

Proposed Regulatory Amendments under the Mandatory Blood Testing Act (MBTA), 2006 and the Laboratory and Specimen Collection Centre Licensing Act (LSCCLA)

Regulation Number: O. Reg. 449/07 (General) under the Mandatory Blood Testing Act (MBTA), 2006
O. Regs 682, 693 under the Laboratory and Specimen Collection Centre Licensing Act (LSCCLA)

Instrument Type: Regulation: Regulation – Minister (MBTA)
Regulation- LGIC (LSCCLA)

Bill or Act: Mandatory Blood Testing Act
Laboratory and Specimen Collection Centre Licensing Act

Summary of Proposal

Legislative amendments to the MBTA were introduced in 2019 as part of Bill 68, *Comprehensive Ontario Police Services Act, 2019* but are not yet in force. Once proclaimed into force, these changes will modernize mandatory blood testing processes by improving timelines, enforcement, provincial oversight, and service delivery. The Ministry of Health (the “Ministry”) intends to proclaim these changes into force effective July 1, 2022. To support these legislative amendments, the Ministry is proposing amendments to Ontario Regulation 449/07 (General) under the Mandatory Blood Testing Act, 2006 (the “MBTA”). The Ministry also reviewed the regulation to identify opportunities to streamline the process and reduce existing timelines, consistent with the shorter timelines identified in the legislative amendments. The proposed regulatory amendments would directly impact the police officers, firefighters, correctional service staff and others named in the MBTA who want to get faster access to information about the listed communicable diseases in the MBTA. The Ministry is also proposing complementary regulatory amendments under the *Laboratory and Specimen Collection Centre Licensing Act* (LSCCLA) to support the proposed regulatory amendments to the MBTA.

The proposed legislative and regulatory amendments under the MBTA by category are as follows:

Changes to improve process timelines (Legislative amendments)

- Shortened the time from application submission to Consent and Capacity Board (the “CCB”) hearing from 8 days to 5 business days.
- Shortened the time for respondents to comply with the CCB order from 7 to 2 business days.
- Lengthened the time from exposure to application from 7 to 30 calendar days to allow victims more time to decide whether to file an MBTA application.

Changes to strengthen enforcement (Legislative amendments)

- Removed the mandatory 2-day voluntary process. Medical Officers of Health would still attempt to contact the respondent to see if he/she would voluntarily provide a blood sample.
- Added requirement for immediate referral of an application to the CCB by the MOH.
- Increased penalties to \$10,000 for every day on which the offence occurs (up from \$5,000 per day) and added a term of up to 6 months imprisonment.
- Provided express authority to the Superior Court to allow police assistance in enforcing a testing order (e.g. police officer present during blood draw).

Proposed changes to enhance service delivery and applicant experience (Regulatory amendments)

- Expand the list of prescribed individuals who may take blood samples (e.g. to include staff in a specimen collection centre or laboratory licensed under the LSCCLA)
- Add the exceptional circumstances in which the Consent and Capacity Board may not be able to comply with the applicable time period set out in the Act.
- Add the process for an applicant to withdraw his or her application.

- Add the process for an applicant to re-submit their application in certain circumstances (e.g. the respondent's identity cannot be verified).
- Add requirement for a unique file number be assigned to applications for tracking purposes.
- Remove requirement to notify CCB of compliance/non-compliance with an order, as enforcement is inconsistent with CCB's mandate.
- Add more inclusive language (e.g. using gender neutral pronouns).
- Add modern forms of communication (e.g. email, electronic transmissions).
- Remove procedures for taking/verifying blood samples, required elsewhere as general standards of practice. This includes removing the need for special seals.

The proposed complementary regulatory amendments under the LSCCLA are as follows:

- Permit a laboratory to test blood based on a request/order issued under the MBTA.
- Permit a specimen collection centre (SCC) to collect a blood sample based on a request/order issued under the MBTA.

The Ministry is also working towards making operational changes to improve provincial oversight (e.g., updating MBTA documents on the internet to improve web presence, updating guidelines/protocols to ensure consistency, establishing a data collection system to improve program surveillance and reporting). Operational documents that support the proposed changes will be updated by the ministry to support implementation (e.g., general information on the website and relevant forms).

The legislative amendments to the MBTA and these proposed regulatory changes would come into effect on July 1, 2022.

For more detail, please see the attached current version of the regulation, and link to the MBTA for legislative amendments.

Analysis of Regulatory Impact:

These consequential regulatory amendments are being proposed to support the proclamation of legislative amendments to the MBTA into force. Affected stakeholders (i.e., first responders and front-line staff) have expressed an interest in seeing the MBTA proclaimed.

The proposed regulatory amendments would update the MBTA regulation to address legislative and regulatory gaps, improve process timelines, strengthen enforcement, streamline the process, enhance service delivery, improve applicant experience, and respond to stakeholder concerns.

These proposed regulations do not affect business, and there are no new administrative costs or compliance costs associated with this proposal.

MOH welcomes your comments and feedback.