

March 31, 2021

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2707 Martin L. King Jr. Avenue, SE
Washington, DC 20528

Re: Immigration Regulatory Review

Dear Secretary Mayorkas:

On behalf of the physician and medical student members of the American Medical Association (AMA), we want to thank the Biden Administration for its commitment to review the policies that were hastily put in place by the previous Administration. In this vein, the AMA has identified several regulations relating to immigration that we would like for the current Administration to review and revoke, modify, or supersede. Should the U.S. Department of Homeland Security (DHS) need any additional information regarding the regulations identified below, the AMA is happy to discuss further.

[Establishing a Maximum Period of Authorized Stay for Students, Exchange Visitors, and Media Representatives](#)

During the comment period, the AMA [opposed](#) DHS' proposed rule change to eliminate "duration of status" as an authorized period of stay, since this change would significantly disrupt the training of thousands of foreign national physicians in the United States in J-1 visa status. This proposed rule is currently still a Notice of Proposed Rule Making (NPRM), and the AMA encourages the Biden Administration to withdraw this proposal. If this rule cannot be withdrawn in its entirety, the AMA urges DHS to withdraw the proposed rule as it relates to J-1 International Medical Graduates (IMG).

[Concerning Reasonable Grounds for Denying Asylum Based on Communicable Diseases](#)

During the comment period, the AMA [opposed](#) this rule in its entirety. The AMA is concerned that this rule will place asylum seekers in even greater peril and provide DHS, and border patrol agents, unwarranted and heightened authority that will be detrimental to the health security of our nation. This rule was [finalized](#) on January 25, 2021; however, the rule's effective date was delayed until March 22, 2021. The Administration again [delayed](#) the effective date of this rule until December 31, 2021. Moreover, this delay noted that the Departments were considering rescinding or revising this rule. The AMA encourages the Administration, after review of this rule, to modify or rescind this rule in accordance with AMA's comments.

[Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review](#)

During the comment period, the AMA [opposed](#) this rule regarding credible and reasonable fear determinations. The AMA is highly concerned that the provisions in this regulation legitimize

discrimination against vulnerable asylum seekers, creates a right to refuse to provide certain treatments or services, and arbitrarily discriminates against individuals based on border patrol agents untrained medical determinations or an individual's country of origin. This rule was [finalized](#) in December 2020 and became effective on January 11, 2021. However, due to the concerns noted in our comments, the AMA urges the Administration to modify or supersede this newly implemented rule.

[Collection and Use of Biometrics by U.S. Citizenship and Immigration Services](#)

During the comment period, the AMA [opposed](#) this proposed rule, which would expand the use of DNA sample collection from immigrants and U.S. citizen sponsors. This rule undermines fundamental and long-standing accepted ethical conventions related to patient privacy and consent when the federal government collects health information absent a compelling public health or public safety need. This proposed rule is currently still a NPRM, and the AMA encourages the Biden Administration to withdraw this proposal.

[Docket Number USCBP-2020-0062--Collection of Biometric Data from Aliens Upon Entry to and Departure from the United States](#)

The AMA [opposes](#) this proposed rule which would allow DHS to implement a national biometric entry and exit program, focusing on the use of facial recognition technology, which also would permit the collection of biometric information beyond photographic images. Within this rule, DHS proposed to legitimize a tool shown by multiple studies to be inaccurate due to bias. The AMA urged DHS to withdraw its proposal until the data of participants could be adequately protected, and the accuracy of facial recognition technology has increased such that it does not contain racial, age, and gender biases. This rule has not been finalized and the Biden Administration [reopened](#) the comment period so there would be additional time for the public to respond and so the Administration could gather additional information on this proposed rule. Since this proposed rule is currently still a NPRM, the AMA encourages the Biden Administration to withdraw this proposal.

[Modification of Registration Requirement for Petitioners Seeking to File Cap-Subject H-1B Petitions](#)

On December 2, 2020, the AMA submitted [comments](#) in opposition to this interim final rule (IFR). The AMA's comments agreed with the United States District Court of the Northern District of California that ruled on December 1, 2020 that the IFR was in violation of the Administrative Procedures Act. Moreover, this rule abruptly and unnecessarily changes the selection process for H-1B cap-subject petitions by prioritizing registrants based on the highest prevailing wage or highest proffered wage. The AMA contends that it is false to assume that higher skilled workers are always paid a higher wage. Moreover, this cap change devalues physicians practicing in medically underserved areas. The AMA strongly urged DHS to rescind the IFR and exempt physicians in this rule and any similar rules. On January 8, 2021, the Trump Administration [finalized](#) the rule without modifying the regulatory text despite receiving close to 1,500 comments within the truncated comment period at the very end of the year. However, on February 8, 2021 the Biden Administration delayed the effective date of this rule and reopened the comment period. The AMA applauds the Biden Administration for [delaying](#) the implementation of this rule and for reconsidering the negative impacts that this cap selection change would have on H-1B visa applicants. The AMA wrote additional [comments](#) under this new comment period strongly urging DHS to revoke the rule that was finalized under the Trump Administration and return to the previously employed cap selection process. If revocation is not possible, the AMA urges DHS to modify the rule and exempt physicians.

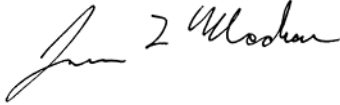
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Thank you for considering the AMA's comments. If you have any questions, please feel free to contact Margaret Garikes, Vice President, Federal Affairs, at margaret.garikes@ama-assn.org or 202-789-7409.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Madara". The signature is written in a cursive style with a large initial "J" and "M".

James L. Madara, MD