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pharmacy
council

O-04 APC Appeals Policy

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APC Appeals Policy

1. Purpose

This policy applies to the functions of the Australian Pharmacy Council (the APC) in relation to the assessment of skills and competency for practice as a pharmacist in Australia, and in relation to eligibility checks undertaken by the APC as an assessing authority for skilled migration and provides for a person affected by a negative eligibility check or by the process of sitting the examination, to appeal the outcome.

2. Scope

2.1. This policy applies to appeals in relation to:

- a. eligibility checks undertaken by the APC as an assessing authority under the *Migration Regulations 1994* (Cth) for the purposes of skilled migration to Australia
- b. the following examinations administered by the APC on behalf of the Pharmacy Board of Australia:
 - Intern Written (**IW**) exam
 - Competency Assessment Overseas Pharmacist (**CAOP**) exam
 - Knowledge Assessment of Overseas Pharmacist (**KAPS**) exam.

2.2. This policy applies to:

- a. how an application for an appeal should be made
- b. how the APC will undertake the appeal.

3. How an application for appeal should be made

3.1. If an application for an appeal is not made in accordance with this policy, the APC is not required to undertake the appeal.

3.2. If a candidate for an eligibility check or an examination wishes to make an application for an appeal, an application must be made in writing and submitted to the APC as follows:

- a. if the appeal relates to an Examination decision, to exams@pharmacycouncil.org.au
- b. if the appeal relates to an Eligibility check decision, to assessments@pharmacouncil.org.au

An application for an appeal may also be made by sending the application by prepaid post to the APC at Level 1, 15 Lancaster Place Majura Park, Canberra Airport, ACT. 2609.

3.3. The APC will not accept verbal applications for an appeal.

- 3.4. The application for the appeal must clearly identify that the person is applying for an appeal and clearly identify the eligibility check or examination outcome that the appeal relates to.
- 3.5. Before applying for an appeal, consideration should be given by the appellant to the grounds on which the APC will undertake an appeal against the outcome of a skills assessment or examination result.
- 3.6. The application for the appeal must also identify:
 - a. the reason/s that the person is seeking to appeal against the outcome of the skills assessment or examination result
 - b. the outcome of the appeal that the appellant is seeking.
- 3.7. It is the obligation of the person applying for the appeal to ensure that all relevant information regarding the appeal is provided to the APC. This includes the provision of any additional information or documents that the appellant wishes to be taken into account in the consideration of the appeal.

Time limit

- 3.8. An application for an appeal in relation to the outcome of a skills assessment or an examination must be made within **30 days**¹ after the person affected by the outcome receives notice from the APC of the outcome. If an application for an appeal is not made within that 30-day period, the APC is not required to undertake the appeal.

4. How the APC will undertake the appeal

- 4.1. When an application for an appeal is received by the APC, the APC will confirm receipt of the application and advise whether the application for the appeal is accepted for further consideration. Appeals that are incomplete, or otherwise do not comply with this policy, will not be accepted for further consideration.

¹ The application for the appeal must be given to the APC within 30 calendar days - rather than 30 business days - of the person receiving notice of the outcome of the skills assessment or examination.

Grounds on which an appeal will be undertaken

Appeal against an examination outcome

- 4.2. The appeal will be submitted to the Deputy Chief Executive Officer (DCEO) who will investigate according to paragraphs 4.3, 4.4 and 4.5 and determine the outcome. The EDPS may at her discretion delegate the investigative task to another person prior to making an outcome decision. The decision once made will be final.
- 4.3. The APC will only undertake an appeal against the outcome of an examination on grounds concerning the procedure for the examination, and whether the procedures followed by the APC or its delivery partner to conduct the examination may have materially impacted upon the outcome of the examination. In particular, the APC will have regard to whether anything done by the APC (or its partners) in conducting the examination means the outcome of the examination does not fairly represent the appellant's knowledge and skills at the time of the examination.
- 4.4. In conducting the appeal, the APC will have regard to the published process relating to the conduct of the examination, and any information provided by the appellant regarding the conduct of the examination.
- 4.5. The APC may also get other information that it considers relevant to the appeal. This may include information from anyone involved in the conduct of the examination. If the APC does get other information relevant to the appeal, and the APC considers that the information may be a reason to make a decision refusing the appeal, that information will be provided to the appellant, and an opportunity will be given to the appellant to respond to the information.
- 4.6. If the APC decides to uphold the appeal, the APC may determine, as appropriate, that:
 - a. the outcome of the examination should be set aside
 - b. the appellant should be provided a further opportunity to undertake the examination
 - c. any fees paid by the appellant for the examination should be refunded.

Appeal against an Eligibility check outcome

- 4.7. An appeal against an Eligibility check may be undertaken on any grounds that may have affected the outcome of the Eligibility check. This may include:
 - a. any aspect of the procedure followed by the APC in conducting the assessment that may have resulted in the appellant not being afforded procedural fairness
 - b. whether there was any information provided to the APC that was not considered, or not properly considered, in conducting the Eligibility check
 - c. whether the APC made a material error in relation to any fact relevant to the Eligibility check.

- 4.8. The APC may also get other information that it considers relevant to the appeal. If the APC does get other information relevant to the appeal, and the APC considers that the information may be a reason to make a decision refusing the appeal, that information will be provided to the appellant, and an opportunity will be given to the appellant to respond to the information.
- 4.9. If the APC decides to uphold the appeal, the APC may determine, as appropriate, that:
 - a. the outcome of the Eligibility check should be set aside
 - b. the outcome should be substituted with a different Eligibility check assessment outcome.
- 4.10. The APC will undertake the appeal on the submitted application, and other written material received or obtained in relation to the application, unless it otherwise considers that it is appropriate to provide the appellant an opportunity to provide information orally.
- 4.11. If the APC accepts an application for appeal, the APC will generally intend to make a decision on the appeal within 30 days from receipt of the application for an appeal. However, the timing of the decision on the appeal may be impacted by the need for the APC to obtain further information relevant to the appeal, and the complexity of the issues to be determined in the appeal.
- 4.12. If the APC decides to refuse the appeal, the APC will provide a summary of the reasons for its decision together with the notification of the outcome of the appeal.
- 4.13. The outcome of the appeal will not be subject to further review or appeal by the APC.



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