



MEDICAL COUNCIL OF CANADA LE CONSEIL MÉDICAL
DU CANADA

MEDICAL COUNCIL OF CANADA
**PROCEDURAL
MANUAL FOR
RECONSIDERATIONS**

“RULES OF PROCEDURE”
or “RULES”

EXTRACT FROM THE PROCEDURAL MANUAL FOR
RECONSIDERATIONS AND APPEALS

OTTAWA
APRIL 2022

PART I – RECONSIDERATIONS

1. REQUEST FOR RECONSIDERATION

Request for Reconsideration to be provided in writing within 15 days of the communication of standing and final result to the candidate

- 1.01 Any candidate who:
- a) is not awarded a Pass Standing for an examination by the Medical Council of Canada (“**MCC**”) pursuant to the MCC by-laws, rules and regulations; and,
 - b) provides formal notice to the MCC within seven (7) days of completing the examination of either:
 - i. one or more alleged procedural irregularities in the administration of the examination that was likely to have materially affected the candidate’s performance in the examination; or,
 - ii. one or more alleged unforeseen extenuating circumstances (such as illness or emergent issues) that was likely to have materially affected the candidate’s performance in the examination;
 - c) may request a reconsideration of that decision by notifying the Chief Assessment Officer in writing of such request within fifteen (15) days of the communication of standing and final result to the candidate.
- 1.02 The Request for Reconsideration may be submitted in French or English and must:
- a) indicate the grounds for the reconsideration;
 - b) indicate the relief sought; and
 - c) include relevant supporting documentation where applicable.

Review by the Chief Assessment Officer

- 1.03 Where a Request for Reconsideration is received by the MCC, the request shall be reviewed by the Chief Assessment Officer or by his or her designate (the “Chief Assessment Officer”).
- 1.04 Where the Chief Assessment Officer determines, upon an initial review of the Request for 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.
- 1.05 The Chief Assessment Officer shall review the Request for Reconsideration within thirty (30) days of the communication of standing and final result to determine:

- a) whether the Request for Reconsideration is one that is authorized to be heard by the Chief Assessment Officer;
 - b) whether the Request for Reconsideration is frivolous, vexatious, made in bad faith or otherwise an abuse of process; and
 - c) whether the Request for Reconsideration sets out in sufficient detail the grounds for reconsideration and the relief sought.
- 1.06 If the Chief Assessment Officer determines that one or both of the conditions set out in Rule 1.05 (a) and (c) above has not been met, or that the Request for Reconsideration is frivolous, vexatious, made in bad faith or otherwise an abuse of process, he or she shall advise the person having submitted the Request for Reconsideration ("**the Applicant**") in writing within five (5) days of making the determination. In such a case, the Applicant shall be provided a further ten (10) days from the date of notification by the Chief Assessment Officer in which to remedy any deficiency and/or to make written submissions to the Chief Assessment Officer outlining reasons why the Request for Reconsideration should be permitted to proceed. Within ten (10) days of receipt of such submissions, the Chief Assessment Officer shall then determine whether the Request for Reconsideration should be permitted to proceed. The decision of the Chief Assessment Officer is final and not subject to review.

2. DISCLOSURE

Disclosure to the Applicant

- 2.01 Within twenty (20) days of the receipt of a valid and complete Request for Reconsideration as determined by the Chief Assessment Officer in accordance with Rule 1.05 and subject to the provisions of these Rules, the Chief Assessment Officer shall disclose to the Applicant any information that is materially relevant to the Request for Reconsideration.

Refusal to disclose

- 2.02 The Chief Assessment Officer may refuse to disclose information that is subject to legal privilege or that may, in the opinion of the Chief Assessment Officer:
- a) undermine the integrity of any aspect of the examinations process, the reconsideration and/or appeals process, or any other function of the MCC or other matter within its authority;
 - b) disclose proprietary, financial or personal information or other matters of such a nature that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that reasonable disclosure be made; or
 - c) for any other reason of public interest.

Opportunity for further written submissions by Applicant

- 2.03 An Applicant in receipt of disclosure who wishes to address any facts or issues raised by the disclosure may prepare and deliver to the Chief Assessment Officer, within seven (7) days of receipt of the disclosure, further written submissions in support of his or her request for reconsideration.

3. RECONSIDERATIONS

Reconsiderations by written submissions only

- 3.01 Requests for reconsideration shall be considered by the Chief Assessment Officer on the basis of the paper record only (i.e., the Request for Reconsideration submitted by the Applicant pursuant to Rule 1.01, any disclosure made by the MCC pursuant to Rule 2.01, and any further written submissions provided by the Applicant pursuant to Rule 2.03). In addition, where required, the Chief Assessment Officer may, in his or her sole and absolute discretion, seek expert advice in order to assist him or her to make a fair and just determination in the circumstances. Requests for reconsideration shall not involve any form of oral hearing including, but not limited to, oral submissions by any party and the calling and/or cross-examination of witnesses by any party.

Written reasons to be issued

- 3.02 The Chief Assessment Officer shall issue a written decision within twenty (20) days of the deadline to submit any further written submissions provided by the Applicant pursuant to Rule 2.03, or as soon thereafter as practicable.
- 3.03 The Chief Assessment Officer shall provide a copy of his or her decision to the Applicant forthwith.

Decision is final

- 3.04 The Decision of the Chief Assessment Officer is final, subject only to any rights of appeal pursuant to the MCC by-laws, and applicable rules and policies.

4. VARIATION OF TIMELINES AND/OR DEADLINES

- 4.01 Any of the timelines and/or deadlines set out in these Rules may be varied by the Chief Assessment Officer where reasonably necessary or on application by the Applicant.

5. ABANDONED REQUESTS FOR RECONSIDERATIONS

- 5.01 Where the Chief Assessment Officer, in his or her sole and absolute discretion, determines that a candidate has repeatedly failed to meaningfully respond in a

timely manner to MCC communications regarding the candidate's Request for Reconsideration without providing a reasonable explanation for such delays, the Chief Assessment Officer may notify the candidate in writing that the candidate's Request for Reconsideration shall be deemed to be abandoned unless the candidate provides a sufficient response within seven (7) days of receiving the notice.

- 5.02 A candidate's Request for Reconsideration shall be deemed abandoned if the candidate fails to provide a sufficient response within seven (7) days of receiving the notice referred to in Rule 5.01, as determined by the Chief Assessment Officer in his or her sole and absolute discretion. The decision of the Chief Assessment Officer is final and not subject to review.

*Approved by the MCC Executive Director and CEO
on February 28, 2022*