

BOARD OF PHARMACY SPECIALTIES

POLICIES AND PROCEDURES

XVI. Appeals Policy and Procedure

Note: These policies and procedures augment the general policy in the BPS Governing Policies, approved by APhA in August, 2004, and reaffirmed in July, 2008.

A. General Information

1. The Board of Pharmacy Specialties (BPS) provides a multi-level appeals process for resolution of any questions or complaints concerning an action or decision of the BPS. The process is available for any individual who feels aggrieved by an action or a decision of BPS.
2. The process includes both a reconsideration review procedure which is handled by BPS and an appeals procedure which is handled by a specially appointed Appeals Committee. Any interested party may request a reconsideration of any action or decision of BPS that adversely affects that individual. If, after reconsideration by BPS, the adverse action is reaffirmed by BPS, or the action is not otherwise resolved to the satisfaction of the interested party, then the same interested party may file an appeal that will be considered by an Appeals Committee. The interested party should first file the request for reconsideration, but where circumstances warrant it, the interested party may bypass the reconsideration review and immediately file an appeal.
3. It is the intent of BPS in establishing this multi-level process to provide individuals with an expeditious, cost effective and fair process to review actions and decisions of BPS.
4. All actions and decisions of BPS shall be final unless either the reconsideration request or the appeal is filed in a timely manner as set forth herein by the interested party affected by the action or decision of BPS.

B. Procedures for Requests for Reconsideration

1. Any interested party may request a reconsideration of any action or decision of BPS that adversely affects that party.
2. Requests for reconsideration shall be made in writing to:
Board of Pharmacy Specialties
c/o Associate Director for Certification
2215 Constitution Avenue, NW
Washington DC 20037

3. Requests for reconsideration must be filed with BPS within sixty (60) days following notice of the action or decision by BPS. It is the burden of the party requesting reconsideration to ensure the request is filed in a timely manner.
4. Requests for reconsideration must contain the following:
 - a. A description of the action or decision being reviewed;
 - b. The date of the action or decision being reviewed;
 - c. The reasons the action or decision is alleged to be improper or inappropriate or erroneous;
 - d. All new, previously unavailable relevant material supporting the reconsideration request;
 - e. The corrective action sought; and
 - f. Copies of relevant documentation.
5. Requests for reconsideration shall be acted upon by BPS within sixty (60) days of the receipt of the request for reconsideration and a written response shall be sent to the interested party requesting reconsideration within that time period. For good cause, BPS may extend this time period an additional thirty (30) days provided written notice is provided to the interested party.
6. In deciding upon the request for reconsideration, BPS shall affirm, modify or reverse its original decision. If BPS finds for the interested party, BPS shall notify the interested party that the reconsideration has been completed, that the original decision has been reversed and that the remedy requested by the interested party has been granted. If BPS affirms or modifies the original decision or if BPS otherwise does not agree to implement the corrective action sought by the interested party, BPS shall notify the interested party of its decision and the reasons for its decision. In such a case, BPS shall also advise the interested party of the appeal procedure.
7. All decisions of BPS on reconsideration requests shall be by majority vote of current members of BPS eligible to vote on the requests, unless the BPS Bylaws or governing documents require a higher percentage. Votes may be cast by mail, by fax, by telephone or in person, unless the BPS Bylaws or governing documents require a different procedure.

C. Procedures for Appeals

1. Any interested party may file a notice of appeal of any action or decision of BPS if it adversely affects that party. All final decisions of BPS or requests for reconsideration that are not resolved in favor of the interested party may also be appealed.
2. Notices of appeal shall be made in writing to:
Board of Pharmacy Specialties
c/o Associate Director for Certification
2215 Constitution Avenue, NW
Washington DC 20037

3. Notice of appeal must be filed with BPS within sixty (60) days following notice of the action or decision by BPS that is in question. For interested parties who have filed a request for reconsideration, the notice of appeal must be filed within sixty (60) days following the date of the notice from BPS taking final action on the request for reconsideration. It is the burden of the party filing the notice of appeal to ensure that it is filed in a timely manner.
4. Notices of appeal must contain the following:
 - a. A description of the action or decision being appealed;
 - b. The date of the action or decision being appealed; and
 - c. General grounds for the appeal.
5. Within thirty (30) days of receiving the notice of appeal, BPS shall assemble an Appeals Committee to hear the appeal. The Appeals Committee shall consist of a panel of five (5) individuals to be selected from a pool consisting of former members of BPS, including ex officio members of BPS. One person shall be selected by BPS, one person shall be selected by the appellant and these two individuals shall select the remaining three members. A chairperson shall be elected by the Appeals Committee from among its five members.
6. Once the Appeals Committee is properly assembled, BPS will notify the appellant that the Appeals Committee has been formed and that the appellant has sixty (60) days from the date of this notification to submit its appeal to BPS. It is the burden of the interested party to ensure that the appeal is filed in a timely manner.
7. The appeal must contain the following:
 - a. Five sealed copies of appeal material;
 - b. A description of the action or decision being appealed;
 - c. Specific grounds for the appeal; and
 - d. Specific reasons supporting the appeal.

No new evidence will be presented by the appellant or heard by the Appeals Committee unless the appellant shows good cause why such evidence was not previously submitted.

8. The Appeals Committee shall act upon the appeal within sixty (60) days of the receipt of the timely filed appeal and a written response shall be sent to the appellant within that time period. For good cause, the Appeals Committee may extend this time period an additional thirty (30) days provided written notice is provided to the appellant and to BPS.
9. In deciding upon the appeal, the Appeals Committee shall affirm the action or decision of the BPS unless an action or decision was clearly erroneous.

10. In deciding upon the appeal, the Appeals Committee shall either affirm the action or decision of BPS or grant the appeal in whole or in part and remand the matter back to BPS with recommendations for further action. If the Appeals Committee grants the appeal, the appellant shall be provided with a copy of the decision and the remand order sent to BPS. If the Appeals Committee affirms the action or decision of BPS, the Appeals Committee shall notify the appellant and BPS of its decision and the reason for its decision.
11. In the event of a grant of the appeal and a remand of the matter to BPS, the Appeals Committee will remain constituted until such time as no further appeals are taken with respect to the matter.
12. All decisions of the Appeals Committee shall be by majority vote of current members of the Committee eligible to vote on the request. Votes may be cast by mail, by fax, by telephone or in person.
13. All decisions of the Appeals Committee are final and binding upon the appellant and BPS.

XII. Appendix 1

Excerpted Article VI from BPS Governing Policies, approved by APhA Board of Trustees first approved in August, 2004 and reaffirmed in July, 2008:

Article VI. Request for Reconsideration and Appeals.

Section 1. General. All actions and decisions of the Board of Pharmacy Specialties shall be final unless either a Request for Reconsideration or an Appeal is filed in a timely manner with the Board of Pharmacy Specialties by the party affected by the action or decision. If a party elects to file a Request for Reconsideration rather than an Appeal, it may thereafter file an Appeal once a decision has been rendered on the Request for Reconsideration.

Section 2. Time. A Request for Reconsideration or a Notice of Appeal must be filed within sixty (60) days following notice of the action or decision by the Board of Pharmacy Specialties. The action or decision becomes final at the end of the sixty (60) day period if no Request or Notice has been filed.

Section 3. Request for Reconsideration. A Request for Reconsideration will be heard only if new, previously unavailable material is to be presented and the material is relevant to the issues involved. The Board of Pharmacy Specialties will establish a schedule for submission of the material and will review and respond, in writing, to the Request within sixty (60) days of receipt of the material. In reviewing the Request, the Board of Pharmacy Specialties will affirm, modify, or reverse its original decision.

Section 4. Procedures on Appeal. Pursuant to detailed policies and procedures established by the Board of Pharmacy Specialties, a Notice of Appeal must set forth in general the grounds for appeal. Upon receipt of the Notice of Appeal, the Board of Pharmacy Specialties will commence assembly of an Appeals Committee.

- A. Appointment of Appeals Committee. Within thirty (30) days of receiving the Notice of Appeal, the Board of Pharmacy Specialties will assemble the Appeals Committee, the body charged with reviewing the Appeal. The Appeals Committee shall consist of a panel of five (5) persons who shall be selected from among former members, including ex officio members, of the Board of Pharmacy Specialties. One person shall be selected by the Board of Pharmacy Specialties, one person shall be selected by the appellant, and these two individuals shall select the three additional members. A chairman shall be elected by the Appeals Committee from among its five (5) members.
- B. Review Process. Once the Appeals Committee is properly assembled, the Board of Pharmacy Specialties will notify the appellant that the Appeals Committee has been formed and that the appellant has sixty (60) days from the date of this notification to submit its Appeal. The appellant shall submit five (5) sealed sets of the appeal materials to the Board of Pharmacy Specialties who will forward them, unopened, to the members of the Appeals Committee. The Appeal must set forth specific reasons why the appellant believes the action or decision of the Board of Pharmacy Specialties is erroneous. No new evidence will be heard unless the appellant shows good cause why such evidence was not previously submitted. The Appeals Committee will affirm the action or decision of the Board of Pharmacy Specialties unless such action or decision was clearly erroneous. The Appeals Committee will review the Appeal and respond, in

writing, to the appellant and the Board of Pharmacy Specialties within sixty (60) days of receipt of the Appeal, unless circumstances require a longer review period, in which case the Appeals Committee will notify the appellant and the Board of Pharmacy Specialties of the reason(s) for the extended review period.

- C. Decision. If the Appeals Committee affirms the action or decision of the Board of Pharmacy Specialties, the Appeals Committee's decision will be final. If the Appeals Committee does not affirm the action or decision of the Board of Pharmacy Specialties, the Appeals Committee can make a final determination on the matter or it may remand the matter back to the Board of Pharmacy Specialties with instructions for final disposition of the matter.