



The American College of
Obstetricians and Gynecologists
WOMEN'S HEALTH CARE PHYSICIANS

Mr. Marshall S. Smith
Executive Director
Interstate Medical Licensure Compact Commission
5401 S. Prince Street, Office 111
Littleton, Colorado 80120

September 21, 2022

Re: ACOG Comments on Draft Amendments to IMLC Rule Chapter 6

Dear Mr. Smith:

The American College of Obstetricians and Gynecologists (ACOG) represents more than 60,000 obstetrician-gynecologists and partners in women's health nationwide and welcomes the opportunity to provide comments on the draft amendments to the Interstate Medical Licensure Compact (IMLC) Rule Chapter 6. ACOG appreciates the Interstate Medical Licensure Compact Commission's (IMLCC) focus on protecting and maximizing license functionality in a rapidly changing legal landscape that has radically altered the medical practice environment within and across states.

ACOG is the premiere national medical specialty of physicians providing obstetric and gynecologic care, and for whom licensure functionality and portability is important. We are witnessing firsthand our members' struggles to navigate a patchwork of shifting and competing state laws governing the provision of abortion care. More than a dozen states currently prohibit this service; even more have restrictions and requirements that have disrupted licensure norms and practice; and ongoing litigation adds another layer of havoc and uncertainty. While much of this implicates abortion provision and access, other health care services are vulnerable in this legal climate, including counseling, management and referral for gender affirming care, contraception and family planning, and infertility care including in vitro fertilization.

ACOG welcomes the opportunity to work with IMLCC in these contexts. The upheaval of licensure and practice structures and norms has implications for a host of issues of concern for our ob-gyn members; for example, physician confidentiality and safety, medical records privacy, participation in joint investigations, telehealth provision and restrictions on "aiding and abetting," including counseling and referrals across state lines.

With respect to the draft amendments to IMLC Rule Chapter 6, our main interests are enumerated below.

1. State authority and jurisdiction

ACOG respectfully requests that the IMLCC clarify jurisdiction of state laws over physician licensure. Specifically, it is unclear whether physicians servicing patients are required to adhere to the laws of the state which is the patient's legal residence or the state where service is provided. Further, some patients have difficulties providing proof of residence, such as undocumented individuals and young people.

ACOG members increasingly service patients who travel from out-of-state, including for subspecialty care. The closure of rural hospitals and obstetric units and the shortage of obstetrician-gynecologists in

both rural and urban areas of the country has also elevated the importance of interstate licensure functionality.

Given the constantly shifting legal climate impacting obstetric and gynecologic care and the increase in patients traveling out of state for care, ACOG requests clarification as to the reach of **licensure sanctions**. Specifically, clarification is requested to with respect to the reach of licensure sanctions when a physician is providing care in his or her own state, in accordance with their state's Medical Practice Act, to a patient that has traveled from another state where that same care is banned or has an inconsistent law.

2. Extraterritorial investigations and inquiries

ACOG appreciates the clarification in Section 6.6, establishing that Member Boards are not authorized to demand issuance of subpoenas and production of evidence when the practice in the state was lawful, and Section 6.7, establishing restrictions on disciplinary enforcement against physicians practicing lawfully in member states.

ACOG requests clarity on the application of Section 6.6 – specifically how and/or whether it governs subpoenas extended to individual physicians. ACOG further seeks clarification that Section 6.7 applies notwithstanding IMLC Statutes and Rules allowing any member state to investigate actual or alleged violations of a statute authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine, for example, as is stated in Section 6.4 (j).

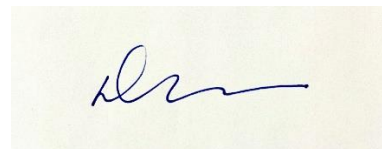
3. Required action by Member Boards to reinstate licenses based on the Medical Practice Acts of their state

Currently, when states of principle license impose licensure sanctions on a physician, all licenses issued by Member Boards to that physician must be placed on the same status. Should the state of principle license reinstate the physician's license, all other boards must still take action to reinstate the license. When the physician has acted consistently with the state's Medical Practice Act, ACOG is concerned that this will add time and administrative burden to the physician and the Member Board. ACOG respectfully requests the IMLCC amend the proposed changes to give Member Boards latitude to act consistently with the Medical Practice Act of their own state without additional delays caused by license reinstatement.

Conclusion

ACOG plans to stay engaged in ongoing efforts to protect our members' ability to practice evidence-based medicine in good faith and will continue to highlight the experiences of our members navigating the patchwork of conflicting and changing state laws. We look forward to ongoing dialogue with the IMLCC to advance shared goals. Please contact Kathryn Moore, Director of State Government Affairs, at kmoore@acog.org for further questions or discussion.

Thank you again for this opportunity to comment.



Dotty Lindquist, JD
Chief of Staff
American College of Obstetricians and Gynecologists