

IN THE MATTER OF A HEARING BY THE DISCIPLINE COMMITTEE ESTABLISHED PURSUANT TO *THE MEDICAL LABORATORY TECHNOLOGISTS ACT* AND BYLAWS TO HEAR AND DETERMINE THE FORMAL COMPLAINT RELATING TO THE CONDUCT OF RIKILKUMAR PANDYA, A MEMBER OF THE SASKATCHEWAN SOCIETY OF MEDICAL LABORATORY TECHNOLOGISTS

SASKATCHEWAN SOCIETY OF MEDICAL LABORATORY TECHNOLOGISTS

DISCIPLINE COMMITTEE

REASONS FOR DECISION

Discipline Committee Members:

Robyn Mauza, MLT, Chair
Nicole Jaster, MLT, Member
Lawrence Martens, MLT Member
Marlys Mooney, MLT, Member
Cathy Billett, Public Representative, Member

Darcia Schirr K.C., appearing on behalf of the Counselling and Investigation Committee
Bryden Wudrich, appearing on behalf of Rikilkumar Pandya
Merrilee Rasmussen, K.C., legal counsel for the Discipline Committee

INTRODUCTION

[1] The Discipline Committee convened virtually on May 2, 2023, via Zoom, as agreed by the parties, to hear and determine the Formal Complaint concerning the Member, as required by *The Medical Laboratory Technologists Act* (“the Act”). At the outset of the hearing the charges comprising the Formal Complaint were read out by the Chair and the Member confirmed that he was pleading guilty to them. The parties submitted an Agreed Statement of Facts and related documents as well as a joint submission relating to sanctions. The Discipline Committee agreed to accept the joint submission and, at the request of the parties, issued its Order based on the joint submission on May 3, 2023, with reasons to follow. These are the Discipline Committee’s reasons for decision.

[2] The following documents were received into evidence by consent:

- (a) Exhibit P-1, Affidavit of Service and Notice of Hearing with Formal Complaint;
- (b) Exhibit P-2, Agreed Statement of Facts;
- (c) Exhibit P-3, addendum to Tab D of the Agreed Statement of Facts consisting of a 10-page final report of the investigation;

- (d) Exhibit P-4, Draft Sanction Order;
- (e) Exhibit P-5, Description of Courses;
- (f) Exhibit P-6, Re-entry to Practice Policy;

AGREED STATEMENT OF FACTS

[3] The Agreed Statement of Facts submitted by the parties is as follows (documents referred to as attached to the Agreed Statement of Facts are not included):

A. Introduction

1. Rikulkumar Pandya of the City of Saskatoon in the Province of Saskatchewan was a practicing member and a licensed medical laboratory technologist ("ML T") registered with the Saskatchewan Society of Medical Laboratory Technologists ("SSMLT"). Mr. Pandya registered with the SSMLT on January 28, 2021.
2. On March 29, 2022, the SSMLT received a complaint from [REDACTED] who is employed at the [REDACTED].
3. On April 20, 2022, the SSMLT received a complaint from [REDACTED] who is employed at the [REDACTED].
4. On May 17, 2022, the SSMLT received a complaint from [REDACTED] who is employed in the [REDACTED].
5. The complaints were forwarded to the Counselling and Investigation Committee (the "Investigation Committee") for review and investigation.
6. The Investigation Committee engaged [REDACTED] to investigate all three complaints. [REDACTED] interviewed the complainants and Mr. Pandya. [REDACTED] also obtained additional document from each of the complainants.
7. The investigation of the complaints has resulted in the charges set out in a Notice of Discipline Hearing dated February 23, 2023.
8. Mr. Pandya admits the allegations set out in charges 1 through 3 inclusive and admits that those allegations amount to professional incompetence as that term is defined in The Medical Laboratory Technologist Act, 2020 (the "Act") and amounts to a breach of the *Regulatory Bylaws* as particularized in the Notice of Discipline Hearing.

B. Background

9. Mr. Pandya is an internationally educated MLT. He received his training in India. He was employed at a clinical pathology lab in Mumbai from August 11, 2006 to December 22, 2017. Attached at Tab "A" is letter dated 12/09/18 from Dr. Sharad Sharma outlining Mr. Pandya's job description and responsibilities.

10. In order to register and practice in Canada, internationally educated MLTs are required to complete a Prior Learning Assessment process with the Canadian Society of Medical Laboratory Science ("CSMLS") to determine equivalency between international education and Canadian education. In addition, internationally educated MLTs must undergo an English language assessment. These are pre-conditions for eligibility to write the CSMLS National Certification Examination (the "national exam").

11. By letters dated November 4, 2020, the CSMLS advised Mr. Pandya that he was eligible to challenge the national exam. Attached at Tab "B" are the letters and related documents from CSMLS to Mr. Pandya.

12. Mr. Pandya wrote the national examination on December 15, 2020 and he received a pass. Attached at Tab "C" is CSMLS Statement of Examination Results dated December 15, 2020.

13. On January 28, 2021, the SSMLT issued Mr. Pandya a MLT General Practice license which includes chemistry, hematology, histology, microbiology and transfusions.

14. Effective December 1, 2022, Mr. Pandya was not eligible to renew his practicing license because he did not meet the criteria of section 17(1) of the SSMLT *Regulatory Bylaws*.

C. Charges

15. Attached Tab "D" is the investigative report prepared by [REDACTED].

16. In the course of her investigation, [REDACTED] gathered extensive documentation from the [REDACTED] and [REDACTED].

17. Regarding charge 1, and the [REDACTED], the complainant [REDACTED] provided 42 pages of documentation to supplement [REDACTED] complaint which included, inter alia, emails, performance reviews, and patient test results. Attached at Tab "E" is the 42 pages of documentation provided by [REDACTED].

18. Regarding charge 2, and the [REDACTED], attached are the following documents:

- (a) Training Schedule -Tab "F"
- (b) Employee Coaching Forms-Tab "G"

(c) Letter dated March 9, 2022 from [REDACTED] to Rikulkumar Pandya - Tab "H"

19. Regarding charge 3 and the [REDACTED], attached are the following documents:

(a) [REDACTED] Competency Evaluation dated April 8/2022-Tab "I"

(b) Learning and Improvement Plan dated April 11, 2022-Tab "J"

(c) Summary of Probationary or Trial Performance Review -Tab "K"

(d) Memo dated April 8, 2022, prepared by [REDACTED]
[REDACTED] -Tab "L"

(e) Probationary or Trial Performance Review, completed by [REDACTED]
[REDACTED] - Tab "M"

(f) Probationary or Trial Performance Review, completed by [REDACTED]
[REDACTED], dated April 11, 2022 - Tab "N"

(g) Probationary or Trial Performance Review, completed by [REDACTED]
[REDACTED] - Tab "O"

D. Previous Discipline History

Rikilkumar Pandya has not been the subject of previous complaints to the SSLMT.

ANALYSIS

[4] The Discipline Committee accepts the Member's guilty plea to the charges comprising the Formal Complaint. The Agreed Statement of Facts establishes that the Member is guilty of:

(a) professional incompetence, as that term is defined in section 26 of *The Medical Laboratory Technologists Act*, on the basis that his conduct as outlined in the Agreed Statement of Facts demonstrates a lack of knowledge, skill or judgment to an extent that demonstrates that he is unfit to continue in the practice of the profession; and/or

(b) professional misconduct, as that term is defined in section 27 of *The Medical Laboratory Technologists Act*, on the basis that his conduct as outlined in the Agreed Statement of Facts demonstrates a failure by the Member to comply with the Code of Ethics and/or the Standards of Practice, compliance with which is required pursuant to sections 26 and 27 of *The Medical Laboratory Technologists Regulatory Bylaws*.

[5] The Discipline Committee understands that it ought to accept a joint submission with respect to penalty or sanction if the joint submission is fit and reasonable and in the public

interest. In this regard, the Committee is mindful of the decision of the Saskatchewan Court of Appeal to this effect in *Rault v Law Society of Saskatchewan*.¹

[6] The Discipline Committee notes in particular that the joint submission tailors the proposed sanctions to the conduct that led to the Formal Complaint and provides the Member with the ability to become relicensed. At the same time, the joint submission provides for the protection of the public by requiring that the Member not only complete the specified courses, but that he also demonstrate practical competency through supervised practice once he is relicensed.

[7] The costs proposed are reasonable and take into account the factors listed by the Saskatchewan Court of Appeal in *Abrametz v Law Society of Saskatchewan*², including the fact that the Member's ability to pay is limited and he will be required to pay for the courses that he must take in order to regain his licence to practise.

CONCLUSION

[8] These are the reasons of the Discipline Committee for accepting the joint submission of the parties with respect to sanction and for issuing its Order dated May 3, 2023.

DATED at Regina, Saskatchewan this 6th day of June 2023.



Robyn Mauza, MLT, Chair,
Discipline Committee of the
Saskatchewan Society of Medical
Laboratory Technologists on behalf
of the Discipline Committee

¹ 2009 SKCA 81.

² 2018 SKCA 37, at paras. 46 and 47.