

Student Claim Based on Being Misled Decision

Complainant: [REDACTED]

Institution: 3162 – CDI College of Business, Technology &
Health Care

1. Introduction

The Complainant was enrolled in the Registered Massage Therapy program [Program] and did not graduate on the basis that she did not complete the required 330 clinical hours.

The Complainant filed a complaint [Complaint] against the Institution on June 20, 2022.

The Complainant exhausted the Institution's dispute resolution process [DRP] prior to filing this Complaint.

The matters at issue relate to the clinical hours credited and the activities which were not recognized by the Institution as clinical hours.

For the reasons outlined below I find the Institution did not mislead the Complainant regarding a significant aspect of the Program and, accordingly, deny the claim.

2. Statutory Scheme

Section 23(1) of the *Private Training Act* [Act] provides that a student may file a claim against the Student Tuition Protection Fund [Fund] on the ground that a certified institution misled the student regarding any significant aspect of an approved program of instruction in which that student was enrolled. Claims are filed with the Trustee, being the minister or the person to whom the minister has delegated the relevant powers or duties.

Claims must be filed no later than one year after the student completed or was dismissed or withdrew from the program and only after the student has exhausted the institution's dispute resolution process.

Following receipt of the complaint, the process is as follows:

Claim the student was misled		
Who	What	When
Trustee	Gives a copy of the claim to the institution	As soon as practicable
Institution	May respond to the claim [Response]	Within 15 days of receiving a copy of the claim from the Trustee
Trustee	Gives the Response from the institution, if any, to the student	Within 15 days of receiving the Response from the institution
Student	May reply to the Response from the institution [Reply]	Within 15 days of receiving the Response from the Trustee
Trustee	Must give the Reply from the student, if any, to the institution	Within 15 days of receiving the Reply from the student

Trustee	Adjudicates the claim to determine whether any refund should be issued, and provides written reasons to the student, the institution and the registrar.
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If a claim is approved, the Trustee may authorize payment from the Fund of all or a portion of the tuition paid to the institution by or on behalf of the student. Section 25(4) of the *Fees and Student Tuition Protection Fund Regulation* requires that payments from the Fund be directed first to the government if all or a portion of the tuition was paid using funds from a provincial or federal student assistance program, and then to the claimant.

3. Program Information

Program:	Registered Massage Therapy
Student Enrollment Contract: Year 1	
Start date:	July 15, 2019
End date:	June 12, 2020
Student Enrollment Contract: Year 2	
Start date:	June 22, 2020
Original End Date	May 14, 2021
Revised End date:	July 30, 2021
Total charged:	\$ 39,637.00
Tuition Fee:	\$ 36,253.00
Application Fee:	\$ 150.00
Assessment and Administration Fees:	\$ 325.00
E-Resources and Material Fee:	\$ 2,909.00
Amount paid to date by Complainant:	\$ 39,637.00
Amount of tuition paid to date by Complainant:	\$ 36,253.00

4. Issues

The following issue arises for consideration: Did the Institution mislead the Complainant in respect of the number of clinical hours completed and activities eligible to be recognized as clinical hours?

5. Chronology

July 2019	Program start
April 30, 2021	Complainant notified of temporary suspension (April 30-May 14, 2021)
May 19, 2021	New policy requires log for clinical hours [Credit Log] be kept on site
June 15, 2021	Institution issues “generic” Diploma to Complainant
August 26, 2021	Institution asks Complainant to submit Credit Log
March or April 2022	Complainant takes registration examination administered by the College of Massage Therapists of BC (CMTBC)
April 29, 2022	Institution confirms Complainant does not meet graduation requirements (missing clinical hours)
April 29, May 2, 2022	Email exchanges between parties, Complainant requests meeting
May 3, 2022	Institution’s notes from meeting with Complainant

May 30, 2022	CMTBC confirms Complainant must deal with Institution (re: missing proof of graduation)
June 3, 2022	Institution's summary of telephone conversation between parties
May-June 2022	Email exchanges between parties and in-person meeting (recorded)
June 20, 2022	Complainant files Complaint

6. Analysis

Graduates of recognized massage therapy education programs, such as the Program, are eligible to take the registration examination administered by CMTBC. Registration with CMTBC is one of the requirements to become a Registered Massage Therapist (RMT) in BC.

The Complainant completed all components of the Program, with the exception of the required 330 clinical hours and, as a result, did not graduate from the Program.

The main issue complained about relates to the number of clinical hours the Complainant completed and the types of activities recognized by the Institution as clinical hours.

In spring 2021, the Complainant assumed she had graduated, submitted to CMTBC a copy of the diploma issued to her by the Institution, paid the required fee, and completed CMTBC's registration examination. When CMTBC asked the Institution to confirm the Complainant had graduated, the Institution indicated the Complainant was still missing clinical hours. For this reason, CMTBC withheld the Complainant's exam results.

The Complainant says the Institution issued a fake diploma. The Institution responded that all students enrolled in the Program were issued an unofficial (unsigned) diploma "to hold their spot for the board [CMTBC] exam". Official diplomas are issued once a student graduates.

Clinical hours are recorded in a Credit Log. Initially, students were responsible for completing their own Credit Log and could bring it home. The Institution issued a new policy in May 2021 that required Credit Logs be kept at the Institution's premises. Neither the Institution nor the Complainant could locate the Complainant's Credit Log and, around April/May 2022, a new Credit Log was created. The Complainant submitted activities to be entered in the Credit Log and the Institution determined the Complainant had completed 157 of the 330 required clinical hours. This meant the Complainant fell short of the requirement to graduate.

The parties disagree on the number of hours completed and the type of activities that qualify as clinical hours.

In its April 29, 2022 email to the Complainant, the Institution says: "Several attempts have been made to schedule your shifts. According to JaneApp, 11 shifts were scheduled between September and December, and you only showed up for two shifts on December 3rd and December 9th, 2021. Prior to that the last shift you had attended was July 7th, 2021".

In support of her Complaint, the Complainant submitted the recording of a meeting held with the Institution. During the meeting, the Institution is supportive of the Complainant in trying to identify activities that qualify as clinical hours but acknowledges that certain activities performed by the Complainant and other students of the same cohort no longer qualify as clinical hours, and points to its accreditation status with CMTBC. I

understand that CMTBC reviewed the type of activities that had been previously recognized by the Institution as clinical hours.

In its Response as part of the Complaint process, the Institution submits it tried to locate the Credit Log to no avail and worked diligently with the Complainant to confirm as many clinical hours as possible and create a new Credit Log.

The Institution also refers to the Complainant's temporary suspension (April 30-May 14, 2021) from the "student clinic" which was "due to lack of professionalism/attendance" and acknowledges that "due to the campus director and Program Coordinator transitioning, this was not documented properly".

In her Reply as part of the Complaint process, the Complainant says she was never formally notified of the suspension while attending the Program.

My decision does not address the Complainant's allegations, including breach of privacy, discrimination, harassment, bullying and racism, which fall outside my jurisdiction.

7. Decision

I have carefully reviewed the evidence submitted in support of the claim and find the Institution did not mislead the Complainant in respect of the number of clinical hours completed and activities eligible to be recognized as clinical hours. On this basis, I deny the claim.

The adjudicative task for me, as trustee, is not to assess whether the Program met the Complainant's expectations, which it clearly did not. Rather, my task is to determine whether the Complainant was misled in relation to a significant aspect of the Program. For a claim under s. 23(1)(b) of the Act to be successful, there must be concrete evidence that the institution promised something related to a significant aspect of the program that it objectively failed to deliver.

While I find the Institution could have handled the assessment and recording of the Complainant's clinical hours in a more professional manner, I am not satisfied the Complainant was misled within the meaning of s.23(1) of the Act. I accept the Institution's submission that it must comply with the requirements of CMTBC and had no option but to only record specific clinical hours. Further, the evidence indicates the Complainant may not have been diligent in attending clinical hours.

I note the Institution did not submit any evidence in support of its allegation that the Complainant was suspended from the Program. The alleged suspension is not a factor in my decision.

Decisions of the Trustee are final and conclusive and are not subject to appeal (Act, s.24(5)).

September 18, 2023

A handwritten signature in black ink, appearing to read "Anthony Loughran", with a long horizontal stroke extending to the right.

Tony Loughran

Trustee, Student Tuition Protection Fund