evidence

72 A certificate purporting to be signed by the Registrar stating that any person named therein was or was not, on a specified day or during a specified period, registered and licensed, is *prima facie* evidence in any court of that fact without proof that the person signing it is the Registrar or of the Registrar's signature. 2000, c. 8, s. 72.

Evidence of registration and licensing

73 The presence of the name of any person in a document purporting for any year to be an annual list published by the Registrar pursuant to Section 34 is *prima facie* evidence in any court of the fact that a person whose name so appears is or was registered and licensed at the time of publication of such annual list. 2000, c. 8, s. 73.

Service of documents

74 (1) Service of any notice, order, resolution or other document pursuant to this Act or the regulations may be made

- (a) upon a member by registered letter addressed to such person at the member's address as set forth in the Register; and
- (b) upon any other person by registered letter.

(2) Where service is made by registered letter, service is deemed to be made on the third day after the notice, order, resolution or other document is mailed, and proof that the notice, order, resolution or other document was addressed and posted in accordance with subsection (1) is proof of service.

(3) Service of any document on the College may be made by service on the Registrar. 2000, c. 8, s. 74.

Exemption from liability

75 Where a member of the College voluntarily renders first aid or emergency treatment without the expectation of monetary compensation to a person outside of a hospital, or in any other place not having proper and necessary medical facilities, that member is not liable for the death of such person, or damages alleged to have been sustained by such person by reason of an act or omission in the rendering of such first aid or emergency treatment, unless it is established that such injuries were, or such death was caused, by conduct on the part of the member that, if committed by a person of ordinary experience, learning and skill, would constitute negligence. 2000, c. 8, s. 75.

Exemption from liability

76 (1) No action for damages lies against the College, the Board, the Registrar, a member, officer or employee of the College or Board, a member of a committee or subcommittee of the College or the Board or a member of the College

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligations as a member, officer or employee under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless such disclosure is made with malice.

(3) Without limiting the generality of subsection (2), no action for damages lies against a member of the College or other person for disclosing any books, records, papers and other documents in their possession or control when done pursuant to this Act. 2000, c. 8, s. 76.

Publication of decision

77 (1) Subject to any publication bans, the College shall publish a hearing committee's decision or summary of the decision in its annual report and may publish the decision or summary in any other publication.

(2) Where the registration or licence, or both, of a member of the College has been revoked or suspended or where conditions, limitations or restrictions are imposed on the licence of a member, the College shall place a notice in such publications as it deems necessary in order to inform the public. 2000, c. 8, s. 77.

Transitional provisions

78 (1) Every person who, on the coming into force of this Act, practises medical laboratory technology in the Province or who practised medical laboratory technology in the Province for the equivalent of at least twelve months full-time at any time within two years immediately preceding the coming into force of this Act, is entitled, for one year immediately following the coming into force of this Act, to be registered pursuant to this Act and the name and address of every such person shall, upon application and compliance with clauses 29(c) and (f), be entered in the Register and such person shall be issued a licence.

(2) During the year immediately following the coming into force of this Act, every person who practises medical laboratory technology in the Province may apply for membership in the College and in the Canadian Society of Medical Laboratory Science at the same time.

(3) Nothing in this Section shall be construed as requiring the College to provide professional liability insurance to members of the College. 2000, c. 8, s. 78.

Regulations

79 All regulations made pursuant to this Act, with the exception of those regulations made pursuant to subsection 22(1), are regulations within the meaning of the *Regulations Act*. 2000, c. 8, s. 79.

Proclamation

80 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2000, c. 8, s. 80.

Proclaimed - September 26, 2003
In force - January 1, 2004
