EXAMINATION IRREGULARITIES

BACKGROUND

In the interest of maintaining the highest standards of integrity and fairness, the American Board of Emergency Medicine (ABEM) has implemented this policy on Examination Irregularities for cases in which such irregularities are detected or suspected in relation to any ABEM-administered examination or any subspecialty examination for which ABEM is a Co-sponsoring or Qualifying Board.

POLICY

ABEM reserves the right to take any necessary measures to protect the integrity of its examinations. This could include, but is not limited to, exclusion from a current or future examination and a suit for recovery of damages. Furthermore, ABEM reserves the right to take legal action against any individuals who are directly implicated in examination irregularities.

ABEM defines an examination irregularity as any activity or behavior that is intended to gain or provide an unfair advantage for oneself or others in taking an examination or otherwise compromise the integrity of the examination or the certification process. Examples of examination irregularities include, but are not limited to, the following:

- Copying answers from another individual or permitting one's answers to be copied
- Accessing outside information during an examination administration
- Unauthorized possession, reproduction, recording, or disclosure of examination materials, including examination questions or answers, whether before, during, or after the administration of an examination
- Assisting another individual during their examination in any manner
- Unauthorized use of cell phones or other technological devices during an examination
- Participation in preparation activities claiming to provide actual ABEM examination questions and/or answers
- Failure to follow ABEM policies or rules or other rules (e.g., test center rules) applicable to the test administration
- Impersonating an examinee or having someone impersonate the examinee
- Altering or misrepresenting examination scores
- Other compromises to the integrity of an examination, as determined by ABEM in its sole discretion

Any unauthorized possession, reproduction, recording, or disclosure of examination content, including examination questions, answers, and stimuli, at any time (whether before, during, or after examination administration) is a breach of ABEM policy and is strictly prohibited. All test questions and answers are the property of ABEM and may not be possessed, reproduced, recorded, or disclosed in any form for any purpose, including but not limited to examination preparation or training.

If ABEM designees or staff observe or discover any examination irregularities, they must immediately report the irregularity and the individual(s) involved to ABEM.

A physician or any other person found to have engaged or assisted in any examination irregularity is subject to sanctions imposed by ABEM in ABEM's sole discretion, including, but not limited to, a bar (temporary or permanent) from future ABEM examinations and/or certification, score invalidation, termination of any existing or future relationship with ABEM, suit for recovery of damages, or other appropriate action. Physicians certified by other sponsor boards who are implicated in an irregularity will be reported to their sponsor board for possible sanctions. Fees for ABEM candidates will be handled as defined in the Policy on Fees. Fees for candidates from other sponsor boards shall be handled in accordance with the established policies of the sponsor board.

ABEM reserves the right to notify any third parties with a legitimate interest in the matter of the pendency of any irregularity investigation and/or the results of any irregularity investigation.

ABEM may prohibit a physician who is being investigated for examination irregularities from taking another ABEM examination or place restrictions on the manner of testing while the investigation is ongoing.

ABEM's procedures for responding to information regarding examination irregularities are set forth in the Examination Irregularities Procedure.

EXCEPTION

None.

EXAMINATION IRREGULARITIES PROCEDURES

PROCEDURES

These procedures apply to ABEM's investigation of, and response to, examination irregularities pursuant to ABEM's Examination Irregularities policy.

Physicians or others suspected of examination irregularities are required to cooperate in the investigation of such incidents. Refusal by an individual to cooperate in an irregularity investigation could result in invalidation of their examination scores and/or prohibition from future participation in any or all ABEM examinations and/or certification.

ABEM defines an examination irregularity as any activity or behavior intended to gain an unfair advantage for oneself or others in taking an examination or otherwise compromise the integrity of the examination or the certification process. A non-exhaustive list of examples of examination irregularities is included in the Examination Irregularities Policy.

In the event of any witnessed, detected, or suspected examination irregularities, ABEM may seek additional information from the physician, and the physician must reasonably participate in ABEM's ongoing investigation. The Chair of the applicable examination committee will supervise the investigation.

After ABEM conducts its initial investigation, the Chair of the applicable examination committee may close the irregularity review or it may move forward with the review, at ABEM's sole discretion. If ABEM moves forward with a charge of suspected irregular behavior, it will follow the Appeal Process Related to the Policy on Examination Irregularities.

ABEM will make every effort to take action solely with regard to those physicians directly implicated in the examination irregularity. However, in some instances, although there is sufficiently strong evidence to cast doubt on the validity of scores of one or more physicians as a result of information learned by ABEM during an irregularity investigation, ABEM may not be able to identify the physician(s) who are involved. In such circumstances, ABEM reserves the right to withhold or invalidate the scores of any or all physicians taking the examination, including those not directly implicated in the irregularity and, if necessary, to require such physicians to take an additional examination under conditions set by ABEM.

ABEM reserves the right to withhold an examination score pending the results of an irregularity review if the results have not yet been reported, or to make temporarily unavailable scores that were previously reported based on new information regarding a potential irregularity.

Although ABEM anticipates that most irregularity reviews will be opened within a year after testing, ABEM reserves the right to open an irregularity review at any time.

ABEM may notify third parties of a pending irregularity review and/or the results of an irregularity review if those third parties have a legitimate interest in receiving that information, as determined by ABEM at its sole discretion.

EXAMINATION IRREGULARITIES DECISION AND APPEALS

Examination Irregularities Policy

BACKGROUND

Within 30 days after the Chair of the applicable examination committee (e.g., Certifying Examination Committee, Continuing Certification Committee, Written Examination Committee, Subboard, or Subspecialty Advisory Committee) decides to move forward with a charge of suspected examination irregularity pursuant to ABEM's Examination Irregularities Procedures or ABEM's In-Training Examination Irregularities Procedures, ABEM will provide electronic and tracked written notice to the candidate, including the following information: (1) the suspected examination irregularity, including any findings from ABEM's investigation into the irregularity; (2) the opportunity to be heard in writing or at a virtual hearing before the Examination Irregularities Subcommittee (EIS); and (3) the action(s) that ABEM may impose if, after deliberation, ABEM determines in good faith that an examination irregularity has occurred.

RESPONSE TO THE CHARGE

Within 15 days of the date of the written notice to the candidate that the candidate is being charged with a suspected examination irregularity, the candidate shall notify ABEM in writing whether they wish to respond to the charge, and if so, whether they wish to make a defense in writing or at a virtual hearing. If the candidate fails to timely respond or fails to provide any substantive defense, ABEM will move forward with a review and consideration by the EIS to determine whether an examination irregularity has occurred and the appropriate sanction, if any, as identified in its initial written notice upon the candidate.

Written Defense

If the candidate chooses to respond in writing, their written defense must be submitted to the ABEM office within 30 days of the date of the written notice to the candidate that the candidate is being charged with a suspected examination irregularity.

Hearing Defense

If the candidate chooses to offer a defense at a virtual hearing via conference call, the candidate will be notified via electronic and written correspondence of the date and time of the hearing. This notice shall be given at least 15 days prior to the hearing. During the hearing, the candidate may present a brief statement of not longer than 15 minutes and written evidence, provided that any written evidence must be provided to ABEM at least five business days prior to the scheduled hearing. By participating in the hearing, the candidate agrees to have their testimony recorded, at ABEM's sole discretion. The EIS may question the candidate concerning the circumstances of the suspected examination irregularity.

DECISION BY THE EXAMINATION IRREGULARITIES SUBCOMMITTEE (EIS)

The EIS will convene within 90 days after ABEM provides notice to the candidate of the charge of suspected examination irregularity to make a decision whether the evidence before the EIS reasonably supports a

finding that the candidate engaged in an examination irregularity and whether to impose a sanction. The decision will be based on the investigation record and (a) any written submission by the candidate or (b) the statements and any written evidence provided by the candidate and the candidate's responses to any questions by EIS at the hearing. The Chair of the applicable Examination Committee will participate in the EIS meeting, provide the results of the investigation, and participate in the decision by the EIS. If the Chair of the applicable Examination Committee who led the investigation already serves on the EIS, then the Vice-Chair of the applicable Examination Committee will be added as a representative on the EIS and included in the EIS decision-making process.

ABEM will send the candidate a letter via a trackable method reporting on the EIS decision within 30 days of the decision.

FIRST APPEAL: APPLICABLE EXAMINATION COMMITTEE

The EIS decision will be binding for both the candidate and ABEM unless the candidate submits a written appeal, postmarked within 30 days of the date on the EIS's decision letter, notifying ABEM that they are making an appeal and setting forth the reasons for their disagreement with the EIS decision. If the candidate believes that additional information that was not provided to the EIS is relevant to their arguments, then that additional information may be provided on appeal.

The full applicable examination committee (e.g., Certifying Examination Committee, Continuing Certification Committee, Written Examination Committee, Subboard, or Subspecialty Advisory Committee) ("Committee") will review the written first appeal at the next regularly scheduled meeting of the Committee and make a decision whether the evidence before the Committee reasonably supports a finding that the candidate engaged in an examination irregularity and whether to impose a sanction. The decision will be based on the information that was given before the EIS as well as any new information offered in the appeal. If the Committee is not scheduled to meet within 30 days of ABEM's receipt of the appeal, a special meeting will be scheduled to consider the appeal no later than 30 days after ABEM's receipt of the appeal. Any Committee member directly involved in the EIS decision will be excluded from a decision-making role in the first appeal.

ABEM will send the candidate a letter via a trackable method reporting on the decision of the Committee within 15 days of the Committee meeting at which the appeal is considered.

FINAL APPEAL: EXECUTIVE COMMITTEE

In the event that the initial decision of the EIS is upheld by the Committee in whole or in part in the first appeal, the following process shall be followed.

The decision of the Committee on the first appeal shall be considered binding on both the candidate and ABEM, unless the candidate submits a final appeal postmarked within 15 days of the date of the Committee's decision letter setting forth the reasons for their disagreement with the Committee decision.

Final appeals are reviewed by the Executive Committee. The candidate may request a hearing and appear virtually or by phone before the Executive Committee or they may ask that their appeal be considered without appearing before the Executive Committee.

If a candidate requests a hearing, it will take place at the first meeting of the Executive Committee that is held at least 60 days after ABEM receives the candidate's final appeal. ABEM will notify the candidate in writing of the time and place of the hearing at least 30 days prior to the scheduled hearing date.

At the hearing, the candidate may appear either with or without counsel and may present witnesses and other evidence on their own behalf. At least 15 days prior to the hearing, the candidate will furnish the Executive Committee with the names of any individual who will appear on their behalf. The Executive Committee may call other witnesses and consider such other evidence as it deems appropriate, provided that the candidate and the candidate's counsel shall have the opportunity to examine all documents and physical evidence considered by the Executive Committee and to question all witnesses heard by it. ABEM legal counsel may also participate in the hearing.

Following the hearing, the Executive Committee will meet and make a decision whether the evidence before the Executive Committee reasonably supports a finding that the candidate engaged in an examination irregularity and whether to impose a sanction. The decision will be based on the information that was before the EIS and the Committee as well as any new information offered in the appeal before the Executive Committee.

ABEM will send the candidate a letter via a trackable method with the decision of the Executive Committee within 30 days of the close of the hearing, and the decision shall be final and binding upon both the candidate and ABEM.

EXAMINATION RETAKE

While proceedings are pending under these procedures, the candidate is not permitted to retake the examination in question except by special permission of the Chair of the applicable examination committee and under such conditions, if any, as specified by the Chair.

If such permission is granted by the Chair, the score of the retake examination will be withheld until a decision is made by EIS and the appeal process, if any, has ended. At that time, the results of the examination would continue to be withheld if (1) it was decided that the first examination should be scored or (2) the outcome of the process is that the candidate is barred from taking the examination.