

## European Board of Gastroenterology and Hepatology Examination Academic Misconduct Regulations

### 1. Introduction

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- 1.1 These Regulations apply to all candidates taking the European Board of Gastroenterology and Hepatology (EBGH) Examination.
- 1.2 These Regulations do not apply to anyone employed by or acting in any official capacity on behalf of the EBGH, including invigilators or centre staff (unless they are also a candidate for the examination). In such cases staff and officials should expect their conduct to be investigated under Disciplinary Procedures and/or for the facts to be reported to their manager, supervisor or equivalent.
- 1.3 Candidates should note that by virtue of entering to sit an examination they are deemed to have understood and agreed to respect and abide by all relevant regulations, including these Misconduct Regulations.
- 1.4 These Regulations are to be used to investigate all aspects of misconduct in the EBGH Examination (see 2.1 for definitions of misconduct).
- 1.5 Where a candidate is suspected of misconduct they will not have their results confirmed until the procedures for investigation as detailed in paragraph 4 are complete.
- 1.6 Whilst an investigation is underway candidates may apply to sit any part of any examination for which they are eligible, in accordance with the relevant regulations.
- 1.7 Depending on the outcome of the investigation, results may be amended or cancelled.
- 1.8 Investigations will be completed as quickly and efficiently as possible and candidates will be kept informed of progress.
- 1.9 The EBGH reserve the right to refuse an application from a candidate under investigation on the basis that allowing them to sit is deemed to be a potential risk to patient safety.
- 1.10 The EBGH reserve the right to conduct retrospective investigations, and consequentially to amend or cancel results after they have been confirmed, and to withdraw a certificate after it has been awarded.

- 1.11 Throughout these Regulations, the medical director or chief operating officer may delegate any of the duties to an investigating officer within the Examinations Department.
- 1.12 Any dispute as to the interpretation of these Regulations shall be referred to the medical director, whose decision in the matter shall be final.
- 1.13 In pursuit of protecting the examinations, the candidates who sit them, and patient safety, the EBGH acknowledge that the process of investigation and false allegations can have an impact on candidates' reputation and career. For this reason all proceedings will be strictly confidential. However, should the allegation against the candidate be proven, the details of the case will be shared with the relevant regulatory body and training supervisory body.

## 2. Definitions

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- 2.1 Misconduct includes, but is not restricted to:
- a) Introduction into any examination of any materials other than those specifically permitted for the examination;
  - b) Any attempt to remove materials or content (including the use of recording devices) from an examination other than those specifically permitted, except by a person with authority to do so;
  - c) Any attempt to release content from any examination to a third party/commercial organisation<sup>1</sup>;
  - d) Any attempt to communicate with another candidate;
  - e) Any attempt to gain access to or read the work of another candidate;
  - f) Any attempt to gain or pass on information about the contents of the examination in advance of the date of the examination;
  - g) Impersonation or attempted impersonation of a candidate;
  - h) Bribery (of another candidate, examination official, actual or simulated patient)
  - i) Unacceptable or disruptive behaviour during an examination;
  - j) Failure to abide by the reasonable instructions of an invigilator or other examination official, or breaching of Examination Regulations;
  - k) Falsification or alteration of any results document or qualification;
  - l) Any other form of cheating or conduct likely to give an unfair advantage to the candidate or others;
  - m) Aiding or abetting any of the above.

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<sup>1</sup> EBGH reserve the right to initiate civil action and/or criminal prosecution if theft of intellectual property is suspected.

### 3. Reporting procedures

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- 3.1 Suspected misconduct may be reported by examiners, invigilators, examination officials, candidates, and any other person who becomes aware of suspected misconduct.
- 3.2 In addition to these direct patterns of reporting, computer software is used to detect cheating, by automatically reviewing all candidates' answers after every examination to identify correlations in response patterns between pairs of candidates beyond what could be expected to occur by chance. This software is known by the generic term 'Anomaly Monitoring System' (AMS). The EBGH recognise that such software does not always make immediately apparent which of the two candidates has copied from the other, or whether collusion was taking place. For this reason the EBGH will always require corroboration from another source, or require a candidate to be included in a second AMS report from another examination, before continuing an investigation under these Regulations.
- 3.3 Anonymous reports of misconduct will be acted upon only if there is supporting evidence. In such cases invigilators and any other relevant officials may be informed of the allegation and asked to comment.
- 3.4 The EBGH will not disclose to any other candidate the names of any candidates detected by the AMS or seated in the examination centre where the alleged act of misconduct took place.

#### 3.5 Reporting Procedure for Multiple Choice Examinations

- 3.5.1 Where an invigilator suspects a candidate of infringing examination centre rules, he/she shall:
  - (a) Confiscate any unauthorised material in the possession of the candidate;
  - (b) Make a formal and contemporaneous note of the time when the alleged infringement was discovered. Wherever possible an invigilator should invite another invigilator to act as witness to the suspected infringement, and then countersign the note to confirm this;
  - (c) Allow the candidate(s) in question to continue the examination. *Ejection from the examination hall should only take place in the event of a candidate's conduct causing disruption to other candidates;*
  - (d) Inform the candidate(s) in question at the end of the examination, that a written report of the incident will be submitted to the Examinations Department;
  - (e) Prepare within three working days of the examination a written report on the alleged incident and send it with any confiscated materials to the Head of Academic Policy.
- 3.5.2 Candidates must on request surrender to the invigilator any materials or aids that are reasonably believed by the invigilator not to be permitted. The invigilator can, on request, issue a brief receipt for such articles. The invigilator must include all such materials with his/her report, which may be copied or retained by the Head of Academic Policy at his/her absolute discretion.

### 3.6 All Other Instances of Academic or Professional Misconduct

The examiner or person(s) identifying the misdemeanour shall prepare a written report on the alleged incident and send it with any confiscated materials to the Head of Academic Policy within three working days of the examination.

## 4. Procedures for investigation

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- 4.1 The investigating officer shall review all reports of alleged cases of misconduct, and, after consulting with other members of staff where necessary, shall determine whether there is sufficient evidence of a *prima facie* case to be answered. This should not preclude a letter of reprimand being issued in cases deemed to be of a very minor or technical nature where no further action is appropriate.
- 4.2 In all other cases, and within 10 working days of receiving a report of suspected misconduct, the investigating officer will inform the candidate in writing of the allegations that have been made about them, and provide them with a copy of these Regulations. The candidate shall thereby be invited to admit or deny the charge, and be informed that the establishment of a Misconduct Hearing Panel can be dispensed with should they choose not to question the allegations.
- 4.3 The candidate shall provide their response in writing to the allegations within 10 working days from the date of the investigating officer's letter. If no response is received within 10 days, then a warning letter shall be sent. The candidate's result will remain unconfirmed until they respond to the allegation and the procedures for investigation have been completed.
- 4.4 Where a candidate admits in writing to the allegations, full details of the case shall be passed to the Chair of the relevant examining board for a final decision along with a recommendation of an appropriate penalty based upon established guidelines. The candidate shall have the opportunity to include with their response a written statement that may be taken into account by the Chair.
- 4.5 Where a candidate denies the allegations (in whole or in part) the investigating officer will request that a Misconduct Hearing Panel is convened as soon as possible to formally consider the case.
- 4.6 The establishment of a Misconduct Hearing Panel under paragraph 4.5 does not preclude the candidate from, at any point, admitting the allegation in writing for action to be taken in accordance with paragraph 4.4, except that the fact of the candidate's initial denial will also be communicated to the Chair of the examining board to take into account. However, all candidates who have committed misconduct should note that promptly admitting guilt, taking responsibility and expressing contrition for their actions is viewed by the Colleges as an important and appropriate step, and that this will be kept in mind whenever any penalty is being determined.
- 4.7 Decisions will be reached on cases passed to the Chair of the examining board (in accordance with paragraphs 4.4 and 4.6) as soon as possible, and candidates should normally have received notification of the action to be taken in regard to their case within 15 working days of their letter. In exceptional circumstances a

decision may be deferred until the next scheduled meeting of the relevant board of examiners, but candidates must be informed of this within 15 working days of their letter; and then be notified of the action to be taken in regard to their case within five working days of the examiners' meeting.

## **5 Establishment of a misconduct hearing panel**

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- 5.1 A Misconduct Hearing Panel shall be convened if a candidate denies an allegation in whole or in part.
- 5.2 Proceedings of the Panel shall not be invalidated by reason of the absence of the candidate, provided that the procedure detailed below has been observed.
- 5.3 The purpose of the Panel is to examine the facts of a case, and the strength and veracity of the evidence being presented. It is to determine on the balance of probabilities whether the allegation of misconduct has been proven, to the satisfaction of the majority of the Panel. Where an allegation is found to be so proven, it is to determine an appropriate penalty based upon established guidelines.

The Misconduct Hearing Panel shall be constituted with one member from each of the following categories, or their nominee:

- (a) The Medical Director
- (b) The Chair or Medical Secretary of the Examining Board
- (c) The Chair of the Examination Committee of the EBGH (if a nominee they must be a member of the EBGH)
- (d) A Lay Representative<sup>2</sup>

- 5.4 A Secretary to the Hearing Panel shall be appointed by the medical director or chief operating officer. The Secretary's role shall be to record the proceedings and deliberations of the Panel, to advise on procedural matters, and to record the process of decision making. He/she may not attempt to guide or influence the discussions or decisions of the Panel in any way.
- 5.5 The Medical Director or their nominee will act as Chair of the Hearing Panel.
- 5.6 A nominee of the investigating officer (from now known as the presenting officer) will present the details of the allegation and all available evidence to the Panel.
- 5.7 The candidate shall have the right to be present at all proceedings of the Panel subject to the procedures detailed in paragraph 6 and following, and to present written or oral evidence to the Panel. Such evidence may include references attesting to previous good character, although candidates are advised to keep in mind that those approached to supply such references may then subsequently expect the candidate to provide them with details of the outcome of the Hearing.
- 5.8 The candidate has the right to be accompanied at the Hearing by a Friend. The Friend may advise and counsel the candidate, but may not act as a witness or

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<sup>2</sup> To be an individual not directly employed by or acting in any official capacity and may include individuals already acting as Lay Representatives on other committees.

address any other person present at the Hearing. If the candidate wishes to be accompanied at the Hearing by a Friend who is a legal professional they must inform the Secretary to the Misconduct Hearing Panel not less than 20 working days before the hearing.

- 5.9 In exceptional circumstances we reserve the right to appoint an independent legal advisor to be present at the Hearing, who would be limited to giving advice to the Panel. From time to time observers may attend the Hearing for training purposes but will not be permitted to take part in the Hearing. In either event candidates will be informed in advance.
- 5.10 The investigating officer shall inform the candidate of the scheduled date of the Misconduct Hearing Panel as soon as possible and at least 6 weeks before the date of the Hearing. Documents to be presented at the Hearing will be sent to the candidate not less than 15 working days before the date set for the Hearing, which shall include a list of any witnesses that may be called. Such documents shall include any statement(s) provided by the candidate, whose responsibility it is to ensure any such documents and a list of witnesses they intend to call are received by the investigating officer at least 20 working days before the date set for the Hearing. No documents or witnesses may be presented to or referred to by the Panel, unless details have been circulated in this manner, except with the consent of the Panel, the candidate and presenting officer. All documents will also be circulated at least 10 working days in advance to members of the Panel so that they may familiarise themselves with the evidence before the date of the Hearing.
- 5.11 No confirmation of whether the candidate has passed or failed the examination in question shall be provided to the members of the Panel.

## **6 Misconduct hearing panel procedure**

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- 6.1 All proceedings will be strictly confidential.
- 6.2 At the start of the Hearing the Panel may engage in preliminary deliberations. The Secretary shall be present to keep a record of proceedings.
- 6.3 The candidate, their Friend, any witnesses, and the presenting officer will be invited into the room and all present shall introduce themselves. The Chair shall ask the presenting officer to outline the allegations, and then ask the candidate whether they admit or deny misconduct. If, at this stage, the candidate decides to admit to the allegations in full, the Panel has the authority to proceed immediately to consideration of the penalty to be imposed as detailed below in paragraphs 6.8 and following.
- 6.4 In all cases other than those covered by 6.3 above, the Chair shall then invite the presenting officer to present his/her documentary material and call witnesses. The Chair shall then invite the candidate to question the presenting officer and his/her witnesses, after which members of the Panel may do the same.
- 6.5 The Chair shall then invite the candidate to present their documentary material and call witnesses in support of their case. The presenting officer may then question the candidate and his/her witnesses, after which members of the Panel may do the same.

- 6.6 The validity of proceedings shall not be affected by the unwillingness or inability of any party to reply to questions or to appear before the Panel. Where the Panel concludes that an individual is unwilling to reply to a question, it may make reasonable inferences from that refusal.
- 6.7 The Hearing Panel may, at its discretion and at any time, interrupt proceedings to ask questions, or to instruct the room to be vacated for private deliberations. Neither the presenting officer, the candidate, their Friend, nor any witnesses are entitled to be present at such times, although the Secretary shall be present and keep a record of proceedings.
- 6.8 Before they are dismissed, the Chair shall give the presenting officer and the candidate the opportunity to make a closing statement. Before leaving, the candidate shall be reminded that he/she will be notified of the outcome within five working days.
- 6.9 The Chair shall commence final deliberations by reminding the Panel of its role and purpose as detailed in 5.3. The Secretary shall be present but may not attempt to guide or influence the discussions or decisions of the Panel in any way.
- 6.10 The decisions of individual Panel members shall always be treated as confidential.
- 6.11 Exceptional or mitigating circumstances shall not be considered by the Panel when determining whether an allegation has been proven, but may be referred to when an appropriate penalty is being discussed.
- 6.12 Following the meeting the Secretary shall prepare a written report summarising the proceedings, deliberations, decisions of the Panel and their reasoning, and any penalties to be imposed (including where the decision is that no misconduct has been committed). This shall be sent to the candidate within five working days of the Hearing, and a copy presented to the next meeting of the relevant Examining Board.

## **7. Appeals procedure**

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- 7.1 Appeals against the decision of an Examining Board or Misconduct Hearing Panel must be received in writing by the medical director or chief operating officer no later than 10 working days after the date on which the candidate was notified of the decision.
- 7.2 An Appeals Hearing Panel shall only be convened on the following grounds:
  - (a) Where there is evidence of administrative or procedural irregularity in the establishment or conduct of the Misconduct Hearing Panel;
  - (b) Where there is new evidence of extenuating circumstances that could not reasonably have been presented before.

- 7.3 An independent adjudicator<sup>3</sup>, who shall have no prior involvement in the case, will review the appeal and determine whether there is sufficient evidence for an Appeals Hearing Panel to be convened based on the grounds set out in 7.2.
- 7.4 The establishment and conduct of an Appeals Hearing Panel will follow the same procedure as set out in these Regulations for a Misconduct Hearing Panel, except that no member of the Panel or their Secretary may have been previously involved with the case.
- 7.5 The Appeals Hearing Panel will be advised that a Misconduct Hearing Panel has taken place but will not be informed of the outcome.
- 7.6 The role of the Appeals Hearing Panel will be to hear afresh the evidence presented to the Misconduct Hearing Panel. They may also hear and take into account fresh evidence presented by either side as long as it is circulated in accordance with the provisions of paragraph 5.10.
- 7.7 The Appeal Hearing Panel shall have the power to confirm, reverse or amend the original decision of the Misconduct Hearing Panel.

## **8. Guidelines for penalties**

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- 8.1 No candidate whose misconduct has been proven shall be permanently barred from entry to any future examinations; however, where misconduct has been proven; the details of the case will be passed to the relevant medical regulatory body (i.e. the General Medical Council) and training supervisory body.
- 8.2 As stated in paragraphs 4.4 and 5.3 of these Regulations, where an allegation of misconduct is sustained, the relevant authority will decide the appropriate penalty. In making these decisions, all involved are expected to have regard to established precedent. These are guidelines for normal circumstances and not binding, and do not preclude the relevant authority from determining a lesser or more severe penalty to be appropriate should the circumstances warrant this. However, in all cases the responsible authority shall consider:
- (a) The risks to patient safety of the candidate's actions
  - (b) The need to preserve the integrity of the examination
  - (c) Natural justice and consistency with previous penalties
  - (d) Evidence of contrition and an understanding of the gravity of the offence

### **8.3 Summary of Standard Penalties**

- (a) No further action;
- (b) A written warning;
- (c) Results for an examination under investigation, and in severe cases any previous attempts, to be annulled/withheld;
- (d) Candidate barred from entry for a specified period;
- (e) Any combination of any of the above, apart from (a).

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<sup>3</sup> A lay representative with no prior knowledge of the investigation but with a good understanding of the Regulations