



REVIEW AND APPEAL PROCESS FOR ADVERSE CERTIFICATION DECISIONS

I. DECISIONS SUBJECT TO REVIEW OR APPEAL

The following Adverse Certification Decisions by the American Board of Medical Genetics and Genomics (the "ABMGG") are subject to review and appeal:

A. Adverse Administrative Decisions

- (1) Denial of a request for extension of an established deadline or for exception to other administrative requirements.
- (2) Denial of a grievance regarding examination administration.

B. Adverse Substantive Decisions

- (1) Denial of eligibility, certification or recertification for non-disciplinary reasons.
- (2) Revocation of eligibility, certification or recertification for non-disciplinary reasons.

C. Reportable Disciplinary Actions based on:

- (1) Irregular behavior before, during or after an ABMGG examination.
- (2) Manufacture or use of fraudulent ABMGG credentials.
- (3) Legal, regulatory or credentialing action.

NO APPEAL may be taken from an Adverse Certification Decision based on an individual's receipt of a failing score on an ABMGG examination.

II. CONFLICT OF INTEREST POLICY

ABMGG Directors shall not participate in discussions of, or vote on, any review or appeal in which the Director has or has had a substantial personal or professional relationship with the individual at issue.

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III. NOTICE OF ADVERSE DECISION

An individual who has received an Adverse Decision that is subject to review and appeal (the “Respondent”) shall be sent a prompt written Notice of Adverse Decision. The Notice shall state the reason(s) for the Adverse Decision and shall inform the Respondent that he or she has the right to seek review of the Adverse Decision by filing a written Request for Review with the ABMGG, and that the Request for Review must be received by the ABMGG with thirty (30) calendar days after the date of the Notice of Adverse Decision. The Notice shall include a copy of this ABMGG *Review and Appeal Process for Adverse Certification Decisions*.

IV. THE REVIEW PROCESS

A. Composition and Role of the ABMGG Review Panel

The ABMGG Review Panel shall be appointed on an annual basis and shall consist of three (3) current or former ABMGG Directors. One member of the Review Panel shall be a current member of the Credentials Committee, and no member of the Review Panel shall be a member of the Executive Committee.

The Review Panel shall consider the Notice of Adverse Decision and the Request for Review, including any supporting documentation submitted by the Respondent or prepared by ABMGG staff. The Review Panel also may, at its discretion, request or receive, and review, additional information. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the Respondent at least 14 calendar days before the meeting of the Review Panel.

The review shall be conducted pursuant to the procedures set forth in Section IV.D. (for administrative decisions) or Section IV.E. (for substantive and disciplinary decisions).

B. Request for Review

The Request for Review must contain a statement of why the Respondent believes that the Adverse Decision was improper, must include any supporting documentation that the Respondent wishes to have considered as part of the review, and must be accompanied by a Review Fee in the form of a check for \$300.00 made payable to the American Board of Medical Genetics and Genomics.

If the Respondent requests a hearing before the Review Panel, as described more fully in Section II.C, the Respondent’s intent to appear personally before the Review Panel or to address the Review Panel by telephone must be expressed in the Request for Review.

If a Request for Review is not postmarked within 30 calendar days, the Adverse Decision shall constitute the final decision of the ABMGG on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the ABMGG.

C. Telephonic Hearings

A Respondent requesting review of an Adverse Decision may submit a timely request for a hearing before the Review Panel by telephone. Not less than thirty (30) calendar days prior to the scheduled date of the hearing, the ABMGG shall notify the Respondent in writing of the date and time of the hearing.

If the Respondent will be accompanied by legal counsel, ABMGG must be so notified in writing no less than seven (7) calendar days prior to the date of the hearing.

A Respondent who chooses to appear before the Review Panel by telephone shall be given the opportunity to make a statement summarizing his or her position. The Respondent's legal counsel may make an opening or closing statement. At the conclusion of the Respondent's presentation, members of the Review Panel and ABMGG legal counsel may ask the Respondent to respond to questions. The Review Panel shall not be bound by technical rules of evidence usually employed in legal proceedings but may consider any evidence it deems appropriate.

All expenses incurred by the individual in connection with the hearing shall be borne by the Respondent. If the Respondent requests a hearing and, without good cause, fails to appear or fails to advise the ABMGG in writing more than seven (7) calendar days before the scheduled date of the hearing that he or she will not appear at the hearing, the Respondent may forfeit his or her opportunity for a hearing, and the Review Panel may proceed with its deliberations in the matter.

Following the hearing, the Review Panel shall determine, by majority vote of those members present, whether to ratify, reverse, or modify the Adverse Decision. The Respondent shall be notified in writing of the decision, including the reasons therefor, within thirty (30) calendar days after the Review Panel reaches its decision.

D. Final Review of Administrative Decisions

A timely Request for Review of a denial of an extension of an established deadline, an exception to any other administrative requirement, or a denial of remedy requested based on a grievance regarding the administration of an ABMGG examination, will be finally reviewed by the ABMGG Review Panel no later than 60 calendar days after receipt of the Request for Review.

Based on its review of the Review Record, and consideration of testimony provided during a hearing, if any, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision.

The individual shall be notified in writing of the Review Panel's action, including the reasons therefore, within thirty (30) calendar days after the Review Panel reaches its decision.

THE REVIEW PANEL'S DECISION ON ADMINISTRATIVE MATTERS SHALL CONSTITUTE THE FINAL DECISION OF THE ABMGG ON THE MATTER AND SHALL NOT BE SUBJECT TO APPEAL ABSENT EXTRAORDINARY CIRCUMSTANCES, AS DETERMINED SOLELY BY THE ABMGG.

E. Review of Adverse Substantive Decisions or Reportable Disciplinary Actions

A timely Request for Review of an adverse substantive decision or reportable disciplinary action shall be considered by the ABMGG Review Panel no later than 90 calendar days after receipt of the Request for Review. Based on its review of the Review Record, and consideration of testimony provided during a hearing, if any, the Review Panel may, at its discretion, take one of the following actions:

- (1) Affirm the Adverse Decision,
- (2) Modify the Adverse Decision, or
- (3) Reverse the Adverse Decision, in which event the decision of the Review Panel shall constitute the final decision of the ABMGG on the matter.

The Respondent shall be notified in writing of the Review Panel's action, including the reasons therefor, within thirty (30) calendar days after the Review Panel reaches its decision. The notice shall state the reason(s) for the Review Panel's decision and shall inform the Respondent that, in the case of an affirmed or modified decision, he or she has the right to seek a discretionary appeal of the Review Panel's decision by filing a timely written Request for Appeal to the ABMGG Executive Committee.

V. THE APPEAL PROCESS

A. Request for Discretionary Appeal of Adverse Substantive Decisions or Reportable Disciplinary Actions

A Respondent who has received notice that an adverse substantive decision or reportable disciplinary action has been affirmed or modified by the Review Panel may appeal to the ABMGG Executive Committee by filing a written Request for Appeal to the ABMGG Executive Committee. To be valid, the Request for Appeal must be postmarked within 30 calendar days after the date of the notice of decision and must state with specificity the grounds on which the Respondent is requesting the appeal. The information submitted in the Request for Appeal shall be limited to that submitted to the Review Panel. New information shall not be considered on appeal. If such information was not available at the time of the Review Panel's review, but becomes available within thirty (30) calendar days after the date of the notice of the Review Panel's decision ("Valid New Information"), the Respondent may submit such Valid New Information for reconsideration by the Review Panel.

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If a Request for Appeal is not postmarked within thirty (30) calendar days, the Review Panel's decision shall constitute the final decision of the ABMGG on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the ABMGG.

B. Consideration of a Discretionary Appeal

A timely Request for Discretionary Appeal of the Review Panel's decision shall be considered by the Chair of the Executive Committee. **The decision to grant an Appeal is at the sole discretion of the Chair of the Executive Committee, who shall seek advice of counsel.**

If the Chair determines that the specific grounds on which the Respondent has requested an appeal do not raise a question of a procedural error or an arbitrary and capricious decision, he or she shall deny the Appeal. **IF A REQUEST FOR APPEAL IS DENIED, THE REVIEW PANEL'S DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE ABMGG ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.** The Respondent shall be notified in writing of the final decision, including the reasons therefor, within thirty (30) calendar days after the Chair reaches his or her decision.

If the Chair determines that the specific grounds on which the Respondent has requested an appeal do raise a question of procedural error or an arbitrary and capricious decision, he or she shall grant the Appeal. In such event, the appeal will be heard by the Executive Committee at its next regularly scheduled meeting occurring at least thirty (30) calendar days after receipt of the Request for Appeal.

C. Standard of Review

The Executive Committee's review shall be limited to a determination of whether (1) a procedural error may have contributed to the Review Panel's decision or (2) the Review Panel's decision was arbitrary and capricious.

Any member of the Executive Committee who was a member of the Review Panel and participated in prior consideration of the Adverse Decision shall not participate in deliberations regarding, or vote on, the matter.

D. Appeal Procedure

The Executive Committee shall consider the Review Record, the Review Panel's Notice of Affirmation or Modification of Adverse Decision, the Respondent's Request for Appeal, and the record of the hearing if one was conducted before the Review Panel. The Executive Committee also shall receive and review a statement from the Chair of the ABMGG Review Panel that made the adverse decision. The foregoing shall constitute the Appeal Record.

The Executive Committee shall base its review solely on the Appeal Record and shall determine by majority vote of those members present whether to (1) ratify, reverse or modify the Adverse Decision; or (2) remand the matter back to the Review Panel for correction of a procedural

error. If during the course of its review, the Executive Committee finds Valid New Information, it shall discontinue the review and remand the matter back to the Review Panel for reconsideration.

A DECISION BY THE EXECUTIVE COMMITTEE TO RATIFY, REVERSE, OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE ABMGG ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

IF THE REVIEW PANEL, ON REMAND, CORRECTS THE PROCEDURAL ERROR BUT REACHES THE SAME DECISION, THAT DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE ABMGG ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

The Respondent shall be notified in writing of the final decision, including the reasons therefor, within thirty (30) calendar days after the Executive Committee or the Review Panel reaches its decision.

VI. SUBMISSIONS TO THE ABMGG

Whenever there is a requirement for a written notice, request or other writing to be submitted to the ABMGG, such writing shall be addressed to the following:

ATTN: Chief Executive Officer
American Board of Medical Genetics and Genomics
6120 Executive Boulevard, Suite 525
Rockville, MD 20852

Tel: (301) 634-7315
Email: ABMGG@abmgg.org

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The procedures set forth above for the review and appeal of Adverse Decisions may be subject to an expedited schedule when deemed necessary by the ABMGG.

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