



COUNCIL POLICY

Appeal Guidelines of Investigation Committee Decisions

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The Appeal Panel of the Executive Committee (“Appeal Panel”) adheres to the principle of law that for the exercise of a discretionary power, that discretion must be brought to bear on every case, and each case must be considered on its own merits. Within that context, the following general guidelines apply to appeals:

1. Appeals from decisions of Investigation Committee are not fresh hearings of the matter. Accordingly, the question for the Appeal Panel is not the question which was before the Investigation Committee. The functioning of the Appeal Panel is to examine the Investigation Committee decision to determine whether there was an error of fact, of law, or of procedure.
2. Appeals are generally restricted to matters actually determined by the Investigation Committee. Where the appeal raises a new point, the Appeal Panel must assess its ability to fairly decide the matter on the basis of the available information. If the Appeal Panel is unable to fairly decide the matter without additional information, the matter should be referred back to the Investigation Committee to obtain the additional information.
3. Where the appellant brings forward new evidence, the Appeal Panel should assess whether that new evidence might reasonably impact upon the decision and, if so, whether the matter should be remitted to the Investigation Committee for reconsideration in light of the new evidence.
4. In the absence of an allegation of bias on the part of the Investigation Committee, the Appeal Panel’s threshold test for intervention is that the Investigation Committee’s decision contains an error of fact, of law or of procedure which warrants interference. The Appeal Panel should not interfere simply because it might have reached a different conclusion on the case.
5. Reasons for decision will be drafted by the Chair of the Panel with the input of legal counsel.

6. Reasons should:

- 6.1. address the major points in issue.
- 6.2. explain why the Appeal Panel reached the decision which it did, i.e. show the reasoning which formed the basis of the decision.
- 6.3. show that the Appeal Panel did consider the points raised.

Although reasons need not be elaborate, they must be sufficient to permit the complainant and the physician to be able to say that they know what the result is and the basis upon which the decision was reached.

In cases where the Appeal Panel refers a matter back to the Investigation Committee for further investigation, the second decision of the Investigation Committee is to be treated as a new decision and is subject to a right of appeal by the complainant.