

February 27, 2023

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

The Honorable Ur Jaddou
Director
U.S. Immigration and Customs Enforcement
500 12th Street, SW
Washington, DC 20536

Re: DHS Docket No. USCIS 2020-0013: Security Bars and Processing; Delay of Effective Date

Dear Secretary Mayorkas and Director Jaddou:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to provide our comments in opposition to the Interim Final Rule on Security Bars and Processing; Delay of Effective Date (IFR). As the largest professional association for physicians and medical students, and the umbrella organization for state and national specialty medical societies, the AMA has been, and continues to be, deeply committed to ensuring the health and safety of all individuals regardless of immigration status. The AMA is concerned that the Security Bars IFR would legitimize discrimination against vulnerable asylum seekers, create a right to refuse the provision of certain treatments or services, and arbitrarily discriminate against individuals based on a border patrol agent's uninformed medical determination or an individual's country of origin. Therefore, we write to strongly urge the Administration to rescind the IFR.

On December 23, 2020, the Department of Homeland Security (DHS) and the Department of Justice (DOJ) published the Security Bars final rule, which would have categorically banned non-citizens from seeking asylum if they were from, or passed through, an area that DHS arbitrarily deemed to have a communicable disease of public health significance regardless of the health of the individual asylum seeker and without review from a medical professional. That rule was scheduled to take effect on January 22, 2021, but implementation was delayed multiple times to December 31, 2022. The current IFR would further delay the effective date of the Security Bars final rule until December 31, 2024. This further delay has been proposed due to the creation of additional immigration rules that would fundamentally impact the implementation of the Security Bars rule.

The Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review (Global Asylum final rule) would significantly impact the implementation of the Security Bars rule. However, the Global Asylum final rule has been enjoined by a federal district court in the case, *Pangea Legal Services v. Department of Homeland Security (Pangea II)*. Due to the way it is structured, the implementation of the Security Bars final rule would violate the injunction against the Global Asylum final rule since the "[e]ffective implementation of the Security Bars rule relies on the application of the

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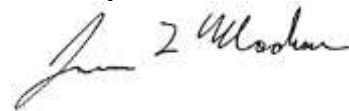
asylum and withholding of removal bars to eligibility at the credible fear screening stage, as established by the Global Asylum final rule.”¹

Furthermore, an additional asylum interim final rule was implemented on May 31, 2022, the Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers (Asylum Processing IFR). The Asylum Processing IFR amended the governing regulations to allow the U.S. Immigration and Customs Enforcement asylum officers to adjudicate the asylum applications of individuals subject to expedited removal who were found to have a credible fear of persecution or torture. As such, due to the overlap of changed procedures in the asylum process, if the Security Bars rule were to be implemented “when combined with the changes made by the Asylum Processing IFR to the regulations governing the credible fear screening framework and standards, the result would be to create confusing and nonsensical regulatory text.”² As the additional asylum rules and the promise that the Department will put forth a new Security Bars Notice of Proposed Rule Making, the Department wants to delay the implementation of the Security Bars rule for two years.

While the AMA appreciates the Department’s desire to delay implementation of the Security Bars rule, **we strongly urge that the rule be rescinded instead of delayed.** The implementation of the Asylum Processing IFR has made implementation of the Security Bars rule obsolete. The Security Bars rule is no longer compatible with the asylum/immigration process due to the changes that have been applied since the Security Bars rule was proposed. Even the Department acknowledges that the immigration landscape is fundamentally different and that the Security Bars rule no longer fits within the immigration framework. Rescinding the rule now would also allow the current Administration to avoid an unintended conflict in the future with the implementation of the Asylum Processing rule. For further information on the AMA’s stance on the asylum and Security Bars rules, please see our previous comment letters [here](#), [here](#), and [here](#).

The AMA appreciates the opportunity to comment and urges the Administration to prioritize supporting and protecting the health and well-being of individuals and families seeking asylum by rescinding the IFR in its entirety. If you have any questions, please contact Margaret Garikes, Vice President for Federal Affairs, at margaret.garikes@ama-assn.org, or by calling 202-789-7409.

Sincerely,



James L. Madara, MD

¹ <https://www.federalregister.gov/documents/2022/12/28/2022-28121/security-bars-and-processing-delay-of-effective-date>.

² *Id.*