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### Independent MLT Practice

This practice guideline is to inform Medical Laboratory Technologists (MLT) of recommended practices and requirements for those MLTs that conduct independent practice. Independent practice may include items such as: phlebotomy services, specimen collection, transport, or testing.

Independent Practice (self-employment) is considered an area of practice with the potential for increased risks to the public.

#### **Definition**

MLTs engaged in independent practice are not employees and are not part of the organizational structure of an institution or health authority. They may provide services independently, in partnership with other health professionals in independent practice, or act as the employer of other health care providers. They generally provide services without supervision. MLTs who engage in independent practice may provide a wide range of professional laboratory services to clients in a variety of practice settings.

An MLT engaged in independent practice may decide to enter a contractual relationship with another business or organization as an independent contractor but remains in independent practice and is not considered to be an employee.

The nature of the working relationship is what determines whether someone is working as an employee or contractor. Factors to consider include:

- Direction and control over the manner of doing the work (such as the results of the work and the method used to do the work);
- Direction and control over the method and amount of pay (such as payment vs. receipt of benefits, submission of invoices vs. receipt of regular wages/salary);
- Ownership of facilities, supplies, tools, and equipment; chance of profit or risk of loss; and
- Integration into the work environment.

An MLT engaged in independent practice should obtain legal and business advice as needed to identify, understand, and comply with the laws that apply to the practice (for example, laws relating to privacy, employment standards, and taxation).

## Considerations for Independent Practice

The following list is to be used as a guide for MLTs as they determine how their independent practice should be conducted. It is not to be considered all-inclusive. MLTs are expected to utilize their critical thinking and skills to support their decisions in independent practice situations. The items listed below have been compiled alphabetically, not by order of importance.

### 1. Notice to SSMLT

MLTs conducting independent practice must indicate so during the SSMLT renewal process along with all other information required by SSMLT.

### 2. Licenses for Independent Practice

#### a. Business:

Persons owning a business and conducting independent practices must ensure that they have any applicable businesses licenses.

#### b. Medical Laboratory license:

Any person operating a medical laboratory must ensure they contact the Ministry of Health<sup>1</sup>, laboratory licensing unit to determine whether they require a Medical Laboratory license in accordance with the Medical Laboratory Licensing Act and Regulations<sup>2</sup>. Should a medical laboratory license be required, the MLT conducting independent practice must meet all terms and conditions of the laboratory license and have a valid license issued by Ministry of Health prior to commencing operations.

### 3. Advertising

Advertising is a significant aspect of independent practice. Clients will want to know the MLTs professional qualifications, what services the MLT is providing, the cost of these services, and the form(s) of payment accepted.

When advertising services to the public, the MLT must:

- a. Include a description of the services provided;
- b. Include only accurate, factual and verifiable information;
- c. Provide evidence-based references to support statements; and
- d. Include his/her name and protected title.
- e. An MLT engaged in independent practice may not use the logo of the SSMLT or an employer (previous or current), or make any other representation that would imply the MLT is an employee carrying out laboratory services on behalf of either the SSMLT or a healthcare agency.

### 4. Conflict of Interest

- a. The MLT engaged in independent practice adheres to all ethical principles and abides by the SSMLT Code of Ethics<sup>3</sup> and Standards of Practice<sup>4</sup>. Well written policies can help avoid conflict of interest situations. Some of these situations may include, but are not limited to:

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- i. Directly or indirectly recruiting clients from one's employer; or
- ii. Providing services to a client personally known to the MLT on a social basis.

### 5. Consent

- a. MLTs must obtain consent from the client, or the substitute decision-maker as outlined in the provincial Health Care Directives Act and the Substitute Health Care Decision Makers Act<sup>5</sup> for more information, before providing services. Informed consent is a clients' or substitute decision-makers' written or verbal agreement that they understand the services being provided, the fee for the service, and the risks involved in the services rendered. The individual providing consent must have the legal and mental capacity to do so. Consent may be implied, given orally, or provided in writing as appropriate. Verbal or implied consent should be documented.
- b. An MLT engaged in independent practice will need to develop a consent form for new clients to sign before providing services. Your consent form and policies should consider:
  - i. Assessment of the client's intellectual capacity, health literacy, and the ability to understand the nature of the procedure and the right to refuse the procedure. Consent is only valid if the client is competent;
  - ii. The need to re-establish consent if the service is being changed or reconsidered; and
  - iii. That service should not be provided to a minor unless substitute decision maker consent is obtained.

### 6. Documentation and Record-Keeping

- a. An MLT in independent practice must maintain confidential and accurate records. Policies for documentation should reflect evidence-based practice.
- b. An MLT in independent practice should develop policies for documenting and managing incidents/adverse events, and the type and frequency of documentation required. It is generally recommended that documentation include:
  - i. A general client information form;
  - ii. A contract/form signed and dated by both the MLT provider and the client identifying laboratory services the client can expect;
  - iii. A voluntary consent form signed and dated by the client or substitute decision-maker to accept the implementation of said services;
  - iv. Documentation of services provided including client response;
  - v. Time and date of contacts with the client;
- c. Security and integrity of client information must always be maintained. An MLT engaged in independent practice is accountable for maintaining client records according to generally accepted professional practice and business standards and in compliance with relevant legislation.
  - i. The MLT must comply with The Health Information Protection Act (HIPA)<sup>6</sup>. The Saskatchewan Information and Privacy Commissioner has

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- produced a Guide to HIPA<sup>7</sup> that MLTs may find useful in developing their policies and practices
- ii. Personal, identifiable information such as the client's name, address, and date of birth is governed under different legislation than the client's health information. The MLT is required to comply with the regulations of The Personal Information Protection and Electronic Documents Act (PIPEDA)<sup>8</sup>.
  - d. All confidential records, whether they be paper or electronic must be stored in a secure manner 24 hours a day.
  - e. The SSMLT advises members to plan to retain records for a minimum of ten years following the date of last services, and in the case of minor clients, for at least two years past the age of majority or ten years, whichever is longer.
  - f. You may be required to provide the SSMLT with access to your client or business records and practice premises when the SSMLT is:
    - i. Investigating a complaint: (a SSMLT investigator may need to visit your practice setting and examine anything relevant to an investigation, including client and business records)

### 7. Fees and Services

- a. MLTs engaged in independent practice are responsible to set fees for the services they offer in their practice.
- b. Fees should be comparable to those of other health care providers who have similar competencies and experience, and who provide similar services.
- c. MLTs engaged in independent practice are accountable for:
  - i. Informing clients in advance of fees and acceptable methods of payment;
  - ii. Informing clients in advance of fees, if any for missed appointments or late payments;
  - iii. Providing clients with adequate notice before changing your fees and informing clients in advance of what the notice period is; and
  - iv. Providing clients with an official receipt listing the laboratory services provided.
- d. The following activities could be considered professional misconduct and may lead to disciplinary proceedings:
  - i. Submitting an account or charge for services that are false or misleading;
  - ii. Failing to fulfill the terms of an agreement for professional services;
  - iii. Charging a fee that is excessive in relation to the service provided;
  - iv. Charging a fee for services not provided;
- e. An MLT engaged in independent practice does not:
  - i. Recommend or promote unnecessary services to clients;
  - ii. Offer discounts or coupons for services;
  - iii. provide promotional offers; or
  - iv. Charge fees in advance for a service that has not been provided.

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### 8. Infection Control

- a. As with all laboratory practice, infection control measures are a basic requirement.
- b. The MLT needs to ensure that policies regarding proper care, disposal and cleaning exist.
- c. Infection Prevention and Control Canada<sup>9</sup> is a credible source of guidelines to assist the MLT in ensuring that their clients are well protected from possible sources of infection and cross-contamination.

### 9. Transportation of Dangerous Goods

- a. Persons conducting independent practice must ensure they comply with the Transportation of Dangerous Goods Act and Regulations.<sup>10</sup>
- b. A person who handles, offers for transport, or transports dangerous goods, or who directly supervises another person engaged in these activities, must give his or her training certificate, or a copy of it, to an inspector or the SSMLT upon request.
- c. The MLT needs to ensure that policies regarding transportation, storage, disposal, and cleanup exist.

### 10. Insurance

MLTs engaged in independent practice should obtain both business professional liability and commercial general liability insurance as follows:

#### a. **Individual Professional Liability -employed MLTs**

Errors and Omissions liability or Professional Liability responds to claims arising from employment as an individual Medical Laboratory Technologist (MLT) in Saskatchewan.

All Practicing and Temporary Practicing MLTs must have approved coverage in the amount required by SSMLT. Legal defense coverage may be purchased through CSMLS membership. Legal defense option may be required, should an MLT be investigated by SSMLT.

#### b. **Business (Entity) Professional Liability**

Business Professional Liability insurance, also known as Errors and Omissions (E&O) for business (entity) coverage, is designed to protect your business against claims that professional services you provided. Business entity liability insurance is imperative if you are self-employed and/or contract your professional services to hospitals, clinics, other community care providers or render services to clients in their home or other locations including your own home or workplace.

#### c. **Commercial General Liability**

Commercial General Liability (CGL) is imperative if you are self-employed and/or contract your professional services to hospitals, clinics, other community care providers or render services to clients in their home or other locations including your own home or workplace. A CGL program including coverage for Bodily Injury, Property Damage and Tenants Legal Liability.

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### 11. Registering a Business

- a. For an MLT that is wishing to incorporate a business, they may contact Information Services Corporation<sup>11</sup> (ISC) for support and further information.

### 12. Risk Management

- a. Risk management is a significant aspect of building an independent practice. Adequate risk management strategies work to prevent adverse incidents from occurring and minimize the impact when they do. A risk analysis should identify elements such as:
  - i. What could go wrong?
  - ii. How bad would it be if something happened?
  - iii. How often is it likely that something will happen?
  - iv. How can the likelihood that something will happen be mitigated from the outset, and to what extent?
  - v. What can be done to control the associated consequences?
- b. The MLT should assess areas where their independent practice may result in:
  - i. Clients, staff and themselves being placed at risk of physical or psychological harm;
  - ii. Disengaged staff;
  - iii. Financial or reputation loss;
  - iv. Service interruption (ex: power failures or lack of after-hours care);
  - v. Statutory non-compliance; and
  - vi. Failed practice initiatives.

### 13. Termination of Practice

The MLT engaged in independent practice must have a plan for the termination of practice that includes information relating to :

1. Clients of the service;
2. Referral sources;
3. Employees;
4. Transfer of clients;
5. Maintaining or destroying client contracts and health records;
6. Closure of business accounts and payment of fees; and
7. Catastrophic events, such as death or unforeseen circumstances.

The MLT should develop policies, practices, and contingency plan(s) to ensure records will be adequately stored and safeguarded following the termination of their practice.

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### References

1. *Saskatchewan Ministry of Health- Medical Laboratory Licensing*
2. *Saskatchewan Medical Laboratory Licensing Act and Regulations*
3. *SSMLT Code of Ethics- SSMLT Regulatory Bylaws- Appendix A*
4. *SSMLT Standards of Practice*
5. *Saskatchewan Health Care Directives and Substitute Health Care Decision Makers Act*
6. *Saskatchewan Health Information Protection Act*
7. *Saskatchewan Office of Privacy Commissioner- Guide to HIPA*
8. *Canadian Personal Information Protection and Electronic Documents Act*
9. *Infection and Prevention Control Canada*
10. *Canadian Transportation or Dangerous Goods Act and Regulations*
11. *Information Services Corporation (ISC)*

# Practice Guideline

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## Revision Summary

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