

September 15, 2022

Rules and Administrative Procedures Committee
Interstate Medical Licensing Compact Commission
5401 South Prince Street, Office 111
Littleton, CO 80120

Re: IMLC Rule Chapter 6 Comments

To the Committee:

This is to submit comments regarding the proposed amendments to IMLC Rule Chapter 6. I am a Commissioner of the IMLCC and represent the Vermont Board of Medical Practice on the Commission.

The following comments pertain to each numbered section of the Rule that is proposed for amendment.

6.5. Generally, the changes proposed to Section 6.5 are supported because they make the Rule consistent with the IMLC statute in that the amended language reflects the authority of Member Boards to make their own determinations as to whether to impose discipline based on disciplinary action taken by other Member Boards. However, there are some questions about the specific language used in the amendments.

6.5(g). In the first sentence the term “member board” is used rather than “Member Board.” That is a term defined in the Rule and appears as “Member Board” throughout the existing Rule and in other instances in the amending language. Was that a typographical error or intended to indicate that the term is not used as defined in the Rule?

6.5(h). We question the wording used in Section 6.5(h)(1) because it may create confusion. As proposed, it can be read to say that Member Boards lose authority to take action to revise a disciplinary order imposed after 90 days. That is not consistent with the statute. The last sentence of Section 10(d) does not create a constraint on Member Boards that they must act within 90 days; that sentence of the law makes clear that Member Boards have authority to take action to terminate a preliminary suspension at any point during the 90 days that such a suspension may be in effect. There is no need to mention 90 days in 6.5(h) because such suspensions may last a maximum of 90 days only.

6.6. We are not opposed to the position reflected in 6.6, but question the basis for it. Is there something in the IMLC statute that is seen as the basis for this assertion, or is it simply the absence of mechanisms in the IMLC statute regarding interstate sharing of evidence or cooperation in issuing subpoenas? If that is the case, is the Commission confident that there are no laws, either multi-state or bilateral, regarding such



cooperation? If this provision is going to be included as an amendment, the language “for otherwise lawful practice of the member state at the time of service” could be improved. Is that intended to say “. . . from another Member Board regarding medical care provided to a patient that was legal when the care was rendered in the state where the patient was located.” The use of the phrase “time of service” introduces potential for confusion, particularly in a provision that addresses interstate demands and “time of service” might be thought to be related to service of process.

6.7 Again, we are not opposed to the concept that appears to be presented, but have concerns about the clarity of expression. The phrase “otherwise lawful practice of the member state” may be subject to varying interpretations. Is the intent to say “Nothing in this Compact authorizes a Member Board to impose discipline against a physician who is licensed pursuant to the requirements of this Compact, based upon conduct that does not constitute a violation of the laws or regulations of the state of that Member Board.”

Thank you for your consideration of these comments and work on this important matter.

Respectfully submitted,

David K. Herlihy
Executive Director