

CMTCA Reconsideration & Appeal of Accreditation Decision Policy

Purpose

This policy establishes when and how a massage therapy education program may request a reconsideration or appeal of an accreditation decision made following a Canadian Massage Therapy Council for Accreditation (CMTCA) site-visit and the procedures to be taken by CMTCA when such requests are received.

Policy

CMTCA requires all education programs seeking accreditation to meet the applicable Accreditation Standards and policies. Compliance with the Accreditation Standards and policies is assessed by CMTCA during a site-visit, including by way of reviewing documents and program materials, interviewing faculty, staff, leadership students, and other stakeholders, and observing processes and procedures. At all times, CMTCA strives to ensure a fair and appropriate assessment of all education programs during site-visits. However, despite CMTCA's best efforts, inadvertent errors may sometimes occur in the assessment process. Most of these errors are minor and do not materially impact the assessment of an education program. On the other hand, some errors may be material in the circumstances. This policy is designed to address instances of alleged material errors in the assessment process by providing a reconsideration and appeal mechanism.

Any program that has had a site-visit (including a virtual site-visit) and is either not granted accreditation or is granted accreditation but only for one or three years (the "**Initial Decision**") and believes that the Initial Decision was materially impacted by an error in the assessment process may request a reconsideration of the Initial Decision (the "**Reconsideration Decision**") by following the steps outlined in this policy. In addition, any program that is not satisfied with a Reconsideration Decision and has raised an appealable issue, as defined below, may appeal the Reconsideration Decision by following the steps outlined in this policy.

In order to ensure the integrity of the assessment process, any evidence submitted in support of a reconsideration or appeal must be shown to have existed at the time of the site-visit and may not include evidence that was requested by CMTCA prior to or during a site-visit but that the program chose not to disclose.

An education program may appeal a Reconsideration Decision only on the basis of alleged material errors in the assessment process. Examples of errors in the assessment process include but are not limited to:



- a. Relevant facts or documents that existed at the time of the site-visit were not previously submitted or presented to the survey team as a result of a misunderstanding as to the information requested by the survey team.
- b. CMTCA has not followed specific applicable CMTCA accreditation standards, criteria or processes in reaching the Initial Decision.
- c. Material evidence submitted or presented to the survey team was inadvertently not considered.

Examples of issues that are not appealable include but are not limited to:

- a. Disagreements regarding the appropriateness or validity of an accreditation standard or CMTCA policy.
- b. Disagreements based on evidence that was created after the survey team concluded their site-visit.

Reconsiderations

Reconsiderations will be decided by CMTCA's Executive Director or his or her delegate (the "**ED**").

Appeal Panel

Appeals will be decided by a panel of three members (the "Appeal Panel"). Appeal Panel members ("Panelists") will be chosen by CMTCA's ED from a pool of candidates, selected by CMTCA, who will be former and/or current standards advisory committee members or surveyors who did not participate in the site-visit. Each member of the Appeal Panel will have knowledge of accreditation standards, policies and procedures.

Panelists will receive training on their roles for the appeals process and current policies and procedures. All Panelists are subject to conflict of interest and confidentiality policies.

Procedure

In the procedures below, the term "business day" refers to a day on which chartered banks are open for business in Ontario.

- 1) An education program wishing a reconsideration of an Initial Decision (an "**Applicant**") must submit a written request for reconsideration (the "**Notice of Reconsideration**") to CMTCA within 15 business days of receiving the Initial Decision following a site-visit. The Notice of Reconsideration must: (i) clearly state the reason(s) for reconsideration, including the alleged error(s) in the assessment process and why such error(s) were of sufficient magnitude to materially impact the assessment process; (ii) be supported by admissible evidence, where appropriate; and (iii) indicate the relief sought by the Applicant. The Notice of Reconsideration is to be sent electronically to the ED at [christian@cmtca.ca], along with a non-refundable administrative fee payable to CMTCA ("**Reconsideration Fee**"). The current Reconsideration Fee can be found in the Accreditation Fees schedule.

- 2) Where the ED determines, upon an initial review of the Notice of Reconsideration, that the request relates to or involves his or her personal conduct, he or she shall transfer the matter to his or her designate for processing.
- 3) Within 20 business days of receipt of the Notice of Reconsideration and Reconsideration Fee, the ED shall review such notice and issue a written decision either upholding the Initial Decision or amending it, in whole or in part, and determining whether the Applicant has raised an appealable issue. The ED shall provide a copy of the Reconsideration Decision to the Applicant.

Three example outcomes of this step are:

- a) The accreditation decision is amended (in whole or in part) as a result of reconsideration.
 - b) The decision is upheld (not amended as a result of reconsideration), however the program has raised an appealable issue and may choose to submit a Notice of Appeal.
 - c) The applicant has not raised an appealable issue, and a Notice of Appeal may not be submitted.
- 4) For greater clarity, the ED's decision as to whether the Applicant has raised an appealable issue is not subject to reconsideration or appeal.
 - 5) An Applicant who has raised an appealable issue as determined by the ED and wishes to appeal a Reconsideration Decision (an "**Appellant**") must submit a written request for appeal (the "**Notice of Appeal**") to CMTCA within 15 business days of receiving the Reconsideration Decision. The Notice of Appeal must: (i) clearly state the reason(s) for the appeal; (ii) be supported by admissible evidence, where appropriate; and (iii) indicate the relief sought by the Appellant. The Notice of Appeal is to be sent electronically to the ED at [christian@cmtca.ca], along with a non-refundable administrative fee payable to CMTCA ("**Administrative Fee**"). The current Administrative Fee can be found in the Accreditation Fees schedule.
 - 6) Once the Notice of Appeal and the administrative fee have been received, the ED will notify the Appellant whether the appeal has been accepted for consideration ("**Confirmation of Appeal**"). If CMTCA determines that a Notice of Appeal relates to any matter which is not appealable or is frivolous, vexatious, made in bad faith or otherwise an abuse of process, the ED will notify the education program which submitted the Notice of Appeal that the circumstances described therein are not subject to appeal, and that the appeal will not be considered.
 - 7) If an appeal has been accepted by CMTCA, an Appellant's accreditation status before the Initial Decision under appeal will remain unchanged until the Appeal Panel issues its decision to the Appellant.
 - 8) Within 10 business days following receipt of the Notice of Appeal, CMTCA will convene an Appeal Panel of three Panelists and provide the names of the Panelists to the Appellant in writing. If the Appellant has sufficient reason to believe that an

appointed Panelist should not hear the appeal, it must notify CMTCA immediately in writing, providing reasons for its objection. If CMTCA determines that the Appeal Panelist should not hear the appeal, it will present a substitute Panelist(s) for the Appellant's review.

- 9) Within 20 business days following receipt of the Notice of Appeal, CMTCA will provide a written response addressing the issues raised in the Notice of Appeal (the "**CMTCA Response**").
- 10) Within 15 business days following receipt of the CMTCA Response, the Appellant may provide reply submissions (the "**Reply**"). The Reply may only address issues or points raised in the CMTCA Response, and may not raise new issues for appeal. If new issues are raised in the Reply, CMTCA may provide a further response.
- 11) Once the responses are complete, the Appeal Panel may consider the following:
 - Preliminary Accreditation report
 - Reconsideration Decision
 - The Notice of Appeal and all CMTCA and Appellant responses that follow.
 - The site-visit report, including recommendations
 - Any new evidence submitted by the Appellant relevant to the appeals process
- 12) The Appeal Panel will consider, analyse and evaluate the Appellant's appeal based on the totality of the evidence submitted.
- 13) The Appeal Panel will have 30 business days to review, assess and deliberate on the evidence described in Section 11 above and decide the outcome of the appeal by majority vote.
- 14) The Appeal Panel will prepare a written decision that outlines the evidence and rationale for their decision to be provided to CMTCA within 45 business days of receiving the documents described in Section 11 above (the "**Appeal Decision**"). The decision of the Appeal Panel may either:
 - Uphold the Reconsideration Decision of CMTCA; or
 - Amend the Reconsideration Decision of CMTCA, in whole or in part.
- 15) Within 10 business days of receiving the Appeal Decision, CMTCA will give the Appellant notice in writing of the result of the appeal.
- 16) If the Appeal Panel upholds the Reconsideration Decision of CMTCA, the Administrative Fee will be retained to cover the administrative cost of the review. If the Appeal Panel significantly changes the decision of CMTCA, as determined by the ED in his or her sole and absolute discretion, the Administrative Fee will be refunded.
- 17) The decision of the Appeal Panel is final and is not subject to further appeal by the Appellant.