

MANUAL: Personnel
Chapter Series CC--Commissioned Corps Personnel Manual
Part 2--Commissioned Corps Personnel Administration

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Chapter CC25--Performance Evaluation and Career Development
Subchapter CC25.3--Professional Board Examinations
Personnel INSTRUCTION 2--Payment of State Medical Licensure Fees

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Section A. Purpose and Scope

This INSTRUCTION states that PHS will not make payment of State licensure fees for commissioned officers unless such payment is expressly authorized by law. As of the date of this INSTRUCTION, no statute was in force which authorizes payment of State licensure fees for PHS commissioned officers.

Section B. Authority

This INSTRUCTION is based on decisions of the Comptroller General of the United States (46 Comp. Gen. 695, 47 Comp. Gen. 577, and 49 Comp. Gen. 450) and a memorandum from the Office of General Counsel, HEW, to Acting Director for Management, Federal Health Program Service "Public Health Service Physicians - Payment of State Medical Licensure Fees," May 19, 1972.

Section C. Policy

The Comptroller General has held that, in the absence of express statutory authority, appropriations are not available for the payment of State licensure fees for government medical officers while engaged in official government business. These decisions are based in part on the fact that, under the doctrine of Federal Supremacy (Article VI, clause 2 of the U.S. Constitution), a State may not burden or tax the performance of an authorized Federal activity. When a State does have authority to impose a licensure requirement, e.g. the officer is on detail to a State agency, the officer must bear the expense of qualifying for his/her position. Accordingly, it is the policy of PHS that, in the absence of statutory authority, no payment or reimbursement shall be made by PHS for State licensure fees incurred by any PHS commissioned officer.

Section D. Alternatives

It should be noted that many States exempt military and PHS personnel from their licensure requirements. However, if an officer is assigned to a non-Federal facility in a State which requires a license and in which the officer does not possess a license and does not wish to personally bear the cost of the license, the following alternatives may be considered:

1. The State could be petitioned for a waiver of the licensing requirement or for the issuance of a temporary license without charge.
2. A hospital or institution which requires officers training or practicing within it to obtain a license could be requested to either waive this requirement or pay the licensure fee, for example, as part of the training agreement. The request for payment of the licensure fee could also be made of a hospital or institution located in a State which will not waive its licensure requirement or issue a temporary license without charge. A provision for payment of the licensure fee could be incorporated as part of the training agreement since hospitals or institutions which serve as training facilities for PHS officers incur no cost for their salaries.

In the event that a State lawfully imposes a licensure requirement and the agency or institution to which the officer is assigned or detailed will not defray the cost of the licensure fee, the officer is responsible for payment of the fee.