



No. R-19022/32/2024-Ethics
Government of India
National Medical Commission
(O/o Secretary)

Sector-8, Dwarka
New Delhi-110075

Dated the _____

Subject: Standard Operating Procedure for handling appeals – Public Notice regarding.

Reference is invited to Public Notice no. R-19022/32/2024-Ethics dated 29-08-2024 (copy enclosed) of the Ethics & Medical Registration Board (EMRB) enclosing the Standard Operating Procedure for handling appeals received from Registered Medical Practitioners (RMPs) against the order/ decision of State Medical Councils. The contents of the notice are self- explanatory. All concerned stakeholders are requested to kindly take note of the same.

Encl.: As above

Yours sincerely,


(B. Srinivas)
Secretary

Copy to:

- i. ACS/ PS/ Secretaries/ Department/s of Medical Education in all States/ Union Territories
- ii. PPS to Chairman, NMC
- iii. PPS to Member(YM)-(EMRB)
- iv. DMMP-I System Integrator- for uploading of NMC Website
- v. Guard File

दूरभाष/Phone : 25367033/35/36
ई-मेल/E-mail : ethics@nmc.org.in
वेबसाईट/Website : www.nmc.org



पॉकेट -14, सेक्टर-8, द्वारका, फेस-1,
नई दिल्ली-110077
Pocket- 14, Sector- 8, Dwarka,
Phase - 1, New Delhi-110077

No. R-19022/32/2024-Ethics
राष्ट्रीय आयुर्विज्ञान आयोग
National Medical Commission
आचार और चिकित्सा पंजीकरण बोर्ड
ETHICS & MEDICAL REGISTRATION BOARD

Dated: August, 2024

STANDARD OPERATING PROCEDURE FOR HANDLING APPEALS

Ethics & Medical Registration Board (EMRB) of the National Medical Commission has framed Standard Operating Procedure (SOP) to ensure standardized process for disposal of appeals received from Registered Medical Practitioners (RMPs) against the order/decision of State Medical Councils.

The SOP covers the different stages of handling an appeal, from receiving of appeal from the appellant till the disposal of the appeal. Intention to frame SOP is to deliver decisions that are not only legally sound but also fair, reasonable and transparent to ensure that each case is decided on its own merits without bias or prejudice in accordance with laws and regulations.


Dr. Yogender Malik
Member(EMRB)



सत्यमेव जयते

Government Of India



STANDARD OPERATING PROCEDURE ETHICS SECTION (EMRB)

HANDLING APPEALS RECEIVED FROM REGISTERED MEDICAL
PRACTITIONERS (RMPS) AGAINST THE ORDER/DECISION OF
STATE MEDICAL COUNCILS



Yogendra Malvi



राष्ट्रीय आयुर्विज्ञान आयोग
NATIONAL MEDICAL COMMISSION
NEW DELHI



Doc No.: NMC/EMRB/XXX

Issue No.: 01

Revision No.: 00

Standard Operating Procedure - Process of handling appeals received from Registered Medical Practitioners (RMPs) against the order/decision of State Medical Councils

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Disclaimer: The Board reserves the right to make necessary changes at any stage of the SOP as per requirement of the case.

Yogendra Malik

Standard Operating Procedure - Process of handling appeals received from Registered Medical Practitioners (RMPs) against the order/decision of State Medical Councils

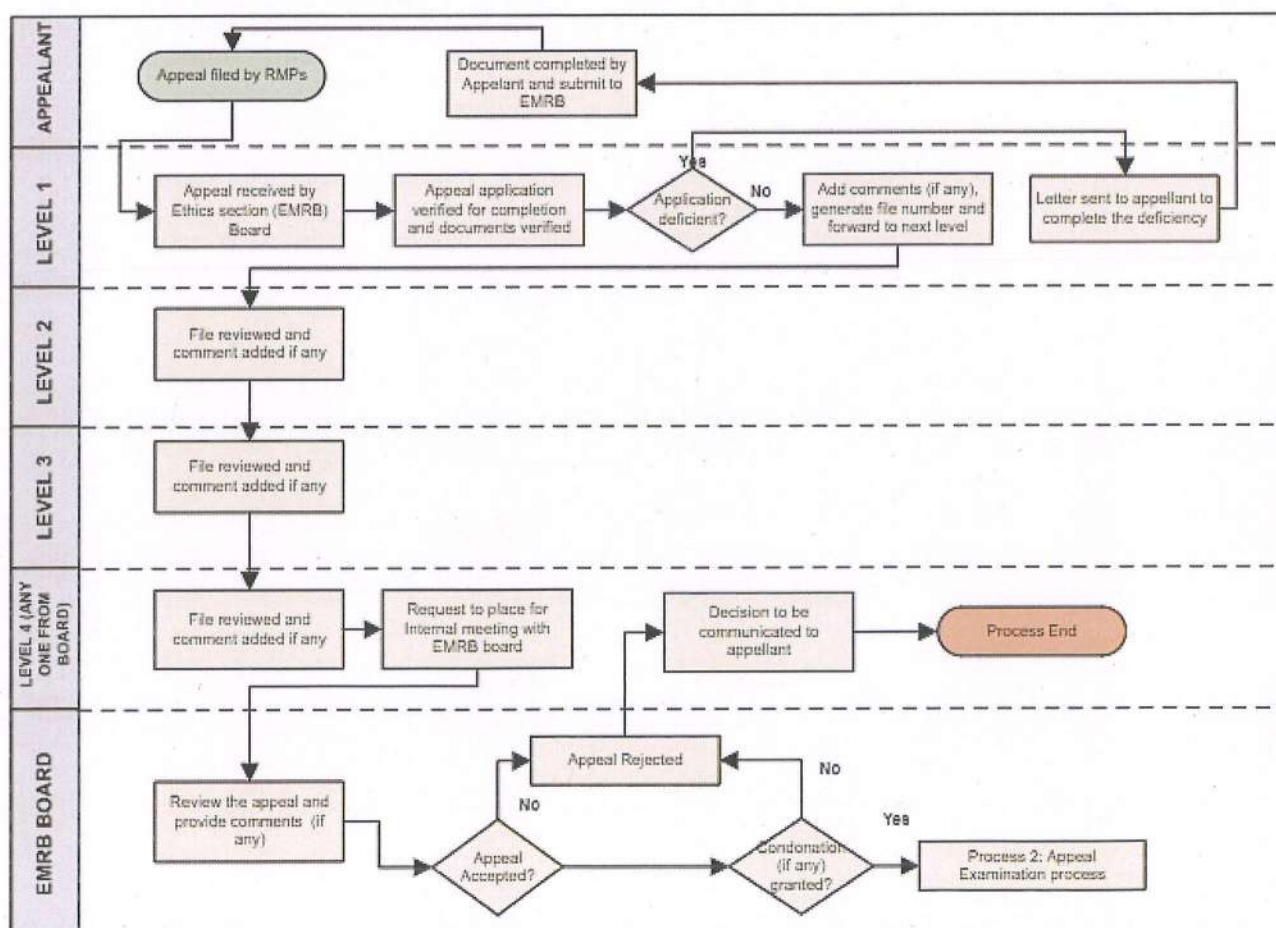
1. Objective

To ensure standardized process for disposal of appeals received from Registered Medical Practitioner (RMP) against the order/decision of State Medical Councils.

2. Process Owners

EMRB

3. Process



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NATIONAL MEDICAL COMMISSION
NEW DELHI

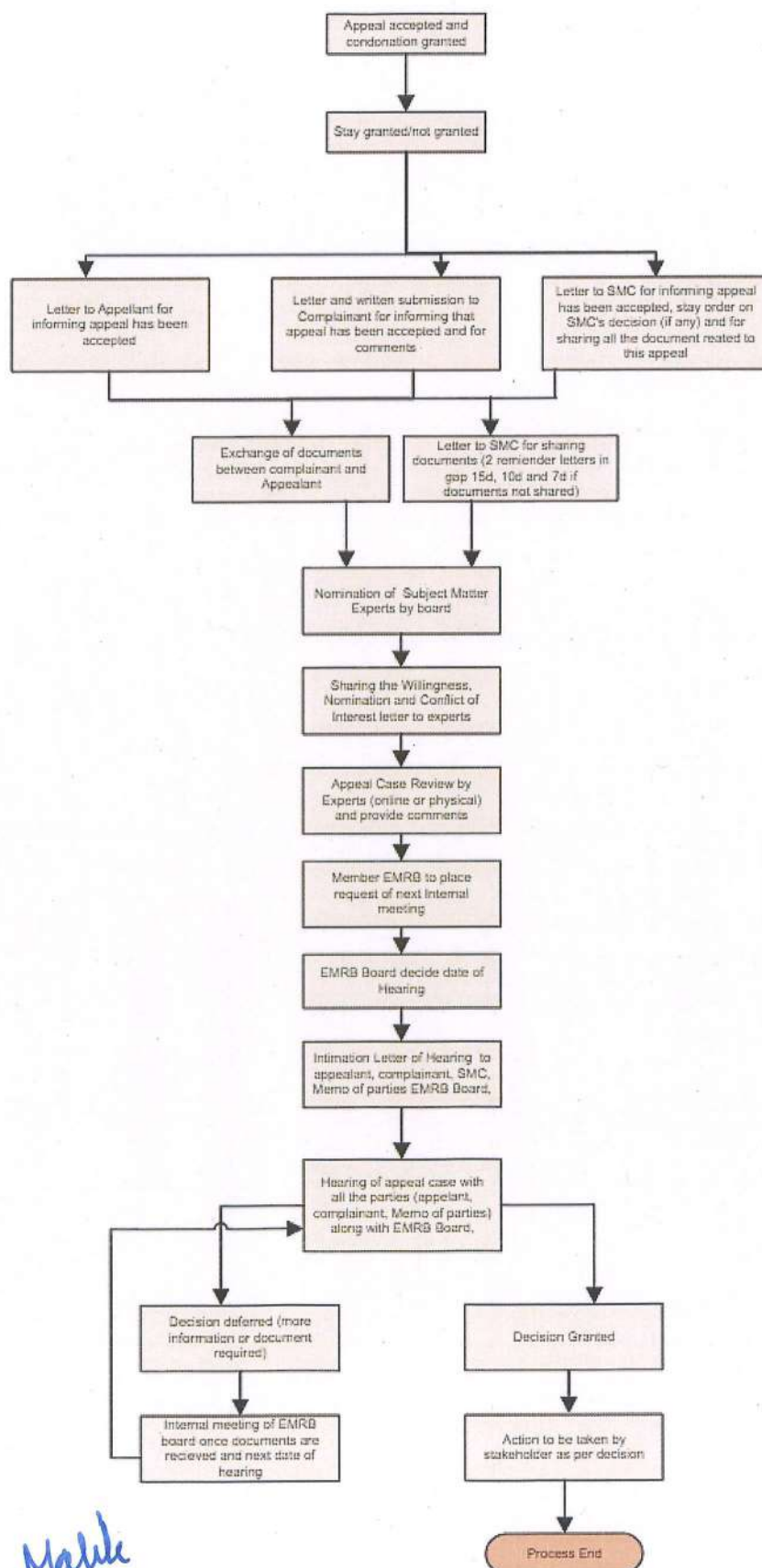


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3.1 Receiving the appeal

The Ethics Section has provision of receiving appeals through online as well as offline mode. However, all appeal applications should invariably be as per the following checklist:

1. Appeal to be submitted in prescribed format (Annexure-1) along with stay application, if required.
2. Demand Draft of prescribed fee to be submitted along with appeal in favour of the Secretary, National Medical Commission.
3. Affidavit on Rs 50/- stamp paper duly attested by Notary Public.
4. Appeal should be received within the stipulated time i.e. 60 days from issuance of SMC's order else application for **condoning the delay**** with reasons of delay should be attached along with. Board may condone the delay beyond 60 days of stipulated time as mentioned above.

Appeal application can be rejected on following grounds by Ethics section:

- Incomplete appeal application and documents as per checklist
- Appeal not filed by Registered Medical Practitioner

*Deficiency, if any, will be communicated to the applicant. Applicant needs to submit the pending documents to EMRB section or else application will be rejected

** Condonation of delay- approved by the Board in internal meeting held on 22.11.2023.

3.2 Stage 1:

The Appeal application categorized as complete on the ground that the documents as prescribed under the checklist are complete. A note for completed appeal should contain following essential points-

- i. Issues raised in initial complaint
- ii. Issues raised in appeal
- iii. Regulation(s) violated
- iv. Relevant parts of Order of SMC's order
- v. Instruction from Hon'ble Courts in this case, if any.

3.3 Stage 2:

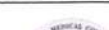
All complete appeals shall be processed to-

- i. apprise the Board of the appeal;
- ii. seeking permission of the Board to place it in upcoming internal meeting*; and

* Internal meeting should be held on monthly basis and as and when required

*Index to be made by section for each appeal file in prescribed format (as per Annexure-2)

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 संघीय गणराज्य Government Of India	राष्ट्रीय आयुर्विज्ञान आयोग NATIONAL MEDICAL COMMISSION NEW DELHI		Doc No.: NMC/EMRB/XXX
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3.4 Stage 3:

Respective dealing hand will present its Appeal case to the Board in internal meeting wherein Board shall take decision regarding-

- Acceptance/Rejection of the appeal,
- Grant of stay, and
- Condonation of delay.
- Any other

Stage 4.1:

Decision of the Board shall be communicated to the Appellant. In case of acceptance of appeal, following actions to be taken-

- State Medical Council (SMC) ¹ to be informed about the decision of the Board i.e. acceptance of appeal and stay of the order of the SMC till the Board decides the case with the request to furnish all documents related to the case. Also, a copy of the same may be endorsed to the appellant as well as respondent. (Letters will be send in gap of 15 days, 10 days and 7 days)
- A copy of appeal to be forwarded to the respondent (appellant) ² seeking his/her written submission on it alongwith an affidavit with complete contact details (Mobile no. & email id).
- Concerned parties* shall be informed about the acceptance of appeal duly informing them that they are party in the case and may be called during hearing of the appeal case.

***Memo of parties** ³ - approved by the Board in its internal meeting held on 22.11.2023.

Stage 4.2: Receiving the response and exchange of documents

Written statement ⁴ so received from the complainant to be exchanged with appellant seeking his/her comments on affidavit.

3.6 Stage 5:

- Nomination of Forensic Medical Experts** - one Forensic Medical Expert* to review the case and assist the Board in deciding Subject Experts.
- Nomination of Subject Experts** : preferably three Experts of the related specialty to give their opinion. The experts trained as per training module should be preferred.
- Willingness cum Conflict of Interest be sought from the Subject Experts.

*As decided by the Board in its internal meeting held on 12.02.2024.

¹ Mostly SMCs do not provide case related documents within stipulated time and sometimes they respond after issuance of a number of reminders, therefore it was decided in internal meeting that calculation of 61st day will start from the date of receipt of case documents.

² Complainant did not furnish its statement in stipulated time or became unapproachable due to change of residence/mobile no. Board will decide the case ex-parte after issuing three successive letters duly giving time of 15 days, 10 days and 07 days respectively.

³ The EMRB approved to issue Memo of Parties to the concerned in appeal cases in its internal meeting held on 09.01.2024.

⁴ In the event of non-furnishing of written statement by the appellant/ death/ become unapproachable due to change of contact details, Board will decide the case ex-parte after issuing three successive letters duly giving time of 15 days, 10 days and 07 days respectively. - to be confirmed

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3.7 Stage 6:

All case related documents including documents received from SMC to be shared with-

i. Subject Experts seeking their opinion, experts can give their opinion in two ways-

- physically examining the case related documents at NMC, New Delhi
- examining the soft copy of documents shared through email.

ii. concerned parties/witnesses*- seeking their comments, if any - feedback

* As decided by the Board in internal meeting held on 09.01.2024.

3.8 Stage 7:

- Appeal case to be placed in upcoming Internal Meeting² upon receipt of Expert opinion seeking date of hearing. Letters to be issued (well in advance of 15 days) to all concerned i.e. complainant, appellant, Experts, concerned memo parties, officers of EMRB including legal personnel asking them to attend the scheduled hearing duly mentioning that all case related documents has been shared with all concerned through email.
- If either of the appellant or complainant intimates the Board about their inability to attend the hearing and request for postponement, the Board will decide whether to accept or reject the request. If accepted, another date of hearing shall be given. Generally, Board does not accept the request for postponement of hearing except few genuine cases.
- If either appellant or complainant fails to present himself for two consecutive postponement allowed by the board, ex-parte order may be passed without giving any further notice.
- Finally, presenting the complete ripe case to the Board for briefing in internal meeting.

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3.9 Stage 8:

Final hearing of the case to be held wherein following will be present:

- i. EMRB Board
- ii. Nominated Subject Experts who rendered their opinion
- iii. Officers of EMRB including legal personnel
- iv. Complainant
- v. Appellant
- vi. Concerned parties, if any

After hearing both the parties and after discussion with experts and other members present, Board will make final decision on the case for passing order. A speaking and reasoned order to be passed on finalization of the appeal conveying the decision of the Board to all concerned parties.

4 Annexures

4.7.1 Appeal Format

4.7.2 Checklist for filling appeal case

Yogendra Mahli

**PROFORMA FOR SUBMITTING APPEAL CASES UNDER SECTION 8.7 & 8.8 OF INDIAN
MEDICAL COUNCIL (PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS) REGULATIONS,
2002**

1. Name of the appellant/Doctor: _____
(In Block letters)
2. Registration number: _____
(Name of the State Medical Council) _____
3. Full Postal address of the appellant _____
Address: Residential _____
Clinic/Hospital: _____ Pin code: _____
Office: _____
Telephone No. _____ Pin code: _____
Mobile _____ (mandatory)
E-mail _____ (mandatory)
4. Bank Draft No. _____ dated _____ for Rs. _____
Drawn on (Name & address of issuing branch) _____
5. Nature of the appeal in brief -
 1. _____
 2. _____
 3. _____
6. Name of the State Medical Council against whose decision the appeal is lodged (enclose a copy of the decision of the State Medical Council with all the relevant papers).
7. Reasons for not being satisfied by ruling of State Medical Council (Attached Extra sheets, if required)
 1. _____
 2. _____
 3. _____

I hereby affirm and declare that the information provided above is true to the best of my knowledge and belief and nothing has been concealed therein.

Date: _____

Place: _____

Signature _____

Name in full: _____

INSTRUCTIONS FOR APPEAL

1. All the Fields mentioned below are Mandatory to file.
2. The Application Form should be properly and neatly filled in.
3. Incomplete applications shall not be entertained by the Commission.
4. A Bank draft of Rs. (500/-+18% GST) in favour of "The Secretary, National Medical Commission", payable at New Delhi should be sent alongwith the application as fee (cheques are not acceptable). On reverse of draft, following details will be filed by the applicant and duly signed: -
 - (a) Name:
 - (b) Father's Name:
 - (c) Purpose:
 - (d) Contact Telephone/Mobile No.:
5. Persons Below Poverty Line (BPL) shall not have to pay any fees for the original complaints or the appeals as the case may be provided that a certificate issued by a government Authority/attested copy of the BPL Card issued by the Competent Authority is attached with the complaint/appeal.
6. Applicant to retain copy of Complaint/Appeal and bank draft for future reference.
7. Applicant to attach the affidavit with the complaint as per given proforma on Rs.50/- stamp paper duly attested by Notary Public.

ACKNOWLEDGEMENT

(to be filled by the candidate)

Received Application from Ms/ Mr. D/o /
S/o Sh. alongwith Bank Draft/ DD No.
..... Dated for Rs..... drawn on Bank
..... for lodging Complaint/
Appeal.

OFFICIAL
SEAL

Signature of Receiving Official
with date

AFFIDAVIT

I, _____ Son/Daughter/Wife of
_____ R/o _____ here by solemnly

Affirm that I have submitted a Complaint/Appeal under Indian Medical Council
(Professional Conduct, Etiquette & Ethics) Regulation, 2002 against

_____ The facts of the same have been given in the
Complaint/ Appeal.

COMPLAINANT/APPELLANT

VERIFICATION:

Verified at _____ on this the _____ day of
_____ that the contents of my Complaint/Appeal are true to the
best of my knowledge and belief. No part of it is false and nothing has been
concealed therein. There is no malafide intention in fil
ing the said
Complaint/Appeal.

COMPLAINANT/APPELLANT

	File No.	
	Appellant Name :- Respondents/ Complainant :- Order dated Of.....Medical Council (Pg. /C).	Page no.
1.	Appeal dated of against order dated of State Medical Council.	(1-
2.	Order dated Of Medical Council.	
3.	This appeal was accepted in the internal meeting of EMRB held on	
4.	Stay Order issued on	
5.	Letter issued to Registrar, SMC conveying stay order, Registrar, SMC seeking relevant docs of the case Complainant/respondent seeking WS	
6.	Written submission of Complainant received	
7.	Comment of the Respondent	
8.	Documents received from State Medical Council	
9.	Nomination of Experts	
10.	Opinion of Expert-1	
11.	Opinion of Expert-2	
12.	Opinion of Expert-3	
13.		
14.		
15.		
16.		