

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DR. LATIKA GIRI,

Plaintiff,

v.

Case No. 1:24-cv-00410

THE NATIONAL BOARD OF
MEDICAL EXAMINERS,

Defendant.

_____ /

DECLARATION OF DANIEL JURICH, PH.D.

1. My name is Daniel Jurich. I am Associate Vice President of the United States Medical Licensing Examination (“USMLE”) program at the National Board of Medical Examiners (“NBME”). In this role, I lead and support various validity, equity, and security initiatives for the USMLE. Unless otherwise stated, I have personal knowledge of the facts stated below, based on my work at NBME and my review of company records maintained in the ordinary course of business, as referenced below.

2. I joined the staff of NBME in August 2014 as a Psychometrician, and I served in various roles in the Psychometrics and Data Analysis unit before being named Associate Vice President of the USMLE in April 2022. I have a Master’s degree in Quantitative Psychology and a Ph.D. in Assessment and Measurement from James Madison University.

3. I was involved in and am familiar with the USMLE program’s investigation and analysis of questionable exam performance achieved by certain individuals who are associated with Nepal. The USMLE program’s investigation and exam score validity analysis was spurred by anonymous tips and other information suggesting the orchestrated and unauthorized sharing of, and access to, secure exam items. As the investigation progressed, group-level data showed highly

irregular changes in performance and testing volume as well as unique testing patterns. The data overwhelmingly pointed to issues that, while likely also present in other geographic areas, were of a significantly larger magnitude in Nepal. NBME therefore prioritized its investigation efforts accordingly. More information regarding this investigation is explained below.

4. The focus of my declaration is the research conducted by the NBME Psychometrics and Data Analysis (“PADA”) department. It is my understanding that another individual will be addressing anonymous tips received by the USMLE program and other aspects of the investigation.

5. USMLE Step exams are computer-based exams. The Step 1 and Step 2 CK exams are administered not just in the United States but in test centers located around the world. The test centers are owned or operated by a third-party test-delivery vendor named Prometric or its franchisees. The Step 3 exam is only administered in the United States.

6. In response to anonymous tips received by the USMLE program office and other information, in early 2023, the USMLE program asked the NBME PADA department to analyze examinee performance data for test centers in Jordan, Nepal, and Pakistan.

7. Within this initial data analysis, the data involving the sole test center in Nepal was the most extreme. First, out of more than 400 test centers across the world (including more than 315 test centers in the U.S. or Canada), the Nepal test center produced the highest test scores (on average across all examinees) in the world for Step 1 in 2021 and 2022 and the highest test scores in the world for Step 2 CK in 2022.¹ For the 2022 Step 1 exam, the average score of examinees testing in the Nepal test center was 240. No other test center in the world had an average examinee

¹ When year(s) are referenced in relation to a Step exam in this declaration, the reference is to a USMLE testing year, not a calendar year. The 2021 testing year for Step 1, for example, ran from May 2021 to May 2022.

score above 227. Second, the median item response time for examinees who tested at the Nepal test center in 2022 was also among the fastest 5% and 10% of all international test centers for Step 1 and Step 2 CK, respectively.² Third, the volume of examinees taking the USMLE Step 1 and Step 2 CK exams at the test center in Nepal increased unusually quickly. Step 1 volume had more than doubled in the Nepal test center in 2022 (662 examinees) compared to 2019 (281). The rapid increase continued in 2023, where examinee volume was approximately 3.5 times higher (981 examinees) than the 2019 volume. This data was consistent with anonymous tips and other information received by the USMLE program office suggesting there may be wide-scale collection and sharing of live USMLE exam content within Nepal.

8. Continuing its investigation, in or around April 2023, PADA ran “agreement analyses” to see if it could identify examinees who might have shared or otherwise had access to unauthorized USMLE content prior to testing. Agreement analysis, a common and well-studied data forensic method, identifies examinees who have selected a statistically improbable number of the same *incorrect* response options to the same questions (from among the typically 4-6 answer choices that exist for a given Step exam multiple-choice question) as another examinee. To be clear, an agreement analysis does not just look to see if multiple examinees missed the same question; it looks to see whether multiple examinees selected the same incorrect answers to the same question.

9. PADA first ran an agreement analysis for all examinees who tested at centers in Jordan, Nepal, Pakistan, as well as two centers in India. This analysis showed that, for the 2022 Step 1 exam and the 2021 and 2022 Step 2 CK exam, there was a substantially higher percentage

² “Median response time” refers to the average amount of time an examinee displayed each exam item on their computer screen during a test session as defined by the 50th percentile (half the item response times fall above and half fall below that value).

of examinees with a statistically significant level of agreement matches in the group of examinees who tested at centers in Jordan, Nepal, Pakistan, and India (the “reviewed group”), compared to the baseline group.³ The data also showed that the vast majority of examinees with a statistically significant number of matching incorrect answers tested at the Nepal test center.

10. Data pulled by PADA further showed that examinee volumes increased considerably at the Nepal test center in the months prior to the USMLE program releasing new test items, suggesting that candidates who had prior access to disclosed exam questions wanted to test before new questions came into the item pool.

11. In or around July 2023, PADA re-ran agreement analyses for the 2021 and 2022 Step 1 and Step 2 CK exams, this time focused on examinees who tested at the Nepal test center and/or were citizens of Nepal (based on information self-disclosed in their application to test).

12. These analyses showed that a significantly higher percentage of examinees in this reviewed group had a substantially higher number of statistically significant agreement matches (*i.e.*, same incorrect responses to the same questions) with one or more other examinees in that group, for both exams, as compared to the initial reviewed group that included examinees not only from the Nepal test center but also test centers in other countries. This analysis confirmed that the Nepal test center was a priority concern for the USMLE program.

13. PADA also expanded its analysis to the Step 3 exam. The reviewed group in this case was adjusted to include individuals who attended medical school in Nepal or self-reported as a citizen of Nepal. The Step 3 exam is only offered in the United States, so we could not look to

³ For all of the agreement analyses discussed in this declaration, NBME ran an analysis of a “baseline group” comprising the first 500 first-time examinees from accredited U.S. and Canadian medical schools who tested on the exam form, and those numbers were used as a comparison to the reviewed group.

data from the Nepal test center. This analysis showed no statistically significant agreement matches for the 2021 Step 3 exam but considerably higher percentages of incorrect-response agreement for the 2022 and 2023 Step 3 exam (based on data available at that time).

14. Given the highly unusual and concerning data shown in the PADA analyses and other information learned during the course of the USMLE program's investigation into possible unauthorized access to live exam content within Nepal, in or around September 2023, the USMLE program began working on establishing a set of criteria for identifying exam scores with questionable validity associated with Nepal.

15. PADA consulted with private test security consultants and worked with USMLE program leadership and other USMLE program staff to establish criteria for identifying scores with questionable validity. The overarching concern was that passing level results—often with scores that were among the highest in the world—may reflect prior access to secure exam questions and answers rather than knowledge and understanding of the medical subjects assessed on the exam.

16. The purpose of this analysis was to identify score validity concerns, not to identify irregular behavior or prove that any examinee cheated on the USMLE. It is often very difficult, if not impossible, to obtain direct evidence of cheating, particularly when content is shared on anonymous and restricted social media sites such as Telegram. Thus, to protect the integrity of the test, in cases of suspected security breaches, it is a psychometrically sound practice to analyze relevant test performance data to identify scores of questionable validity and to cancel or withdraw those scores if the testing entity does not have confidence that the scores are an accurate measure of the examinee's knowledge or competence as assessed by the exam. This is a common and accepted practice within the standardized testing industry.

17. In evaluating exam performance for purposes of identifying scores of questioned validity, USMLE program staff considered, among other information, the results of the incorrect-response agreement analysis for each examinee, the examinee's median response time, the examinee's numerical scores, whether the examinee had considerable performance differences on different Step exams, whether the examinee had considerable differences in performance on multiple attempts at the same exam, and whether the examinee had already been identified for irregular behavior. The analysis was individualized for each examinee based on their individual exam data. For the incorrect-response agreement part of the analysis, statistically significant agreement matches were required with at least two other individuals in the reviewed group, and under the thresholds used by PADA, the probability of an examinee showing statistically significant agreement matches with at least two individuals would be expected to occur by chance alone in only 1 in 100 million cases. Matching with more than two individuals based on chance alone would be even more improbable.

18. This analysis was run with respect to (a) individuals who took the Step 1 and/or Step 2 CK exam in 2021, 2022, or 2023 (based on then-available data for 2023) at the Nepal test center or who self-reported as a citizen of Nepal and (b) individuals who took the Step 3 exam in 2021, 2022, or 2023 (based on then-available 2023 data) and attended medical school in Nepal or self-reported as a citizen of Nepal.

19. The USMLE program's score analysis described above identified 832 examinees who had passing level exam results whose validity the USMLE program had a good faith basis for questioning. Of this number, 618 examinees had one Step score flagged for questioned validity; 202 examinees had two Step exam scores flagged; and 12 examinees had scores flagged on all three Step exams. The analysis flagged approximately 25% of all the individual exam

administrations meeting the criteria noted in paragraph 18. The analysis flagged approximately 40% of the individual examinees within the criteria for at least one exam.

20. A true and correct copy of a graph I prepared showing the average performance of examinees from medical schools in Nepal in 2023 compared to the average performance of examinees from medical schools in other countries is attached at Exhibit A. As shown in this graph, the average scores of examinees who attended Nepalese medical schools were drastically higher than the average scores of examinees who attended other medical schools in all other countries.

21. A true and correct copy of a graph I prepared showing the volume of first-time test takers from medical schools in Nepal between 2014 and 2023 is attached at Exhibit B.

22. I have not identified all of the investigation methodologies and findings of the USMLE program in this declaration to limit the opportunities of individuals seeking to circumvent USMLE test security measures.

23. The USMLE program's investigation into possible test security issues and score invalidity is not limited to Nepal and its investigation is ongoing.

Latika Giri Score Analysis

24. Latika Giri ("Dr. Giri") had three passing level USMLE Step exam results invalidated based upon the USMLE program investigation.

25. A true and correct copy of the January 31, 2024 notice letter to Dr. Giri and the documents referenced by link in the letter is attached at Exhibit C.

26. As stated in the letter, Dr. Giri may choose to seek reconsideration of the USMLE program's decision to invalidate her scores and to provide an explanation and supporting documentation evidencing why she believes her Step 1, Step 2 CK and Step 3 exam results should be

reinstated as valid. She may also choose to retake each of the exams at no cost, provided she is otherwise eligible to do so.

27. Dr. Giri's Step 1 result has been invalidated due to extremely improbable answer similarities with other examinees testing on the same form at similar times, unusually high performance, and abnormal question response times. Dr. Giri's Step 2 CK score has been invalidated due to extremely improbable answer similarities with other examinees testing on the same form at similar times and abnormal question response times. Dr. Giri's Step 3 score has been invalidated due to extremely improbable answer similarities with other examinees testing on the same form at similar times and abnormal question response times.

28. It is my understanding that Dr. Giri has argued that NBME's analysis "appear[s] to ignore obvious context," including what she describes as "a relatively small, developing country with only two university medical schools and two other medical institutions that educate a small population of doctors." It is my understanding that she also argues that because medical schools in Nepal share faculty members, curricula, and exams, and because students in Nepal all prepare for the same national exams generally using the same methods and materials, students in Nepal would be expected to have similar answers to similar questions even in the absence of irregular behavior.

29. I see several problems with Dr. Giri's argument, and I will address two of them here. First, according to NBME's records, there are at least 19 medical schools in Nepal. This website of the Nepal Medical Council also lists many institutions that provide medical degrees: <https://www.nmc.org.np/list-of-medical-and-dental-college>. Second, when the USMLE program ran data analyses to examine whether there was statistically significant answer agreement for examinees in Nepal, it performed the same analysis with respect to a baseline comparison group that

would have included other individuals who also went to the same medical schools, had the same teachers, and likely studied together. Yet this baseline comparison group did not show statistically significant response similarities above the expected and extremely low rates. As noted, other countries included throughout the investigation also showed fewer statistically significant matches than in Nepal.

30. I also understand that Dr. Giri has argued that, because the USMLE does not take off points for incorrect answers and is a strictly timed exam, there is no harm in randomly guessing and some test takers (including herself) guess immediately as soon as they see that a question involves a given topic on which they have less knowledge. She then argues that she “sometimes answers questions correctly much faster than [she] possibly could have read those questions,” and this is a reflection of an effective exam-taking strategy.

31. Again, I see some problems with Dr. Giri’s argument. Our exam timing and score records provide no evidence that Dr. Giri’s quickly-answered questions reflected guesses. The Step exams are designed so that, on average, examinees have 90 seconds to answer each exam question. Focusing on items that Dr. Giri responded to in less than 30 seconds, she correctly answered 95%, 91%, and 91% of these items on Step 1, Step 2 CK, and Step 3, respectively. I would not expect this level of correct responses based on guesses. Similarly, for items that Dr. Giri responded to in less than 20 seconds, she correctly answered 100%, 93%, and 85% of these items on Step 1, Step 2 CK, and Step 3, respectively. These high correct response rates also do not align with guessing strategies. Instead, because items typically have 4 or more response options, guessing without reading the question is expected to yield approximately 20—25% correct responses.

32. Finally, I understand that Dr. Giri has argued that she experienced one or two technical problems during her exam, “particularly with the portal used for clinical case simulations,

with which she was technologically unfamiliar”, and this “resulted in her prematurely ending that portion of the exam and scoring poorly”. Dr. Giri questions whether this is “part of why NBME became suspicious of Dr. Giri’s answer timing.”

33. Performance on the computer-based case simulation portion of the Step 3 exam would not impact Dr. Giri’s Step 3 score validity analysis. The computer-based case simulations are scored using complex rules in response to the examinee’s orders and actions that limits the item’s utility within an answer similarity or item response time analysis. Therefore, this section was not included within those components of the score validity analysis. Indeed, the dynamic nature of this section of the exam along with its scoring format makes this section of the exam less prone to effects from prior knowledge compared to single-best answer multiple-choice questions. Thus, Dr. Giri’s relatively lower performance on this section of the Step 3 exam compared to other sections of the Step 3 exam is consistent with the USMLE’s finding of questionable score validity.

34. Finally, although this was not part of the USMLE program’s review of Dr. Giri’s performance data, I note that Dr. Giri took all three Step exams in one year, within an approximately seven-month time period. It is my general understanding that it is highly unusual for an examinee to take all three Step examinations in such quick succession, given the need to study for different content domains for each of the three examinations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 18, 2024.

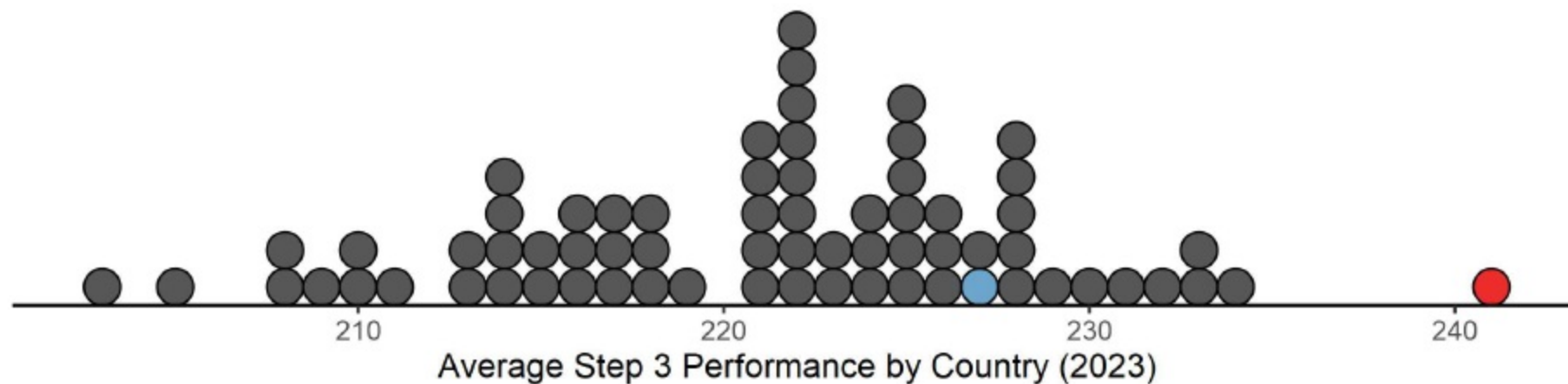
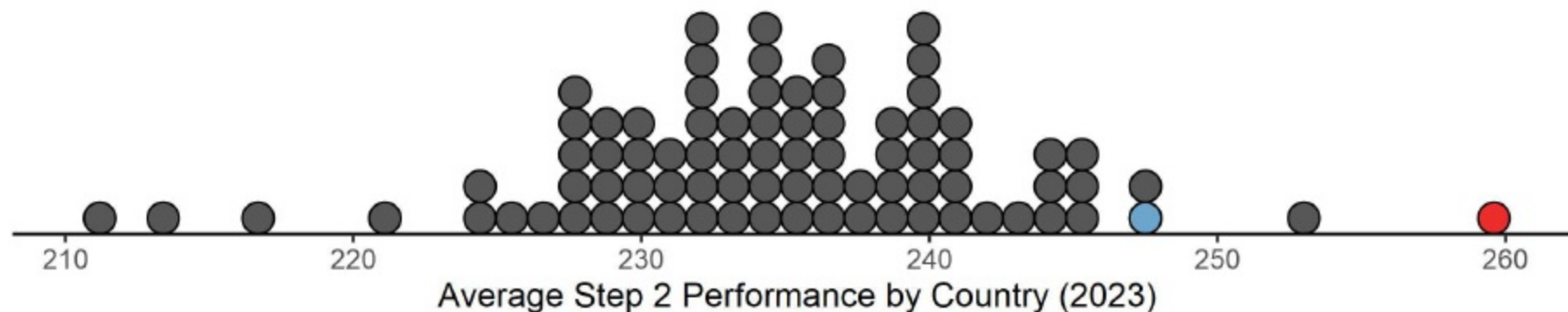
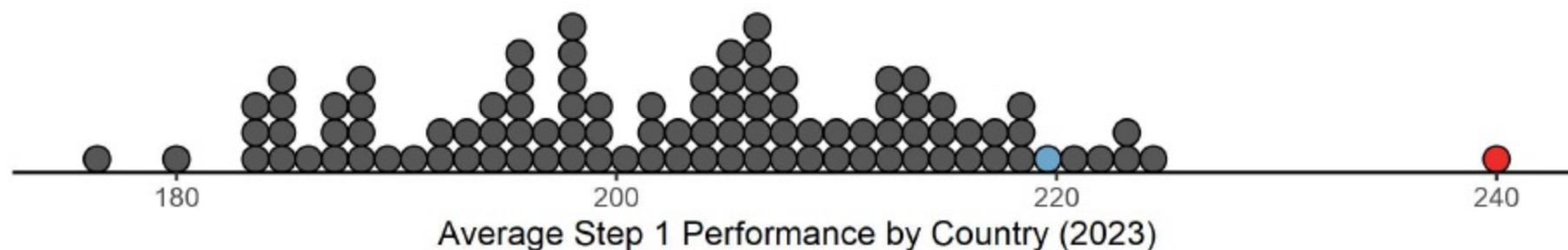
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Daniel Jurich, Ph.D.

EXHIBIT A

Medical School Country Performance (2023)

Case 1:24-cv-00410-CRC Document 14-2 Filed 02/18/24 Page 12 of 28



- Each circle represents the average score of medical school attendees within a country
 - Required >20 first-time examinees
- The red circle reflects performance of examinees attending medical schools in Nepal
 - Blue reflects US medical students
- Nepal drastically outperformed all other countries

EXHIBIT B

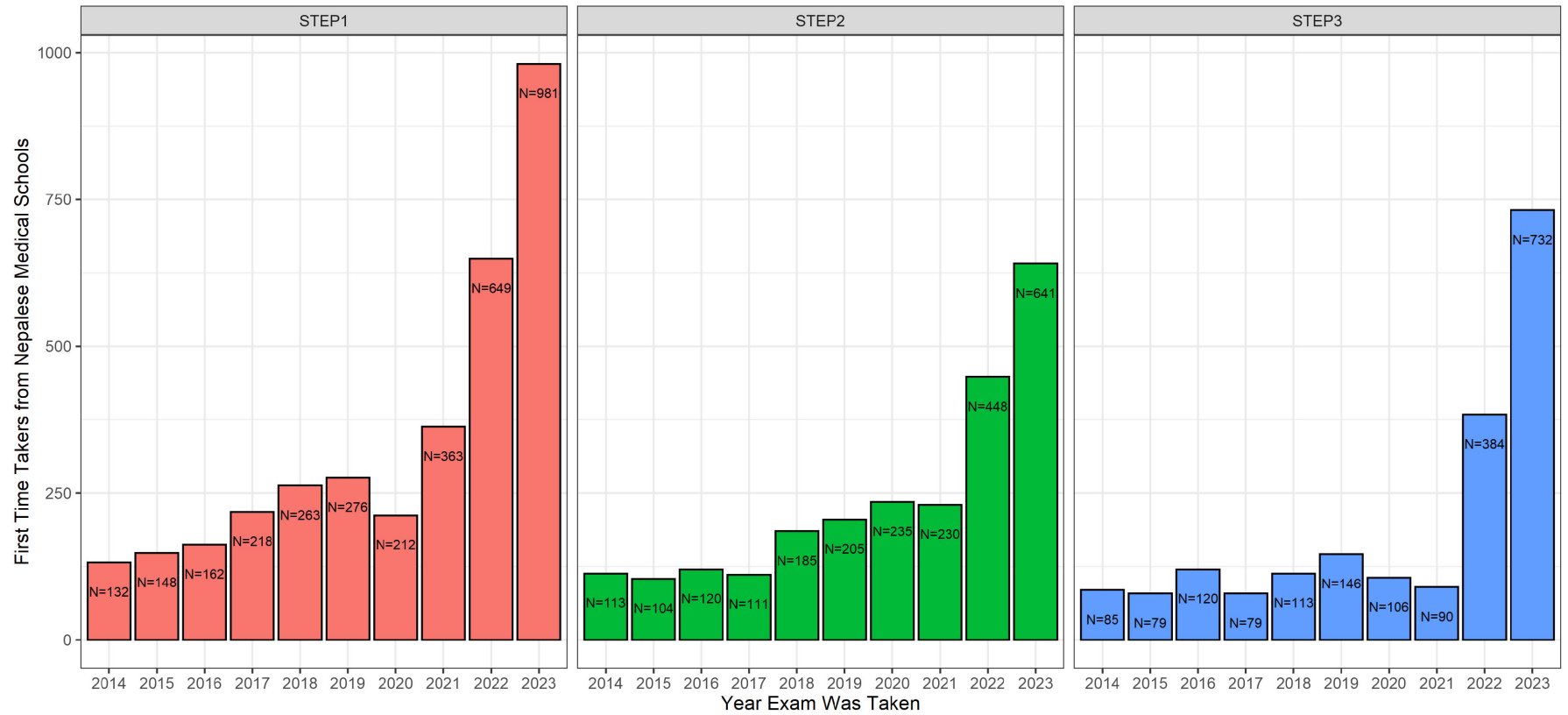


EXHIBIT C

Via Email
Personal and Confidential

January 31, 2024

USMLE ID#: 11729845

Dear Dr. Giri:

Please carefully read this email and the two linked documents (*United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees* and *Common Questions*) **before completing the Response Form linked below.**

As stated in the USMLE *Bulletin of Information*, the performance of examinees is monitored and analyzed to detect aberrancies or other information that raises questions about the validity of exam results. The USMLE program reserves the right to cancel exam results that are at or above the passing level, prior to or after release, if the USMLE program has a good faith basis for questioning whether the exam result(s) represent a valid measure of knowledge or competence as assessed by the examination.

Your performance on the exam(s) listed below raises concerns about the validity of the passing result(s) reported. Details are provided about the highly irregular patterns found in your exam data that are indicative of prior and substantial unauthorized access to secure exam content. The odds of observing the data that supports the invalidation of your exam results during normal testing conditions are extremely low (1 in 100,000,000 or even more unlikely).

Step 1 February 09, 2023

- Extremely improbable answer similarity with other examinees testing on the same form at similar times
- Unusually high performance
- Abnormal question response times

Step 2 CK May 08, 2023

- Extremely improbable answer similarity with other examinees testing on the same form at similar times
- Abnormal question response times

Step 3 September 18, 2023

- Extremely improbable answer similarity with other examinees testing on the same form at similar times
- Abnormal question response times

Because of the anomalies identified in your performance data, your result(s) for the referenced exam(s) have been invalidated and will appear on your USMLE transcript as “Score Not Available”. The USMLE program will retransmit transcripts to all previous third-party transcript recipients with the updated information.

Next Steps

To indicate how you would like to proceed, the USMLE program requests that you complete the response form at the link below. **You must complete and submit the response form within fifteen (15) calendar days from the date of this email to communicate your preferences for proceeding.** Please note that the response form link will expire on February 16, 2024 at 11:59PM EST and responses will not be accepted after that date. Your unique response form link can only be used ONCE and should NOT be shared with others.

If you have more than one invalidated result, you must choose the same option for all exams.

Option 1: Exam Retake

If you choose to retake the examination(s), we will contact you in approximately 6 to 8 weeks with additional information. There will be no charge for the retake(s), the location and date of which will be determined by the USMLE program. As with all USMLE administrations, retake results will be monitored and statistically analyzed to detect potential aberrancies. **We anticipate retake exams will be offered beginning in mid to late 2024, beginning with Step 1. We anticipate retake exams will be offered annually.**

Option 2: Reconsideration of an Invalidated Outcome

If you choose to request a reconsideration of the decision to invalidate your examination outcome(s), follow the submission instructions provided in the response form. It may take up to ten (10) weeks for your consideration request to be evaluated, and perhaps longer.

A group of USMLE staff will review reconsideration requests and decide if your outcome can be certified as representing a valid measure of your competence in the domains assessed or whether the decision to invalidate the outcome(s) will be upheld. If the staff group determines your outcome(s) should remain invalid, you will have the opportunity for a free retake, the location and date of which will be determined by the USMLE program. In the alternative, you may choose to appeal the staff decision to an ad hoc committee appointed by the USMLE Composite Committee (“Ad Hoc Committee”). As with all USMLE administrations, retake results will be monitored and statistically analyzed to detect potential aberrancies.

If an appeal is filed, the staff decision will be overturned only if the decision was clearly contrary to the weight of the evidence submitted. If you submit a timely appeal, the Ad Hoc Committee will review your appeal.

For more detailed information regarding the reconsideration and appeal processes, refer to the *United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees*.

Option 3: Take No Action

If you choose to take no action at this time (please note, you must indicate this choice in the response form linked below), your invalidated outcome(s) will remain unavailable on your USMLE transcript and your access to USMLE will be suspended for three (3) years. If you are otherwise eligible and wish to retake the exam(s) after the 3-year suspension, please contact us directly for information on next steps.

Additional Information:

- The investigation into this matter is ongoing. As our investigation proceeds, *we will advise you of any additional/changed allegations or findings*, including those that might result in a referral to the USMLE Committee for Individualized Review (CIR) for [Irregular Behavior](#). If you are contacted about irregular behavior, the process described above regarding reconsideration requests, appeals, and exam retakes will be put on hold during the irregular behavior proceedings. In addition, *your opportunity to retake as described above may change* depending on the outcome of any irregular behavior proceedings.
- As our investigation proceeds, *you may be contacted again regarding additional invalid outcomes*, if applicable.
- Any score report you were previously issued for the exam(s) named above is no longer valid and will be removed from your candidate website account.
- If you distribute a copy of your USMLE transcript containing the invalidated outcome(s) or disseminate a copy of the score report(s) containing invalidated outcome(s) to any party, *you will be charged with irregular behavior*.

If you do not respond to this communication by the deadline, your access to USMLE will be immediately suspended.

Links:

- [United States Medical Licensing Examination \(USMLE\) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees](#)
- [Common Questions](#)

Your Unique Response Form Link: <https://www.research.net/r/ValResponse?ID=U23007602>

If you have additional questions or concerns, you may contact us at USMLE@nbme.org.

Sincerely,

Office of the USMLE Secretariat

c: ECFMG
FSMB

United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees

A. Introduction

The USMLE program is designed to produce high quality, reliable examinations. To that end, the USMLE program endeavors to ensure that test scores support valid inferences, and to report and stand behind only those passing level outcomes in which the program has confidence. Jurisdictions across the country rely upon USMLE outcomes to help them determine whether individuals seeking to become licensed physicians have the minimum knowledge and skills needed to provide safe and effective patient care. It is therefore important to protect the integrity and reliability of reported USMLE outcomes.

The *United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores* address most situations in which the USMLE program has a good faith basis for questioning the validity of an individual's passing level score.¹ Those *Policies and Procedures* also recognize, however, that different procedures might be warranted in certain circumstances, including situations "involving multiple examinees." Under Section A.5 of the *Policies and Procedures*, the USMLE program "reserves the right to take whatever actions it deems appropriate if the [USMLE Committee for Individualized Review] or [the] USMLE Composite Committee concludes that alternative or supplemental procedures are warranted in response to a given set of facts or circumstances."

An investigation by USMLE program staff raised concerns regarding the outcomes achieved by a subset of USMLE examinees. These individuals are collectively referred to in this document as the "Examinees" and individually as an "Examinee." The USMLE Composite Committee has concluded that alternative procedures should be implemented in response to the score-validity concerns relating to these Examinees.

¹ As used here, "score" includes a passing level outcome on any of the USMLE Step examinations, regardless of whether a numeric score is reported. "Outcome" and "score" have the same meaning in this document.

This document sets forth the policies and procedures that will be applied to Examinees, all of whom achieved passing level outcomes on one or more exams whose validity the USMLE program has a good faith basis for questioning.

B. Policies

1. These policies and procedures address passing level examination outcomes for which there is a good faith basis for questioning whether the outcome represents a valid measure of an Examinee's competence in the domains assessed by the examination.

2. These policies and procedures apply to and govern all Examinees, as defined in this document. The review and appellate procedures set forth in the *United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores* do **not** apply to Examinees governed by this document.

3. The fact that a question arises concerning the validity of a score does not necessarily imply that an Examinee engaged in irregular behavior, or that an Examinee was aware that he or she was engaging in irregular behavior. Irregular behavior is not the only basis upon which scores may be invalidated or reported with a qualification. Examinees will be notified separately if they are being investigated for suspected irregular behavior under the *USMLE Policies and Procedures Regarding Irregular Behavior*.

4. Open registrations will be canceled, and no additional Step applications will be processed, for Examinees unless they are eligible to test under the policies and procedures in this document.

5. The scores of all Examinees will be set by the USMLE program to “Score Not Available” for any passing level outcome whose validity the USMLE program has concluded there is a good faith basis for questioning. This means that the original passing level outcome will not be reportable to any score recipient unless the invalidation determination is overturned under the policies and procedures in this document.

6. Regardless of whether the validity of an Examinee’s passing level Step 3 score has been questioned, all Step 3 scores of Examinees (reported or not) will be set to “Score Not Available” until a passing outcome has been achieved on the Step 1 and Step 2 CK examinations.

7. If an Examinee's questioned passing level outcome on a given Step exam has **not** already been reported, the Examinee will not receive a score report for that exam, and the attempt will appear as "Score Not Available" on the Examinee's USMLE transcript, unless the invalidation determination is overturned under the policies and procedures in this document.

8. If an Examinee's questioned passing level outcome on a given Step exam has already been reported, prior USMLE transcript recipients will receive a revised transcript which states "Score Not Available" for that exam.

9. If an Examinee's score on one or more Step exams is not reinstated pursuant to these policies and procedures, the Examinee's score on each such exam will remain permanently unavailable and designated on the Examinee's USMLE transcript as "Score Not Available."

10. An Examinee whose score on a given Step exam has not been reinstated following the conclusion of any review procedures set forth in this document may retake that examination, unless the Examinee's access to future administrations of the USMLE has been suspended under these policies/procedures or is restricted on the basis of another policy/procedure, such as the *Policies and Procedures Regarding Irregular Behavior*.

11. If an Examinee's passing level scores on more than one Step exam have been questioned, the Examinee must achieve a valid score on each such Step exam in order to have his/her USMLE transcript reflect successful completion of that Step in the USMLE sequence. Examinees can achieve a valid score either by having the questioned score upheld as valid under the review procedures set forth in this document or by re-taking the exam (if eligible to do so) and achieving a passing score on the re-test.

12. Examinees who attempt to achieve valid Step 1 and Step 2 CK scores by retaking those exams may retake the exams in whichever order they prefer. To be eligible to retake the Step 3 exam, an Examinee must first have valid, reportable passing scores in place for both the Step 1 and Step 2 CK exams.

13. If an Examinee does not achieve a passing level outcome on a Step exam that is retaken under the policies and procedures set forth in this document, the Examinee will automatically be suspended from taking or re-taking any Step examination for three (3) years, following which the Examinee may take or retake any Step exam that the Examinee is otherwise eligible to take. If an Examinee fails

to achieve a passing level outcome on any Step exam that is taken or retaken after the end of a 3-year suspension period, the Examinee will be permanently barred from subsequently taking any Step examination.

14. Under current USMLE policies, candidates are not allowed more than four (4) attempts on each Step exam, unless a state medical board sponsors the candidate for a fifth attempt on a given Step exam. Any Step examination administration for which the resulting outcome has been questioned under the policies and procedures set forth in this document will count as an attempt on that Step examination, as will any Step examination administration that occurs pursuant to the re-test procedure provided for in this document.

15. A state medical board may not sponsor an Examinee for an additional attempt at a given Step exam beyond the four-attempt limit if the additional attempt would be an exam that the Examinee is retaking in an effort to achieve a valid passing score under the policies and procedures set forth in this document.

C. Procedures

Notice and Opportunity to Provide a Response

1. The USMLE program will provide written notice to each Examinee that the validity of his/her passing level outcome on one or more USMLE Step examinations has been questioned (the “Notice”). The Notice will identify the applicable Step examination(s) and state why the validity of the passing level outcome has been questioned.

2. Notice will be provided by sending an email message to the Examinee at the last known email address found in the Examinee’s USMLE-related records.

3. The Notice will include a copy of these *United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees*.

4. Examinees will have **fifteen (15) calendar days** from the date on which the Notice has been provided to submit a written response via the link provided in the Notice. The Notice will inform Examinees how to submit a response, if they elect to provide one, and will include a link to a form to be used for this purpose.

5. Examinees who receive a Notice will have three options, the details of which will be further described in the Notice:

United States Medical Licensing Examination (USMLE) Policies and Procedures Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees

January 2024

Page 4 of 8

- a) **Option 1: Exam Retake:** Submit a timely response that informs the USMLE program that the Examinee does not wish to challenge the score invalidation and instead wishes to re-take the applicable examination(s) if otherwise eligible to do so; or
- b) **Option 2: Reconsideration of an Invalidated Outcome:** Submit a timely response with an explanation as to why the score(s) at issue should be deemed valid, using the form that will be available for this purpose and providing (with the response) additional documents that the Examinee believes to be relevant regarding the validity of the applicable score(s) (the response and any documents will be subject to applicable size limits, as stated on the form); or
- c) **Option 3: Take No Action:** Do not submit a response, or submit a response form stating that the Examinee does not wish to re-test or to seek reconsideration.

6. If an Examinee does not submit a response to the Notice, submits a response form stating that he/she does not wish to take a re-test or to seek reconsideration, or submits a response that is not **received** by the USMLE program within the 15-day response period, the Step score(s) at issue will remain permanently unavailable and the Examinee will not be given an opportunity to pursue further review of the score invalidation or to take a free re-test. In addition, the Examinee will be suspended from taking or re-taking any Step examination for three (3) years, following which he/she may re-test if otherwise eligible to do so. If an Examinee fails to achieve a passing level outcome on any Step exam that is taken or retaken after the end of a 3-year suspension period, the Examinee will be permanently barred from subsequently taking any Step examination.

Review of Responses by an Initial Review Committee

7. If an Examinee submits a timely response to the Notice with an explanation as to why the score(s) at issue should be deemed valid, the response and any supporting documentation will be reviewed by a committee made up of staff members from the USMLE program's sponsoring organizations (the "Initial Review Committee"). The Initial Review Committee will not consider responses that are not received within the 15-day period for submitting a reconsideration request.

8. Based upon the submitted materials, the Examinee's performance data, and other information available to the Initial Review Committee, the Initial Review

Committee will decide whether there is still a good faith basis for questioning the validity of the outcome(s) at issue.

9. Documents or other information submitted outside of the 15-day response period will not be considered by the Initial Review Committee, unless the Committee requested the documents or other information after the Examinee had submitted a timely initial response and the documents/information were provided by the Examinee by any deadline given by the Committee.

10. Examinees may not appear in person before the Initial Review Committee.

11. If the Initial Review Committee concludes that the information submitted by or on behalf of an Examinee provides an adequate basis for treating the outcome(s) at issue as valid, the Committee will so notify the Examinee and the outcome(s) will be reinstated as valid in the USMLE system. This notice will be provided by email.

12. If the Initial Review Committee concludes that the information submitted by or on behalf of an Examinee does **not** provide an adequate basis for overturning the decision to invalidate the score(s) at issue, the Committee will so notify the Examinee. This notice will be provided by email.

13. An Examinee who receives an adverse decision from the Initial Review Committee may elect to appeal that decision in accordance with the procedures set forth below. Alternatively, and if otherwise eligible to re-test, the Examinee may elect to take a free re-test by so informing the USMLE program within fifteen (15) calendar days of the date on which the Examinee is notified of the Initial Review Committee's decision. Instructions on how the Examinee may elect to take a re-test will be included with the notification of the Initial Review Committee's decision.

14. If an Examinee does not submit a timely appeal after receiving the Initial Review Committee's decision, or elect in a timely manner to take a re-test after receiving that decision, the Step outcome(s) at issue will remain permanently unavailable and the Examinee will not be given an opportunity to pursue further review of the score invalidation or to take a re-test. In addition, the Examinee will be suspended from taking or re-taking any Step examination for three (3) years, following which he/she may re-test if otherwise eligible to do so. If an Examinee fails to achieve a passing level outcome on any Step exam that is taken or retaken after the end of a 3-year suspension period, the Examinee will be permanently barred from subsequently taking any Step examination.

**Right to Appeal to an Ad Hoc Committee Established by the USMLE
Composite Committee**

15. An Examinee who receives an adverse decision from the Initial Review Committee may submit an appeal to an ad hoc committee that is established by the USMLE Composite Committee (the “Appeal Committee”). An appeal must be **received** by the USMLE program within **fifteen (15) calendar days** of the date on which the Examinee was notified of the decision reached by the Initial Review Committee. The Appeal Committee will not consider appeals that are not received within the 15-day period for submitting an appeal.

16. If the Examinee appeals, the Appeal Committee will consider the matter based upon the Examinee’s appeal document (see paragraph 17, below), and the record that was before the Initial Review Committee, including the written response and any supporting documents submitted in a timely manner by the Examinee, the Examinee’s performance data, and any other information considered by the Initial Review Committee. The Examinee may not appear in person before the Appeal Committee.

17. An Examinee’s appeal from the decision reached by the Initial Review Committee must be in writing and should explain why the decision should not be upheld. The appeal document may not be more than sixteen megabytes (16 MB), and no supporting documents may be submitted with the appeal document.

18. With respect to each timely appeal, the Appeal Committee will uphold the decision of the Initial Review Committee unless the Appeal Committee concludes that the Initial Review Committee’s decision was clearly contrary to the weight of the evidence contained in the record before the Initial Review Committee.

19. If the Appeal Committee concludes that the questioned outcome(s) should be reinstated, it shall direct USMLE staff to reinstate the Examinee's score(s) as valid and reportable.

20. If the Appeal Committee upholds the decision of the Initial Review Committee, the outcome(s) at issue will remain permanently designated as “Score Not Available” and the Examinee will be given the opportunity to take a free re-test if otherwise eligible to test.

21. Decisions made by the Appeal Committee under the procedures set forth in this document are final.

Opportunity to Take a Free Re-Test

22. Any Examinee who (a) elects to re-test within fifteen (15) days of receiving a Notice that his/her score has been questioned, or (b) does not have his/her score(s) reinstated by either the Initial Review Committee or the Appeal Committee after the submission of timely requests for review by one or both of those committees, will be given an opportunity to take a free re-test with respect to the applicable Step exam(s) if otherwise eligible to test. Examinees who take such a re-test will receive the score achieved on the re-test unless concerns also arise regarding the validity of that score.

23. The outcome achieved on a re-test will be reflected on the Examinee's USMLE transcript unless concerns also arise regarding the validity of that outcome. The transcript will continue to state "No Score Available" for any Step exam for which the Examinee achieved an outcome that was invalidated.

24. If an Examinee retakes a Step examination pursuant to the re-test option provided in this document, the Examinee will not be charged for the re-test.

25. If the Examinee does not pass the re-test and is eligible to test again at a later date, he/she will be charged all applicable fees for subsequent attempts at the exam.

**United States Medical Licensing Examination (USMLE) Policies and Procedures
Regarding the Validity of Passing Level Scores Achieved by a Subset of USMLE Examinees:
Common Questions**

1. **Why have I received a letter regarding the validity of my USMLE outcome(s)?** The USMLE program monitors and analyzes the performance of examinees to detect aberrancies or other information that raises questions about the validity of exam outcomes. The USMLE program reserves the right to cancel exam outcomes that are at or above the passing level, prior to or after release, if the USMLE program has a good faith basis for questioning whether the exam outcome(s) represent a valid measure of knowledge or competence as assessed by the examination. Examinees receive these letters when questions arise regarding the validity of one or more of their Step exam outcomes.
2. **How was my outcome determined to be invalid?** To protect the integrity of the exam and its investigation processes, the USMLE program cannot share specific details about the analyses that resulted in invalidated exam outcomes. The USMLE program uses rigorous forensic analyses to conclude that there is a good faith basis for questioning whether an outcome is invalid. Every examinee flagged in the current investigation had performance data with irregularities that would be expected in fewer than 1 in 100 million cases under normal testing conditions.
3. **What kind of documentation should I provide in my response?** Examinees should follow the instructions in the email and response form carefully. Supporting documentation may not exceed 16 MB or the upload will fail. Submissions received after the stated deadline will not be considered.
4. **Who will be informed that my outcome has been invalidated?** The USMLE program will send an updated transcript to all third parties who previously received a transcript containing the now-invalidated outcome.
5. **Will I still be given the opportunity to retake a Step exam if I decide to first seek reconsideration of the invalidation decision or to appeal if the reconsideration request is not successful?** Yes. Please see the discussion of this issue in your notice letter.
6. **When/where can I retake USMLE?** Examinees will receive information about when and where to retake the exam(s) if they choose to re-test. If an examinee's passing level outcome on a given Step exam is invalidated, the Examinee will be offered an opportunity to retake that Step exam. At this time, the USMLE program anticipates that the opportunity to retake Step examinations will be offered in mid to late 2024, beginning with Step 1. Additional information about the dates and location of the retake exams will be shared with impacted examinees. Please note that testing dates and location may be limited to specific dates and test centers.
7. **Will I be charged a fee to retake the exam(s)?** Examinees may retake an exam that was invalidated one time at no cost. If an examinee fails the retake, they will be suspended from access to USMLE for three (3) years. At the end of the suspension, if an examinee meets all eligibility requirements

and chooses to retake one or more of the Step examinations, they will be required to pay for the registration and any associated fee(s).

8. **What will happen if I cannot test on the date(s) offered for taking a re-test?** Examinees will be offered another opportunity to retake the examination when available, provided they meet all eligibility requirements. The USMLE program anticipates retakes will be offered annually.
9. **What will happen to my Step 3 outcome if I need to retake Step 1 and/or Step 2 CK?** If an examinee is required to retake Step 1 and/or Step 2 CK and has a Step 3 outcome that has not been invalidated, their Step 3 outcome will be marked as “Score Not Available” on their USMLE transcript until they have reportable passing level outcomes on both Step 1 and Step 2 CK. If an examinee has passed Steps 1 and 2 CK and is asked to retake one or both exams and also needs to take or retake Step 3, they will not be eligible for Step 3 until they have passed the Step(s) they were required to validate.
10. **What happens if I fail a retake for a Step exam I was asked to validate?** If an examinee fails a retake, access to USMLE will be suspended for three (3) years. At the end of the suspension, if all eligibility requirements are met, they will be allowed to retake the examination again when it is offered. If the examinee fails a second retake at the end of the 3-year suspension period, the examinee will be permanently barred from taking or retaking any Step exams.
11. **What happens if I pass a retake for a Step exam I was asked to validate?** The invalidated outcome(s) will remain on the USMLE transcript as “Score Not Available” in perpetuity and retake(s) will appear with outcome(s) achieved on the retake(s).
12. **What if I choose not to retake USMLE?** If an examinee is required to validate a passing level performance on a USMLE examination and chooses not to retake the exam or does not respond by the deadline, they will be suspended from access to USMLE for three (3) years.
13. **Am I being charged with irregular behavior?** If an examinee is being charged with irregular behavior, they will receive a separate communication via email from the Office of the USMLE Secretariat, detailing the charges and adjudication process.
14. **How will this impact my current position or career progress (e.g. medical licensure, participation in residency)?** Examinees need to contact the relevant organization directly to determine impact.
15. **How will this impact my ECFMG certification?** Please contact ECFMG at info@ecfm.org for further information.