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Advisory Opinions

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INTERSTATE MEDICAL LICENSURE COMPACT

Advisory Opinions

UNNUMBERED

Maintaining board certification - December 18, 2015

The American Medical Association asked if a physician must maintain specialty board certification after the physician is determined to be eligible for expedited licensure through the Compact. Motion was made by Commissioner Hansen (SD) and seconded by Commissioner Lawler (ID) to answer the AMA by stating the IMLC currently has no requirement for board certification upon renewal of a license issued through the Compact. Specialty board certification by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) is required to be eligible for initial licensure through the Compact. The motion was unanimously passed by voice vote. The AOA requested the same written response be sent to their organization recognizing Osteopathic Continued Certification as only be required at initial licensure through the Compact. (See December 18, 2015, minutes of the Interstate Commission.)

OPINION NO. 01-2017 – ADVISORY OPINION ON GRADUATE MEDICAL EDUCATION REQUIREMENT FOR EXPEDITED LICENSURE THROUGH THE COMPACT

Graduate medical education requirements – June 13, 2017

The graduate medical education requirements expressed in Compact Section 2k(3) and Rule 5.4(1)c are intended to ensure that an eligible physician is adequately trained by having successfully completed graduate medical education in an ACGME- or AOA-approved specialty or sub-specialty program. A one-year transitional internship or a one-year rotating internship does not qualify as graduate medical education required in Compact Section 2k(3) and Rule 5.4(1)c.
AUTHORITY: The Executive Committee issues this advisory opinion under authority of the Interstate Medical Licensure Compact Commission.

- Compact Section 12c – (The commission shall) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.

- Compact Section 11k -- …The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.

ISSUE: Graduate medical education required to be eligible for expedited licensure through the Interstate Medical Licensure Compact.

- Compact Section 2k(3) – Requires that an eligible physician has successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA).

- Administrative Rule 5.4(1)c – Requires that an eligible physician has successfully completed graduate medical education approved by the ACGME or AOA that achieves ABMS or AOA board eligibility status.

QUESTION: Does a one-year transitional internship meet requirements in Compact Section 2k(3) and Rule 5.4(1)c?

ADVISORY OPINION: The graduate medical education requirements expressed in Compact Section 2k(3) and Rule 5.4(1)c are intended to ensure that an eligible physician is adequately trained by having successfully completed graduate medical education in an ACGME- or AOA-approved specialty or sub-specialty program. A one-year transitional internship or a one-year rotating internship does not qualify as graduate medical education required in Compact Section 2k(3) and Rule 5.4(1)c.

APPLICABILITY: This opinion applies to all member states in their capacity as a state of principal license in determining if an applicant is eligible for licensure through the Compact.

EFFECTIVE DATE: This opinion is effective upon issuance by the Executive Committee of the Interstate Medical Licensure Compact Commission (June 13, 2017).
State of principal license requirements – June 13, 2017

An applicant for a letter of qualification for expedited licensure through the Interstate Medical Licensure Compact must designate a Compact member state as a state of principal license, pursuant to Section 4 of the Compact. The applicant must meet one of the state of principal license eligibility requirements when the application for a letter of qualification is reviewed by the designated state of principal license’s medical board. Member boards shall apply these requirements contemporaneously.

AUTHORITY: The Executive Committee issues this advisory opinion under authority of the Interstate Medical Licensure Compact Commission.

- Compact Section 12c – “(The commission shall) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.”
- Compact Section 11k – “…The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.”

ISSUE: Requirements for designating a state of principal license for the purposes of registration for expedited licensure through the Interstate Medical Licensure Compact.

- Compact Section 4a – Requires that a physician possess a full and unrestricted license to practice in the state the physician designates as the state of principal license at the time the physician applies for a letter of qualification. In addition, the physician must be able to demonstrate one of the following conditions:
  - Compact Section 4a(1) – the state is the primary residence of the physician;
  - Compact Section 4a(2) – the state is where at least 25 percent of the physician’s practice of medicine occurs;
  - Compact Section 4a(3) – the state is the location of the physician’s employer;
• **Compact Section 4a(4)** – the state is the physician’s residence for purposes of federal income tax.

**QUESTION:** Is a physician who resided or practiced medicine in a member state in the past year, but is neither residing or practicing in that state at the time the physician applies for a letter of qualification, eligible to designate that state as a state of principal license, pursuant to **Section 4** of the Compact?

**ADVISORY OPINION:** An applicant for a letter of qualification for expedited licensure through the Interstate Medical Licensure Compact must designate a Compact member state as a state of principal license, pursuant to **Section 4** of the Compact. The applicant must meet one of the state of principal license eligibility requirements when the application for a letter of qualification is reviewed by the designated state of principal license’s medical board. Member boards shall apply these requirements contemporaneously.

The state of principal license’s medical board has the weighty responsibility to determine if the applicant is eligible for licensure through the Compact. Consequently, the state of principal license is expected to have active and meaningful connections to the applicant for a letter of qualification for the purposes of local accountability. These connections are expressed in the present tense in **Section 4a** of the Compact. When an applicant applies for a letter of qualification, the applicant must attest that a requirement identified in **Section 4a** is met at the time of the application is reviewed by the designated state of principal license. The state of principal license may verify through independent sources that the applicant’s attestation is valid, or ask the physician to provide appropriate documentation.

**Section 4b** of the Compact asserts that a physician may re-designate a member state as a state of principal license.

**Section 4c** of the Compact grants the Interstate Commission authority to write rules to facilitate re-designation of another member state as the state of principal license. This implies that if the applicant is determined to be eligible for licensure through the Compact and is licensed through the Compact, then the applicant must continuously meet a requirement in **Section 4a** to maintain the state of principal license designated at the time of the application for the letter of qualification. If the physician no longer can lawfully designate a state as the state of principal license, then the physician must designate another member state.

(It is possible that an applicant may no longer meet requirements to maintain the designed member state as the state of principal license and the applicant is unable to designate another member state. This circumstance – what it means if a physician
licensed through the Compact no longer has a state of principal license – could be addressed through rulemaking, pursuant to **Section 4c** of the Compact.)

Regarding the requirement expressed in **Section 4a(2)**, the physician’s attestation may be verified by the state medical board of the designated state of principal license to ascertain that at least 25 percent of the physician’s practice is in the designated state of principal license at the time the letter of qualification application is reviewed by the designated state of principal license.

**APPLICABILITY:** This opinion applies to all member states in their capacity as a state of principal license in determining if an applicant is eligible for licensure through the Compact.

**EFFECTIVE DATE:** This opinion is effective upon issuance by the Executive Committee of the Interstate Medical Licensure Compact Commission (June 13, 2017).

**OPINION NO. 07-2018 – ADVISORY OPINION ON PHYSICIANS HOLDING LICENSES ISSUED THROUGH THE COMPACT WHO ARE DISCIPLINED BY A NON-MEMBER BOARD AFTER THE LETTER OF QUALIFICATION HAS BEEN ISSUED**

A physician had obtained a Letter of Qualification ("LOQ") and was requesting licensure using the compact. A member board, from whom a license was being requested, determined that the physician applicant’s license to practice medicine had been subject to discipline by a licensing agency of a state that was not a member of the compact. The disciplinary action was subsequent to the LOQ being issued.

**AUTHORITY:** The Executive Committee issues this advisory opinion under authority of the Interstate Medical Licensure Compact Commission.

- **IMLCC Statute, Section 12c** – (The commission shall) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.

- **IMLCC Statute, Section 11k** -- … The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.…

**ISSUE:** The Interstate Medical Licensure Compact Statute is silent as it relates to the actions which should be taken by member boards and the commission after it has been determined that a physician, who was eligible to obtain a Letter of Qualification ("LOQ") and has had licenses
issued through the compact, subsequently had his/her license to practice medicine subject to discipline by a non-member state.

- **IMLCC Statute, Section 8(b)** – establishes that a member board must report to the commission any public action or complaints against a licensed physician who has used the compact whether that action is from a member board or a non-member board.

- **IMLCC Statute, Section 2(k)(7)** – establishes that a physician whose license to practice medicine that has been subject to discipline by a licensing agency in any state, federal or foreign jurisdiction shall not be eligible to use the compact to obtain licensure through the compact.

- **IMLCC Statute, Section 7(a)(3)** – prevents a physician using the compact to renew licenses obtained through the compact, if that physician’s license to practice medicine has been subject of disciplinary action.

- **IMLCC Statute, Section 10** – provides clear direction regarding the actions to be taken when a physician holding licenses issued through the compact are disciplined by compact member boards.

**QUESTIONS:**

- How should a member board notify the commission when it determines that a physician’s license to practice medicine has been the subject of a disciplinary action by a non-member board state?

- What notification should the IMLCC provide to the State of Principal License (SPL) and member boards who have issued a license through the compact using a valid LOQ regarding the action taken by the non-member board?

- Should the IMLCC notify the physician that they may not use the compact to renew their licenses obtained through the compact?

**ADVISORY OPINION:**

Item 1: A member board shall report to the IMLCC executive director via email as soon as practicable after it has become aware of any public action or complaints against a physician who has used the compact to apply or obtain a license through the compact, including action taken by a non-member board.

Item 2: The commission shall notify the SPL and member boards who have issued a license through the compact of any disciplinary action as defined in IMLC Rule 5.2, of
Item 3: The IMLCC shall, contemporaneously with the notice to the SPL and member boards, notify the physician via email that:

- The IMLCC has become aware of the disciplinary action;
- The IMLCC has notified the SPL and the license issuing member boards of the action;
- The physician may not renew their licenses using the compact process; and
- The IMLCC recommends that the physician contact each member board directly concerning the status of the license issued.

**APPLICABILITY:** This opinion applies to all member states in their capacity as a state of principal license and a member board issuing licenses under the authority of the Interstate Medical Licensure Compact.

**EFFECTIVE DATE:** This opinion is effective upon issuance by the Executive Committee of the Interstate Medical Licensure Compact Commission (August 7, 2018).

**OPINION NO. 09-2018 – ADVISORY OPINION ON QUALIFICATION TO ACT AS A STATE OF PRINCIPAL LICENSE (SPL) AND THE RELATIONSHIP BETWEEN AN SPL AND LETTERS OF QUALIFICATION (LOQ) ISSUED.**

Questions were raised regarding the responsibilities of being an SPL under the IMLCC statutes and how that responsibility relates to an active LOQ and the licenses issued using that LOQ. The first issue relates to a physician, who is requesting a redesignation of SPL from the originally selected member board, which issued an LOQ that is still active, to another member board which is unable to act as an initial SPL due to the inability to obtain a criminal history record information (CHRI) for the required criminal background check. The second issue relates to a physician who has selected an SPL, has an active LOQ with licenses issued under that LOQ, but no longer meets the requirements to maintain an SPL.

**AUTHORITY:** The Executive Committee issues this advisory opinion under authority of the Interstate Medical Licensure Compact Commission.

- **IMLCC Statute, Section 12c** – (The commission shall) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.
• IMLCC Statute, Section 11k -- …The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session….

ISSUE: There are two principal issues for discussion. The first relates to a member board’s role and responsibilities as a State of Principal License (SPL). The second relates to the interaction between an SPL and issuance of the Letter of Qualifications (LOQ). There appears to be a slight difference between IMLCC Rule, Chapter 4, Section 4.5 that requires that a physician maintain eligibility requirements with an SPL and IMLCC Statute, Section 5(f) that requires that a physician only maintain a license in the SPL they have selected. Additionally, it appears that an LOQ should be treated as a standalone document separate from the SPL which issued the LOQ.

• IMLCC Rule, Chapter 4, Section 4.3 – establishes that a physician shall designate a member state as their state of principal license and meet the eligibility requirements when the application for a letter of qualification is reviewed.

• IMLCC Rule, Chapter 4, Section 4.4 – establishes that a physician may redesignate a member state as the state of principal license at any time, as long as the physician meets the requirements of Section 4.3.

• IMLCC Rule, Chapter 4, Section 4.5 – requires that when a physician is unable to meet the requirements of Compact Section 4 to designate a state of principal license, then all licenses issued through the Compact to the physician shall be terminated pursuant to Section 5(f).

• IMLCC Statute, Section 5(f) – states that an expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal license for a non-disciplinary reason, without redesignation of a new state of principal license.

QUESTIONS:

• Can any member board act as a State of Principal License (SPL) in a redesignation situation?

• Is a Letter of Qualification valid for 365 days from the date of issuance without regard to the physician continuing to meet the requirements to maintain a relationship with the SPL which issued the LOQ?

• Does the meaning of the word “terminate” as used in IMLCC Rules, Chapter 4, Section 4.5 mean immediately, or would it be reasonable, in this situation, to mean upon the expiration of the license?
ADVISORY OPINION:

Item 1: A member board which has determined that it is unable to act fully as a State of Principal License (SPL) to make a determination on an application for a Letter of Qualification is not prohibited by IMLCC Statute or Rule from acting as an SPL in a redesignation situation. A member board which is redesignated as a physician’s SPL is not making determinations about eligibility, rather, the member board is being designated in accordance with IMLCC Rule, Chapter 4, Section 4.3 to prevent termination of licenses issued through the Compact, as required under IMLCC Rule, Chapter 4, Section 4.5. The Letter of Qualification issued by the physician’s original SPL remains valid for 365 days.

Item 2: A Letter of Qualification (LOQ), once issued is valid for 365 days and is independent of the State of Principal License (SPL). An LOQ issued by a SPL remains valid even if the physician redesignates a new SPL.

Item 3: The word terminate as used in IMLCC Rules, Chapter 4, Section 4.5, when considered with the requirements of IMLCC Statute, Section 5(f), appears to mean that licenses issued would terminate on the expiration date of the license issued as determined by the issuing member board. Physicians who are unable to maintain a relationship with their SPL and are unable to redesignate a new SPL would be unfairly burdened with an abrupt and immediate termination of licenses issued. As the reason is not related to a disciplinary matter, can be outside of the control of the physician, does not create a harm to public safety or patients, and would create a substantial burden on the physician, allowing a currently issued license to remain in effect until the established expiration of the license is a reasonable approach that is not prohibited by IMLCC Statute or Rule.

APPLICABILITY: This opinion applies to all member states acting as a state of principal license and to member boards issuing licenses under the authority of the Interstate Medical Licensure Compact.

EFFECTIVE DATE: This opinion is effective upon issuance by the Executive Committee of the Interstate Medical Licensure Compact Commission (September 18, 2018).

OPINION NO. 9-29-2020 – ADVISORY OPINION ON THE AUTHORITY OF A MEMBER STATE TO CHALLENGE A STATE OF PRINCIPAL LICENSE’S DECISION TO ISSUE A LETTER OF QUALIFICATION.

A question has been raised by the Rules and Administrative Procedures committee regarding the ability of a member board to appeal or challenge a decision made by a State of Principal License (SPL) to issue a Letter of Qualification (LOQ). The issue relates to a situation where the SPL has issued an LOQ and prior to issuing the license as required by IMLCC Chapter 5 paragraph 5.5 (4), the member board challenges the decision of the SPL to issue the LOQ.
AUTHORITY: The Executive Committee issues this advisory opinion under authority of the Interstate Medical Licensure Compact Commission.

- IMLCC Statute, Section 12c -- (The commission shall) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.
- IMLCC Statute, Section 11k -- ...The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session....

ISSUE: Pursuant to the above referenced statutory authority the Minnesota Board of Medical Practice requested an Advisory Opinion as to the following question: After receiving verification of eligibility under Section 5 (d) and any fees under subsection (c) may a member board refuse to issue an expedited license to the physician?

APPLICABLE IMLC Statutes and Rules:

- IMLCC Statute, Section 3 – states that “A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license...”
- IMLCC Statute, Section 2(k) – states that a “Physician means any person who...” meets the established criteria in paragraph 1 to 9.
- IMLCC Statute, Section 5(b) – states that “…the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification...”
- IMLCC Statute, Section 5(d) – states that “After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician
- IMLCC Rule, Chapter 5, Section 5.5(2)(b) – establishes that the state of principal license shall: “I. Evaluate the applicant’s eligibility...”
- IMLCC Rule, Chapter 5, Section 5.5(4) – requires that the member board “Upon receipt of all licensure fees required, and receipt of the information from the application, including the letter of qualification, the member board(s) shall promptly issue a full and unrestricted license(s) to the applicant...”
- IMLCC Rule, Chapter 5, Section 5.7 – creates an opportunity to appeal the decision regarding eligibility for an LOQ to the applicant only.

ANALYSIS: As the U.S., Supreme Court has held with regard to statutory interpretation, “Applying ‘settled principles of statutory construction,’ we must first determine whether the
statutory text is plain and unambiguous and . . . [i]f it is, we must apply the statute according to its terms.” Carceri v. Salazar, 555 U.S. 379, 387 (2009); See also Lamie v. U.S. Trustee, 540 U.S. 526, 534 (2004) (“When the statute’s language is plain, the sole function of the courts – at least where the disposition required by the text is not absurd – is to enforce it according to its terms.”)(internal quotation marks omitted). IMLCC Statute, Section 5(b) – states that “...the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification...” IMLCC Statute, Section 5(d) – states that “After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician.”

The plain and unambiguous requirement of these provision of the IMLC statute requires that the state of principal licensure “shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification...” and “After receiving verification of eligibility . . . and any fees . . . a member board shall issue an expedited license to the physician.” Consequently, as held by the Supreme Court, “When the statute’s language is plain, the sole function of the courts.... is to enforce it according to its terms.” Carceri, supra. at p.534.

ADVISORY OPINION: Consistent with the applicable language of the compact statute and the above referenced authority of the U.S. Supreme Court, after receiving verification of eligibility under Section 5 (d) and any fees under subsection (c) of the IMLC statute a compact member board cannot refuse to issue an expedited license to the physician applicant.

APPLICABILITY: This opinion applies to all member states acting as a state of principal license and to member boards issuing licenses under the authority of the Interstate Medical Licensure Compact.

EFFECTIVE DATE: This opinion is effective upon issuance by the Executive Committee of the Interstate Medical Licensure Compact Commission (10/06/2020).