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**A GUIDE TO THE REVIEW PROCEDURE
FOR APPLICANTS REFUSED REGISTRATION
IN THE REGISTER OF MEDICAL PRACTITIONERS
OR ANY DIVISION THEREOF
IN THE FIRST INSTANCE**

**THIS DOCUMENT SHOULD BE READ IN CONJUNCTION WITH
THE MEDICAL PRACTITIONERS ACT 2007 AND
THE MEDICAL COUNCIL REGISTRATION RULES 2009**

**THE PURPOSE OF THIS DOCUMENT IS TO INFORM APPLICANTS WHO HAVE BEEN
REFUSED REGISTRATION IN THE FIRST INSTANCE, HAVING APPLIED:**

- **FOR REGISTRATION FOR THE FIRST TIME; OR**
- **TO RESTORE TO THE REGISTER FOLLOWING A PERIOD OF ABSENCE; OR**
- **TO TRANSFER FROM ONE DIVISION OF THE REGISTER TO ANOTHER**

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***THIS GUIDE WAS LAST UPDATED IN OCTOBER 2009
PLEASE ENSURE YOU READ THE MOST UP-TO-DATE GUIDE AVAILABLE ON OUR WEBSITE***

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1. INTRODUCTION

- 1.1 The Medical Council has authorised the Standards in Practice Committee (“the Committee”) to make initial decisions on applications for registration in the Register of Medical Practitioners for the first time; or restoring to the Register following a period of absence; or transferring from one Division of the Register to another. [See **Appendix A** for a flowchart outlining the decision-making process.]
- 1.2 If the Committee, or other Group or person(s) authorised to do so, decides to **refuse** to register any person, or restore the registration of any medical practitioner, in the Register of Medical Practitioners or any Division thereof, **written notification** of the decision will be provided to the person / medical practitioner (“applicant”), citing the **date of and reasons for the decision**.
- 1.3 The Medical Council has decided that it will provide an avenue for review of a decision to refuse to register a first-time applicant; or restore an applicant’s name to the Register following a period of absence; or transfer an applicant from one Division of the Register to another, in the first instance.
- 1.4 The Review process will be consistent with the Medical Council’s Registration Rules A.4.(i)-(iii) (for applicants for internship, trainee specialist, specialist or general registration); or F.4.(i)-(iii) (for applicants for visiting EEA registration); and the provisions of the relevant *Guide to the Application Procedure and Registration Rules*. [See **Appendix B** for an extract from the *Registration Rules and the Medical Practitioners Act 2007*.]

2. HOW TO REQUEST A REVIEW

- 2.1 Within **three months** of the date of the written notification referred to at paragraph 1.2 above, , the applicant may request a Review of the decision. On expiry of the three-month period, if the applicant does not submit a written request for a Review of the decision, the Medical Council will make a final decision on the application.
- 2.2 Before formally requesting a Review, the applicant may wish to discuss their position with a relevant Medical Council staff member and every reasonable opportunity will be provided to the applicant to do so by contacting the Registration Section by telephone at +353 1 4983100 or fax at +353 1 4983102 or email to registration@mcirl.ie.
- 2.3 A request for Review must be **in writing and addressed to the Chief Executive Officer** (“CEO”) of the Medical Council. It must include:
 - The **name, address, Medical Council registration/reference number, telephone number and email address** of the applicant requesting a Review; and
 - The specific **grounds** upon which the request is based; and
 - Supporting **documentation**; and
 - A **Review Fee** set by the Medical Council.
- 2.4 If the request does not comply with the requirements outlined in paragraph 2.3, above, it will be returned to the applicant with the Review fee paid (if any), stating the reasons why it has not been accepted. The applicant will then have three months from the date of the letter returning the request within which to submit a request which meets the above criteria.

- 2.5 Formal written acknowledgement of receipt of the request for a Review will normally be issued by the Medical Council within **five working days** of receipt.
- 2.6 Prior to the Review hearing, the applicant may be requested to submit further documentation, or it may seek clarification on issues in order to assist in the hearing of the Review.
- 2.7 The applicant has the right to withdraw their request for a Review at any stage.

3. FEES

- 3.1 Each applicant must pay the appropriate fee, by a method acceptable to the Medical Council, prior to their request for a Review being considered. **Fees are non-refundable.** Declined credit or laser card payments will cause a delay in the processing of a request for a Review. For further information about fees and acceptable methods of payment, please consult the Medical Council's website at: www.medicalcouncil.ie/registration/fees.

4. THE REVIEW PANEL

- 4.1 A Review Panel will be formed to hear the Review and make a recommendation to the Medical Council. It will comprise:
 - Two Members of the Medical Council (one of whom must be a Lay Appointed Member); and
 - One external expert in postgraduate training in any specialty/ies other than the applicant's specialty/ies (if any);
 - The Chairman of the Review Panel shall be a Member of the Medical Council.
 - None of the members of the Review Panel will be a member of the Committee or Group which considered the application prior to making the initial decision to refuse to register the applicant, or restore their registration, in the Register of Medical Practitioners or any Division thereof.

5. OTHERS ATTENDING THE REVIEW HEARING

- 5.1 **Applications for entry in any Division of the Register**
Representations may be made to the Review Panel by the following, for advisory purposes:
 - A person nominated by an appropriate approved postgraduate training body, medical school, clinical site or other body or institute deemed by the Review Panel to be appropriate in the circumstances;
 - Any other person or persons deemed by the Review Panel to be appropriate in the circumstances.
- 5.2 **Applications for entry in the Specialist Division**
Representations will be made to the Review Panel by the approved postgraduate training body of the applicant's specialty/ies to explain the training body assessment and decision-making process and clarify the identified deficits in the applicant's training and experience. Representations may also be made to the Review Panel by a person nominated by another approved postgraduate training body, at the Appeal Board's request.

- 5.3 The Review Panel may seek the assistance of experts whose opinion/advice may be provided in the presence of the applicant and their representative and/or in writing to the applicant and their representative.
- 5.4 The applicant may bring a friend, colleague or other person to the Review hearing. The Review Panel and/or the applicant may, if they wish, have legal representation at the hearing. It is open to the applicant to request that the Review hearing takes place without the applicant being in attendance.
- 5.5 If one of the Review Panel members due to attend a Review hearing is unavailable for any reason, the Review hearing can proceed provided that the applicant is agreeable. If the initial decision to refuse registration was based on advice from a relevant approved postgraduate training body, the Review hearing should not proceed in the absence of a person nominated by that training body or a person nominated by another approved postgraduate training body, other than with the agreement of all concerned.
- 5.6 Persons nominated by approved training bodies (if any) are present to advise the Review Panel and to ask questions of the applicant for clarification purposes. They will not participate in any deliberations or vote taken or recommendations made by the Review Panel.

6 TIMESCALE

- 6.1 The Medical Council will endeavour to hear a Review within **four months** from the date of receipt of the written request. In some instances, more than four months may elapse between receipt of the written request for a Review and the hearing. However, Council will at all times endeavour to ensure that the Review is heard as soon as possible.
- 6.2 Prior to the Review hearing, the applicant will be provided with the names of the members of the Review Panel, a copy of this *Guide* and the date, time and place of the hearing. Prior to the Review hearing, the Review Panel and all other participants, including the applicant or their representative, will be provided with the documentation relevant to the application on the Medical Council's file and may consider further documentation submitted at the hearing by any of the participants.

7 THE AIMS AND OBJECTIVES OF THE REVIEW

- 7.1 The Medical Council's primary responsibility is to protect the interests and safety of patients. For example, patients attend a specialist expecting specialist treatment. The evidence of such specialty is registration in the Specialist Division of the Register of Medical Practitioners. The Review Panel will at all times make the integrity of the Register of Medical Practitioners and each of its Divisions their priority.
- 7.2 The Review hearing is an opportunity for an applicant to discuss with members of the Medical Council and, where their advice is sought, training body or other representatives, issues that are pertinent to their registration on the Register of Medical Practitioners and/or any Division thereof. It is not a formal legal proceeding and is not necessarily a venue for legal argument. The meeting will have a certain formality but should not be adversarial.

8 CONDUCT OF THE REVIEW HEARING

- 8.1 The Chairman may, where deemed necessary, delegate individual members to guide the applicant through aspects of their grounds for Review. The Chairman may, where deemed necessary, ask one of the Review Panel members to function as an informal advocate for the applicant in the deliberation process.

9 RELEVANT MATTERS TO BE CONSIDERED BY THE REVIEW PANEL

- 9.1 The Review hearing is an opportunity for an applicant to highlight those aspects of their training, experience and continuing medical education / professional development which, in the applicant's view, entitles them to be registered in the Register of Medical Practitioners or any relevant Division thereof. This may include exploring those aspects which have been taken into account by the Medical Council and/or training body (where applicable) during their consideration of the application. It may also include those aspects of the application which have not been evaluated by the Medical Council and/or training body (if any).
- 9.2 The Medical Council recognises the provisions of the Medical Practitioners Act 2007 and the relevant provisions of EU Directive 2005/36/EEC, as amended. The Review Panel will take into account all aspects of the applicant's medical education, training, qualifications and experience, as appropriate in their individual circumstances.
- 9.3 The Review Panel and the Medical Council will also take into account the advice of the relevant approved postgraduate training body, medical school or other body or institute (where requested) in respect of the applicant's training and experience. However, if an applicant is able to provide evidence in support of their request for a Review of training, experience, or continuing medical education and continuing professional development gained since that originally assessed, it will also be taken into account.
- 9.4 Where relevant, the Review Panel will consider whether or not the applicant has been provided with ample opportunity to demonstrate their skills.
- 9.5 Where the applicant has been refused registration pursuant to section 54 of the MPA 2007, the Review Panel will consider how the Standards in Practice Committee reached its decision and whether or not it did so in a fair and equitable manner.
- 9.6 It is open to the Review Panel, following its deliberations on the day, to ask for more information from all concerned before coming to a decision and making a recommendation to Council.

10 OUTCOME OF THE REVIEW

- 10.1 The Review Panel will assess all the relevant evidence and then make a recommendation to the Medical Council on the applicant's entry or otherwise into the Register of Medical Practitioners or the relevant Division thereof.

- 10.2 The outcome of the Review hearing may take the form of a recommendation for further training¹ and/or supervised practice or the attachment of conditions on initial registration, in accordance with section 53 of the Medical Practitioners Act 2007.
- 10.3 In some cases the Review Panel may recommend that the only route available will be further training.
- 10.4 The Chairman of the Review Panel will prepare a structured Report of the Review hearing for the Medical Council. The Report will state the recommendation of the Review Panel and its reasons for making that recommendation. The Report will be seen and agreed by all members of the Review Panel before coming to Council. It is the responsibility of the Review Panel to advise the Medical Council in its report.
- 10.5 The applicant will also be provided with a copy of the Report and will be given no less than five working days to make a formal written submission in response to the Report of the Review Panel before being considered by the Medical Council. The submission may be made on their behalf by their representative.

11 MEDICAL COUNCIL DECISION

- 11.1 The members of the Review Panel will not be present at the Council meeting during consideration of the Report and any subsequent submission(s), or when a final decision is being made. The final decision on the outcome of the Review hearing rests with the Medical Council, excluding those Council Members who have previously considered the application.
- 11.2 The Medical Council will consider the Report and any subsequent submission(s) made by the applicant or their representative prior to making its decision.
- 11.3 The Medical Council may decide to endorse or overturn the original decision to refuse the applicant registration.
- 11.4 The applicant will normally be informed of the Council's decision within seven working days of the Council determination.

12 APPEAL TO THE HIGH COURT

- 12.1 If, following review, the Medical Council decides to endorse the original decision to refuse the applicant registration, the provisions of section 54 of the Act still apply and the applicant may appeal to the Court against the decision.

This Guide may be subject to amendment/changes in whole or in part at any time at the discretion of the Medical Council. This Guide does not constitute an offer or guarantee of registration or a Review of a decision to refuse registration. This Guide does not constitute legal advice. Any person(s) considering or submitting a request for a Review may wish to seek their own legal advice.

¹ The Medical Council recommendation will not constitute an offer of a training post(s) in order to complete the recommended training. The applicant will usually have to apply and/or compete for training posts in the normal manner.

USEFUL LINKS

Legislation

Medical Practitioners Act 2007

[http://www.medicalcouncil.ie/fileupload/news/Medical_Practitioners_Act_2007_2372007131752\[1\].pdf](http://www.medicalcouncil.ie/fileupload/news/Medical_Practitioners_Act_2007_2372007131752[1].pdf)

Health (Miscellaneous Provisions Act) 2007

http://www.medicalcouncil.ie/fileupload/news/Health_Miscellaneous_Provisions_Act_2007_262200811758.pdf

From the Medical Council's website:

Registration Information

<http://www.medicalcouncil.ie/registration/default.asp>

Fees

<http://www.medicalcouncil.ie/registration/fees.asp>

Internship Registration

http://www.medicalcouncil.ie/registration/firsttime2_internship.asp

Trainee Specialist Registration

<http://www.medicalcouncil.ie/registration/screen11traineespecialistregistration.asp>

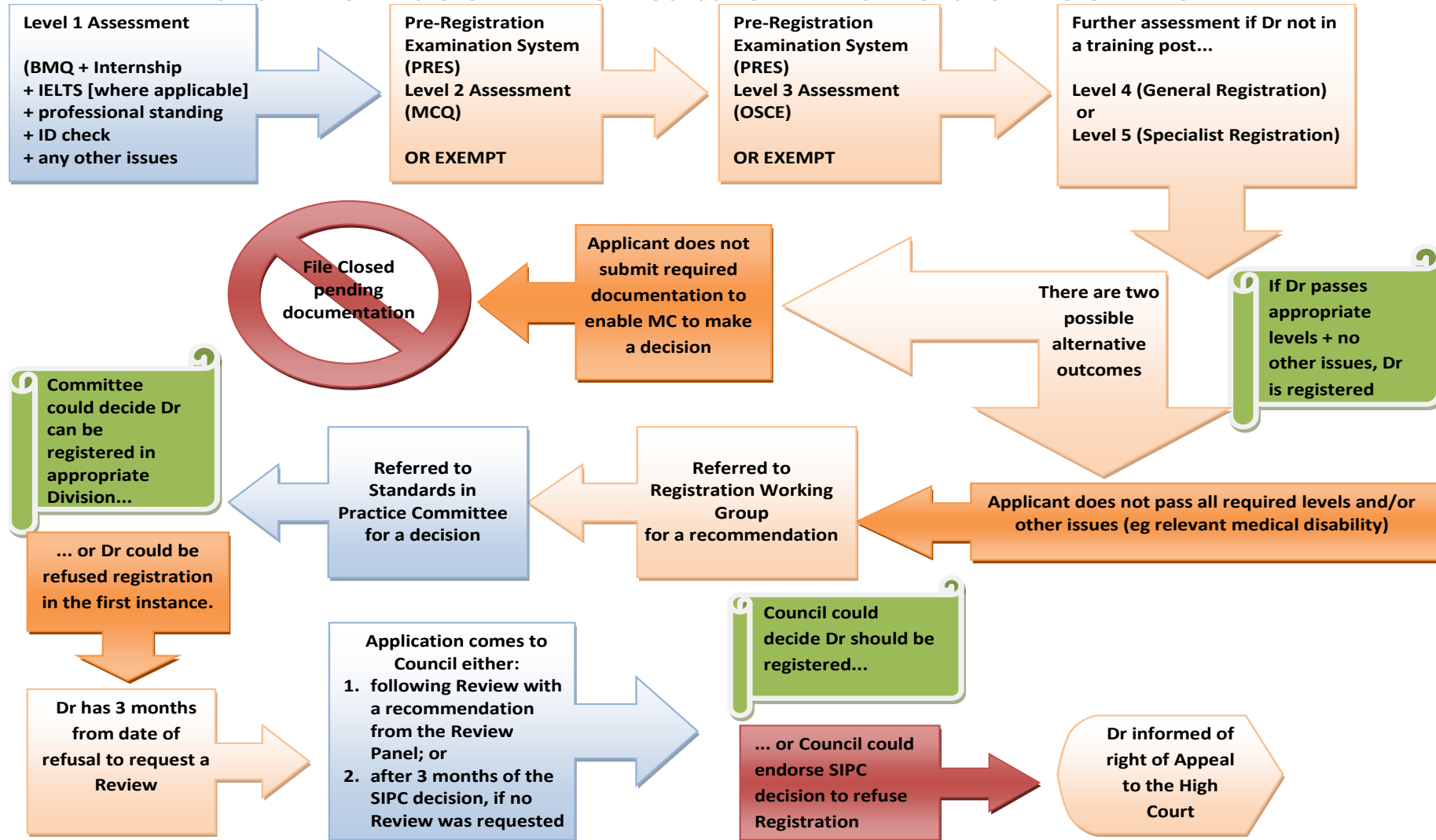
Specialist Registration

<http://www.medicalcouncil.ie/registration/specialists.asp>

General Registration

<http://www.medicalcouncil.ie/registration/screen12generalregistration.asp>

APPENDIX A – FLOWCHART OF DECISION-MAKING PROCESS FOR APPLICATIONS FOR REGISTRATION



APPENDIX B – EXTRACTS FROM REGISTRATION RULES 2009 AND MEDICAL PRACTITIONERS ACT 2007

Extract from Registration Rules 2009 – Document A

A.4. Review of a decision to refuse registration

- A.4.(i) All applicants who are refused registration in the first instance by a Committee, or other Group authorised to do so by the Medical Council, may submit a written request that the decision be reviewed at a hearing before a select panel of Medical Council and/or other relevant representatives prior to a final decision being made on their application. The written request must state the grounds for a review of the decision.
- A.4.(ii) A formal written report of the review hearing will be prepared by the panel and will be provided to the applicant. The applicant may subsequently make a formal written submission to the Council for consideration prior to a final decision being made on their application.
- A.4.(iii) Following review, a final decision will be made by the Council at the next available opportunity. With the exception of those Council Members who have previously considered the application, the Council will consider the report of the panel and any subsequent submissions by the applicant and/or their legal or other representative(s) prior to making a decision to endorse or overturn the original decision to refuse the applicant registration.

Extract from Registration Rules 2009 – Document F

F.4. Review of a decision to refuse registration

- F.4.(i) All applicants who are refused visiting EEA registration in the first instance by a Committee, or other person or persons authorised to do so by the Medical Council, may submit a written request that the decision be reviewed at a hearing before a select panel of Medical Council and/or other relevant representatives prior to a final decision being made on their application. The written request must state the grounds for a review of the decision.
- F.4.(ii) A formal written report of the review hearing will be prepared by the panel and will be provided to the applicant. The applicant may subsequently make a formal written submission to the Council for consideration prior to a final decision being made on their application.
- F.4.(iii) Following review, a final decision will be made by the Council at the next available opportunity. With the exception of those Council Members who have previously considered the application, the Council will consider the report of the panel and any subsequent submissions by the applicant and/or their legal and/or other representative(s) prior to making a decision to endorse or overturn the original decision to refuse the applicant registration.

Extract from the Medical Practitioners Act 2007

Section 54 - Refusal of registration, etc., and appeal to Court against Council's decision.

- (1) Nothing in sections 45 to 53 shall operate to prevent the Council from refusing to register or restore the registration of a medical practitioner on the grounds of the unfitness of the practitioner to practise medicine.
- (2) Where the Council makes a decision—
 - (a) under subsection (1) to refuse to register or restore the registration of a medical practitioner,
 - (b) to register a medical practitioner in a division of the register other than the division specified in the practitioner's application under section 45 for registration, or
 - (c) to attach conditions to the registration of a medical practitioner pursuant to section 53,the Council shall forthwith give notice in writing to the practitioner of the decision, the date of the decision and the reasons for the decision.
- (3) A medical practitioner the subject of a decision referred to in subsection (2) may, not later than 3 months after the date on which the practitioner was given notice of the decision pursuant to that subsection, appeal to the Court against the decision.
- (4) The Court may, on the hearing of an appeal under subsection (3) by a medical practitioner—
 - (a) either—
 - (i) confirm the decision the subject of the appeal,
or
 - (ii) cancel that decision and replace it with such other decision as the Court considers appropriate, which may be a decision—
 - (I) to register or restore the registration of the practitioner in such division of the register as the Court considers appropriate and with no conditions attached to the registration,
or
 - (II) to register or restore the registration of the practitioner—
 - (A) in such division of the register as the Court considers appropriate,
and
 - (B) with such conditions attached to that registration as the Court considers appropriate,
 - (b) and
give the Council such directions as the Court considers appropriate and direct how the costs of the appeal are to be borne.
- (5) The Council shall, on complying with a direction given by the Court under subsection (4), give notice in writing to the medical practitioner concerned of the Council's compliance with the direction.