

August 7, 2017

## CALL FOR COMMISSIONERS' COMMENTS ON DRAFT RULEMAKING

- TO:** Members of the Interstate Medical Licensure Compact Commission
- FR:** Bylaws & Rules Committee (BOWDEN OF IOWA, COUSINEAU OF NEVADA, HANSEN OF SOUTH DAKOTA, MARTINEZ OF MINNESOTA, MARX OF UTAH, ROSARIO OF SOUTH DAKOTA)
- RE:** Comments due by 5 p.m. EDT August 18, 2017, on a proposed new IMLCC administrative rule on state of principal license

The Bylaws & Rules Committee presents this draft of a proposed administrative rule to establish Chapter 4, "State of Principal License." The purpose of the rule is to describe how to designate and re-designate a state of principal license, and what happens when the physician does not maintain a state of principal license. The rule complements an advisory opinion 2017-02 (attached) issued by the Interstate Commission.

The Bylaws and Rules Committee will receive written comments from all commissioners until 5 p.m. August 18, 2017. All comments will be posted with this notice at [www.imlcc.org](http://www.imlcc.org). **Send comments to [imlccbylaws@imlcc.net](mailto:imlccbylaws@imlcc.net)**

The Bylaws and Rules Committee will consider comments received and prepare a final draft of the proposed rule for consideration of initiating the rulemaking action at an Interstate Commission meeting later this year.

Thank you.

## **DRAFT PROPOSED ADMINISTRATIVE RULE TO ESTABLISH NEW CHAPTER 4, "STATE OF PRINCIPAL LICENSE"**

**4.1 Authority.** This chapter is promulgated by the Interstate Commission pursuant to the

Interstate Medical Licensure Compact Section 4. The rule shall become effective upon adoption by the Interstate Commission.

#### **4.2 Designation of state of principal license.**

*a.* A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (1) The state of primary residence for the physician, or
- (2) The state where at least twenty-five percent of the practice of medicine occurs, or
- (3) The location of the physician's employer, or
- (4) If no state qualifies under subparagraph (1), subparagraph (2), or subparagraph (3), the state designated as state of residence for purposes of federal income tax.

*b.* The physician must meet one of the state of principal license's 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 to determine if a physician has appropriately designated a state of principal license .

#### **4.3 Redesignation of the state of principal license.**

*a.* The physician may redesignate a member state as the state of principal license at any time, as long as the physician meets the requirements in paragraph "a" of Section 4 of the compact, following this process:

- (1) The physician shall complete a state of principal license form at Interstate Commission's website, [www.imlcc.org](http://www.imlcc.org)

(2) Upon receipt of the completed form, the Interstate Commission shall notify the new state of principal license and existing state of principal license.

(3) Physician information collected by the Interstate Commission during the process to redesignate a state of principal license shall be distributed to all member boards.

**4.4 Maintaining a state of principal license.** If a physician licensed through the Compact no longer meets any requirement under Compact Section 4 to designate a state of principal license, then all licenses issued through the Compact to the physician shall not be renewed through the Compact.



June 13, 2017

**ADVISORY OPINION ON STATE OF PRINCIPAL LICENSE ELIGIBILITY  
REQUIREMENTS FOR EXPEDITED LICENSURE THROUGH THE COMPACT**

**OPINION NO. 02-2017**

**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 possesses 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 the 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 that 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).