

## CMBA regulatory examinations policy

---

August 2021

### Multiple-choice examination misconduct

#### Purpose

This document sets out the Chinese Medicine Board of Australia's (CMBA's) policy for considering cases of alleged misconduct by candidates sitting the CMBA regulatory examinations for overseas-qualified Chinese herbal medicine practitioners and acupuncturists (CMBA regulatory examination).

The CMBA is committed to the following:

- setting clear expectations of candidate behaviour which are consistent with that outlined in the *CMBA Code of conduct for registered health practitioners*
- identifying cases of alleged candidate misconduct and investigating them promptly and fairly
- where necessary and proportionate, taking action in response to cases of candidate misconduct to ensure public safety and maintain confidence in the CMBA regulatory examinations.

#### Scope

This policy applies to all applicants for registration as a Chinese herbal medicine practitioner and/or acupuncturist who are undertaking the multiple-choice question (MCQ) examination.

This document contains the information on the manner in which the CMBA (or its delegate) will assess cases of alleged candidate misconduct.

#### Policy

The CMBA's expectations of candidates are described in the *CMBA regulatory examinations candidate handbook – multiple-choice question examination*.

There are two types of candidate misconduct –

- **General misconduct:** relates to unacceptable candidate behaviour at any time including in their interactions with the CMBA, Ahpra, examination centre staff, other candidates, or examiners.
- **Examination misconduct:** relates to unacceptable candidate behaviour and/or misbehaviour at the MCQ examination.

A candidate who violates the MCQ examination policies or rules, or engages in irregular behaviour, misconduct and/or does not follow a warning or instruction by staff at the examination centre to discontinue inappropriate behaviour may be dismissed from the MCQ examination centre and their MCQ examination fee will not be refunded.

Additionally, the candidate's examination results may be withheld or cancelled and, if the candidate is a registered practitioner, a notification about the candidate's irregular behaviour or misconduct may be made to Ahpra.

## General misconduct

All candidates are expected to demonstrate courtesy and professionalism in all matters when interacting in writing or in person with Ahpra staff, examiners and other representatives that can include, but is not limited to other candidates, and staff at the examination centre.

Candidate must not engage in misconduct of any kind during the examination. Misconduct is defined in the Board's examination policies as, '*professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers.*' A more extensive definition is available under section 5 of the National Law.

If a candidate engages in general misconduct, Ahpra may take action as set out in the Board's policy, including:

1. Authorising examination centre staff to ask the candidate to leave the MCQ examinations area.
2. Give the candidate a zero score for the MCQ examination in which the misconduct occurred.
3. Prohibit the candidate from undertaking further MCQ examinations.

## Examination misconduct

Candidates are expected to behave in a manner consistent with published examination policies, the National Law, CMBA's *Code of conduct*, CMBA's registration standards, any examination centre rules and any written or verbal communication to candidates. Candidates are required to read the CMBA's *Code of Conduct for registered health practitioners* before the MCQ examination.

Behaviours that constitute irregular behaviour or misconduct include but are not limited to:

- Giving or receiving assistance of any kind during the MCQ examination.
- Using, accessing, or attempting to access any prohibited aids during the MCQ examination. Prohibited aids are any devices or materials that will be helpful in taking the examination. Examples of aids that are prohibited are electronic devices (e.g. cell/mobile/smart phones, tablets, smart watches, etc.), handheld calculators, conversion tables, dictionaries, etc.
- Attempting to sit the MCQ examination for someone else.
- Failing to follow instructions by examination centre staff.
- Creating a disturbance of any kind during the MCQ examination.
- Tampering with the operation of the computer or attempting to use it for any function other than taking the MCQ examination.
- Attempting to copy or record content from the MCQ examination.

## Assessing candidate misconduct

The misconduct in relation to the MCQ examinations is handled in accordance with this misconduct policy.

## Reporting alleged misconduct

Any person may report an allegation of misconduct in writing to the Ahpra. All reports will be recorded. Where misconduct is suspected, the examination staff will collate evidence of the suspected breach and report it to Ahpra.

### *Ahpra's advice and/or review*

Where a candidate is reported to have behaved in a manner that constitutes general or examination misconduct, Ahpra will conduct an initial assessment of the report to determine whether there is sufficient information to support the allegation of misconduct. Ahpra will:

- advise the candidate of the allegations
- conduct a primary investigation and report the incident to the CMBA
- block the candidate's access to their exam bookings and results pending Ahpra's investigation
- initiate a trespass order against the candidate where non-compliance is in relation to threatening or abusive behaviour towards the examination staff or other candidates
- consider further legal action against the candidate where there is evidence to support theft of intellectual property or copyright.

If Ahpra concludes that further consideration is not required, the matter will be closed. Ahpra will inform the candidate in writing of the outcome of the initial assessment of their application.

If further consideration is warranted, the matter will progress to CMBA for review.

#### *CMBA review*

Where a CMBA review is required, Ahpra will initiate the CMBA review and gather any further information. Ahpra will notify the candidate that a report of alleged misconduct has been made about them. The candidate will be provided with written information about the alleged misconduct and be invited to send any written comments in response. They will be given at least 14 days in which to respond.

If a candidate does not respond to the allegations in writing, the CMBA review will proceed in absence of a response.

The candidate will be notified of the outcome within 30 days of the review, with reasons given for the decision.

#### Consequences

If the CMBA review concludes that a breach of this policy has occurred, determination of the consequence for breach of this policy may take into account the severity of the breach and any extenuating circumstances submitted on behalf of the candidate.

Consequences relating to general or examination misconduct may include:

- a) removal of existing examination results
- b) suspension of candidature and barring from the CMBA's assessment process for a period of time determined by the primary review.

If the candidate is dissatisfied with the outcome of the CMBA review, the candidate may apply for an internal review by an expert panel.

#### *Internal review*

If a candidate wants to apply for an Internal review, they must apply for a review within 14 calendar days of being notified of the outcome of the CMBA review and must pay the Internal review fee.

There are two reasons grounds for seeking an Internal review:

1. The manner in which the candidate misconduct policy has been followed has been procedurally unfair, and/or
2. The CMBA's decision on misconduct and/or the consequence is unjustified or unreasonable on the basis of the available evidence.

All records relating to the candidate misconduct (held by CMBA) will be made available including information supplied by the candidate. The candidate has the right to appear before the Internal review panel.

The Internal review panel may determine that:

- the original CMBA decision is upheld.
- the original CMBA decision is not upheld.
  - The matter is remitted back with directions for reconsideration under this policy. (For example, a direction that further investigation is required before reconsideration of the case by a fresh internal review panel.)
  - The outcome of the case is substituted for any decision that could have been made under this policy.

Where the original decision is not upheld in full or in part, the fee for the internal review may be refunded in full or in part.

Ahpra will notify the candidate in writing of the outcome of the internal review as soon as practicable following the Internal review panel's decision and provide reasons for that decision.

### **Monitoring, evaluation and review**

This policy will be reviewed from time to time as required. This will generally be at least every three years.

### **Definitions and abbreviations**

**Candidate** is an overseas-qualified Chinese herbal medicine practitioner or acupuncturist who is sitting the CMBA regulatory examinations.

**Misconduct** is 'professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner's professional peers.' A more extensive definition is available under section 5 of the National Law.

### **Associated documents**

[CMBA regulatory examinations candidate handbook – multiple-choice question examination](#)

[Code of Conduct for registered health practitioners](#)

### **Effective date**

August 2021