



March 27, 2020

Mr. Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536

Mr. G. Kevin Saba
Acting Deputy Assistant Secretary for
Private Sector Exchange Designation
U.S. Department of State
Bureau of Educational and Cultural Affairs
Private Sector Exchange, SA-4E2201
C Street, NW
Washington, DC 20520

Dear Acting Director Albence and Acting Deputy Assistant Secretary Saba:

As leading organizations in medical education and health care, we are greatly concerned about a possible administrative change under consideration by U.S. Immigration and Customs Enforcement (ICE) of the U.S. Department of Homeland Security. ICE is scheduled to propose to modify the period of authorized stay for certain categories of nonimmigrants traveling to the United States by eliminating the availability of "duration of status" and by providing a maximum period of authorized stay with options for extensions for each applicable visa category. We urge your intervention to avoid the negative and unintended consequences of this anticipated change on the delivery of health care services to patients at teaching hospitals across the United States, the education and training of both J-1 physician trainees and other residents in their programs and to avoid exacerbating the nation's growing physician shortage.

The Issue

The projected proposal, "Establishing a Maximum Period of Authorized Stay for Students, Exchange Visitors, and Media Representatives" outlined in the *Fall 2019 Unified Agenda of Regulatory and Deregulatory Actions* ([RIN 1653-AA78](#)) would replace the long-standing "duration of status" policy for certain nonimmigrants with a specific end date. This change, if implemented, would significantly and negatively impact patient care at hundreds of teaching hospitals across the United States provided by nearly 12,000 foreign national physicians participating in the U.S. Department of State's (DoS') Exchange Visitor Program on J-1 visas. The patient care provided by resident trainees, under supervision, is essential to a teaching hospital's ability to provide continuity of care. As a result, a change to the "duration of status" model has the potential to significantly disrupt the delivery of health care across the country. The patients most impacted will be those in underserved and rural areas and those living in critical access points in large cities. Additionally, other residents in those programs would have their education and training negatively impacted as more of the clinical responsibilities would shift to them as a result of the loss of the J-1 trainees.

The Current System Works Well

The Educational Commission for Foreign Medical Graduates (ECFMG®) is the sole DoS-designated sponsor for foreign national physicians participating in U.S. residencies and fellowships on J-1 visas. The 12,000 physicians currently participating in ECFMG-sponsored training are located at more than 700 U.S. teaching hospitals

accredited by the Accreditation Council for Graduate Medical Education (ACGME). ECFMG-sponsored training can last from one to seven years, depending on the medical specialty and/or subspecialty being pursued. As J-1 physicians progress through training, **they are required to apply annually to ECFMG to extend their sponsorship.** The annual application process ensures proper monitoring and assurances that each J-1 physician is progressing in training and meeting required milestones.

Under the current duration of status model, a J-1 physician's visa status is automatically extended with issuance of a new Form DS-2019, generated by ECFMG through the government's Student and Exchange Visitor Information System (SEVIS). Through the required annual review process and SEVIS reporting, ECFMG is able to assure both oversight and monitoring of all J-1 physicians in the United States.

Negative Impact of Proposed Change

If the administrative change put forth in the most recent regulatory agenda were implemented, J-1 physicians would be required to apply each year for an extension of visa status by filing an Application to Extend/Change Nonimmigrant Status (Form I-539), either through a U.S. Citizenship and Immigration Service (USCIS) Service Center or through a consulate outside of the United States. Current USCIS processing times indicate that **thousands of J-1 physicians would very likely be unable to begin or continue their training programs on time.** Similarly, annual travel abroad to extend visa status during residency would be problematic due to its likelihood to disrupt training and, in effect, patient care.

There are more than a dozen categories of the J-1 visa classification, of which the physician category is one. In 2019, the average review and processing time for an I-539 application across all categories of the J-1 visa has ranged from four to six months, depending upon the particular USCIS Service Center reviewing the application.¹ In addition, the average review and processing time for an application to extend ECFMG sponsorship is six weeks. As such, the combined processing time for a J-1 physician to apply to ECFMG for an extension of sponsorship and subsequently and separately apply for and obtain an extension of their J-1 status based on current timelines is likely to be six months or more. Moreover, USCIS processing would be expected to increase should the proposal to eliminate duration of status be implemented. With the majority of residency/fellowship contracts issued only three to five months in advance of the July 1 start of each new academic year, the proposed change would create an impossible timeline, and do so on a recurring, annual basis. Consequently, thousands of J-1 physicians would be unable to begin or continue in their training programs on July 1 each year. **Since physicians in training provide a significant proportion of patient care at U.S. teaching hospitals, the resulting disruption to patient care would be devastating. In addition to the disruption of the training of the J-1 physicians there would be considerable burden placed on the remaining physician residents negatively affecting their educational experience and sense of well-being.**

This Proposed Change is Unnecessary

J-1 physicians are already a carefully monitored cohort.

- **The ACGME provides a structured framework for all teaching hospitals** and requires that residents and fellows are provided with appropriate supervision. In addition, each teaching hospital that hosts J-1

¹ <https://egov.uscis.gov/processing-times/>



physicians assigns at least one staff member to communicate directly with ECFMG and confirm ongoing participation.

- **As with all F, M, and J visa holders, J-1 physicians are already tracked in SEVIS.** Program participation dates and corresponding visa status are easily visible at all times in SEVIS. Therefore, there is no ambiguity with respect to the last date of program participation and/or related visa status which the maximum period of authorized stay proposal aims to address.

Imposing a date-specific end date for J-1 physicians will not yield better information about this carefully monitored cohort and will result in the considerable disruption of services at teaching hospitals where essential patient care is provided.

Conclusion

U.S. teaching hospitals attract physicians from around the world to their training programs. Many foreign national physicians who engage in U.S. medical residency and fellowship programs do so as participants in the Exchange Visitor Program, an important educational and cultural exchange program of the DoS. The anticipated proposal to eliminate “duration of status” would negatively affect patient care and the medical education of both the visa holders and the remaining resident physicians, reduce the supply of physicians in the United States, and affect health care in countries to which J-1 physicians return to apply their knowledge and skills.

We urge policymakers to carefully consider these impacts and recognize that the J-1 physician population in the United States is already carefully monitored through annual application to ECFMG, tracking in SEVIS, and through the oversight of teaching hospitals in the United States by organizations such as the ACGME. As such, their whereabouts and dates of participation are already readily available.

Because a change to the “duration of status” model would add no value, and instead would jeopardize the delivery of patient care in the United States, we urge you to urge ICE not to change duration of status or exempt medical residents from such a proposal.

If you have questions or need more information on J-1 visa sponsorship of foreign national physicians, please contact Tracy Wallowicz, Assistant Vice President, U.S. Graduate Medical Education Services, ECFMG|FAIMER, at 215-823-2120 or twallowicz@ecfm.org.

cc: The Honorable Lamar Alexander, Chairman, U.S. Senate Committee on Health, Education, Labor & Pensions
The Honorable John Cornyn, Chairman, Subcommittee on Border Security and Immigration, U.S. Senate Committee on the Judiciary
The Honorable Richard Durbin, Ranking Member, Subcommittee on Border Security and Immigration, U.S. Senate Committee on the Judiciary
The Honorable Michael Enzi, Chairman, Subcommittee on Primary Health and Retirement Security, U.S. Senate Committee on Health, Education, Labor & Pensions
The Honorable Anna Eshoo, Chairwoman, Health Subcommittee, U.S. House Committee on Energy & Commerce
The Honorable Dianne Feinstein, Ranking Member, U.S. Senate Committee on the Judiciary
The Honorable Lindsey Graham, Chairman, U.S. Senate Committee on the Judiciary
Mark Lawyer, Chief, Regulations, Department of Homeland Security, U.S. Immigration and Customs Enforcement
The Honorable Zoe Lofgren, Chairwoman, Immigration and Citizenship Subcommittee, U.S. House Committee on the Judiciary



The Honorable Jerrold Nadler, Chairman, U.S. House Committee on the Judiciary
The Honorable Bernard Sanders, Ranking Member, Subcommittee on Primary Health and Retirement Security, U.S.
Senate Committee on Health, Education, Labor & Pensions
The Honorable Mary Gay Scanlon, Vice Chair, U.S. House Committee on the Judiciary
The Honorable Marie Royce, Assistant Secretary of State, Bureau of Educational and Cultural Affairs, U.S.
Department of State