

INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

# RULE ON RULEMAKING

**ADOPTED: JUNE 24, 2016**

**EFFECTIVE: JUNE 24, 2016**

**AMENDMENT HISTORY (LIST WHEN AMENDED AND CITE SECTION NUMBER): \_\_\_\_\_**

## **CHAPTER 1 - Rulemaking functions of the Interstate Medical Licensure Compact Commission**

Pursuant to Section 15 of the Interstate Medical Licensure Compact (IMLC), the IMLC Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the IMLC. This rule shall become effective upon adoption by the IMLC Commission.

### **1.1 Definition**

“*Rule*” means a written statement by the IMLC Commission promulgated pursuant to Section 12 of the IMLC that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the IMLC Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

**1.2 Rule action.** The IMLC Commission may establish, amend, repeal or suspend a rule.

**1.3 Rule adoption.** All rule actions shall be adopted by a majority vote.

**1.4 Rulemaking.** Rules deemed appropriate for the operations of the IMLC Commission shall be made pursuant to a rulemaking process that substantially conforms to the model state administrative procedure act of 2010 and subsequent amendments thereto.

**a.** Proposed rule action shall be submitted to the IMLC Commission Bylaws and Rules Committee as follows:

(1) Any Commissioner may submit a proposed rule action for referral to the Bylaws and Rules Committee during a meeting of the IMLC Commission. The proposed rule action must be made in the form of a motion and approved by a majority vote.

(2) A standing committee of the IMLC Commission may propose a rule action anytime by a majority vote of that committee.

**b.** The Bylaws and Rules Committee shall prepare drafts of all proposed rule actions and provide the draft to all IMLC Commissioners for review and comments. All written comments received by the Bylaws and Rules Committee on proposed rule actions shall be posted on the IMLC Commission's website upon receipt. After considering comments received, the Bylaws and Rules Committee shall prepare a final draft of the proposed rule action for consideration by the IMLC Commission not later than the next the next scheduled meeting of the IMLC Commission.

**c.** Prior to adoption of a rule action by the IMLC Commission, the text of the proposed rule action shall be published by the Bylaws and Rules Committee not later than thirty days prior to the meeting at which the vote is scheduled, on the IMLC Commission's website and in any other official publication that may be designated by the IMLC Commission for the publication of its rules and rule actions. In addition to the text of the proposed rule action, the reason for the proposed rule action shall be provided.

**d.** Each proposed rule action shall state:

(1) The place, time, and date of the scheduled public hearing;

(2) The manner in which interested persons may submit notice to the IMLC Commission of their intention to attend the public hearing and any written comments; and

**(3)** The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

*e.* Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person or entity making the request shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subrule shall not preclude the IMLC Commission from making a transcript or recording of the public hearing if it chooses to do so.

*f.* Nothing in this rule shall be construed as requiring a separate hearing on each rule. Rule actions may be grouped for the convenience of the IMLC Commission at hearings required by this rule.

*g.* Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the IMLC Commission shall consider all written and oral comments received.

*h.* The IMLC Commission shall, by a majority vote, take final action on the proposed rule action and shall determine the effective date of the rule action, if any, based on the rulemaking record and the full text of the rule action.

*i.* Not later than thirty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States district court of the District of Columbia or in the federal district court where the IMLC Commission's principal office is located. If the court finds that the IMLC Commission's action is not supported by substantial evidence, as defined in the

model state administrative procedure act of 2010 and subsequent amendments thereto in the rulemaking record, the court shall hold the rule unlawful and set it aside.

*j.* Upon determination that an emergency exists, the IMLC Commission may promulgate an emergency rule action that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this rule shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to:

- (1) Meet an imminent threat to public health, safety, or welfare;
- (2) Prevent a loss of federal or state funds;
- (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.