



Interstate Medical Licensure Compact

Advisory Opinion DRAFT

OPINION NO. 9-29-2020 – ADVISORY OPINION ON THE AUTHORITY OF A MEMBER STATE TO CHALLENGE A STATE OF PRINCIPAL LICENSURE’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



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- **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.” *Carcieri 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.” *Carcieri*, 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 (XX/XX/XXXX).