

Policy – Regulatory examinations

June 2023

Objective structured clinical examination (OSCE) misconduct policy

Purpose

This document sets out the Chinese Medicine Board of Australia's (the Board) policy for considering cases of alleged misconduct by candidates undertaking the regulatory examinations for overseas-qualified Chinese herbal medicine practitioners and acupuncturists who apply for registration to practise in Australia.

The Board is committed to the following:

- setting clear expectations of candidate behaviour which are consistent with that outlined in the Board's *Code of conduct*
- identifying cases of alleged candidate misconduct and investigating them promptly and fairly, and
- where necessary and proportionate, acting in response to cases of candidate misconduct to ensure public safety and maintain confidence in the Board's regulatory examination process.

This policy applies to all candidates for registration as a Chinese herbal medicine practitioner and/or acupuncturist who are undertaking the OSCE.

Expectations of candidates

The Board's expectations of candidates are described in the *Regulatory examinations candidate handbook – objective structured clinical examination*.

There are two types of candidate misconduct:

- **General misconduct** is unacceptable candidate behaviour at any time, including in their interactions with the Board, Ahpra staff, examiners, simulated patients, staff at the examination centre and other individuals at the examination centre.
- **Examination misconduct** is unacceptable candidate behaviour and/or misbehaviour during the OSCE examination.

A candidate who violates the OSCE 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 examination centre and their OSCE 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 the Australian Health Practitioner Regulation Agency (Ahpra).

General misconduct

Candidates are expected to be courteous and professional at all times and in all matters when interacting in writing or in person with Ahpra staff, examiners, patients, staff at the examination centre and other individuals at the examination centre.

Candidates must not engage in misconduct of any kind during the clinical 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.¹

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 examination centre.
2. Give the candidate a zero score for the OSCE station(s) in which the misconduct occurred.
3. Prohibit the candidate from undertaking further OSCE station(s).

Examination misconduct

Candidates are expected to behave in a manner consistent with the Board's *Code of conduct*. It is recommended that all candidates familiarise themselves with this code before attending the OSCE. Adherence to behaviour and conduct in line with the code will ensure the safety of all candidates and examiners during the OSCE.

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

- giving or receiving help of any kind during the OSCE
- using, accessing, or attempting to access any prohibited aids during the OSCE. Prohibited aids are any devices or materials that will be helpful in undertaking the OSCE. 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 OSCE for someone else
- failing to follow instructions provided by Ahpra or examination centre staff
- creating a disturbance of any kind during the OSCE
- attempting to copy or record content from the OSCE
- reproducing, sharing, selling or attempting to sell OSCE questions
- accessing unauthorised copies of OSCE materials in advance, or
- gaining unauthorised access to an examination centre.

Assessing candidate misconduct

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

Reporting alleged misconduct

Any person may report an allegation of misconduct in writing to 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/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 Board

¹ Health Practitioner Regulation National Law, as in force in each state and territory (the National Law)

- 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, and
- 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 the Board for review.

National Board review

Where a Board review is required, Ahpra will initiate the Board's 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 10 working days to respond.

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

The candidate will be notified of the outcome within 20 working days of the review, with reasons given for the decision.

Consequences

If the Board review concludes that a breach of this policy has occurred, the severity of the breach and any extenuating circumstances submitted on behalf of the candidate may be taken into account when determining the consequence for the breach.

Consequences relating to general or examination misconduct may include:

- removal of existing examination results, or
- suspension of candidature and barring from the clinical examination for a period of time determined by the primary review.

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

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

Regulatory examinations candidate handbook – Objective structured clinical examination

Effective date

June 2023