

May 19, 2021

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

Tracy Renaud
Acting Director
U.S. Citizenship and Immigration Services
500 12th Street, SW
Washington, DC 20536

Re: Docket Number USCIS-2021-0004: Identifying Barriers Across U.S. Citizenship and Immigration Services (USCIS) Benefits and Services; Request for Public Input

Dear Secretary Mayorkas and Acting Director Renaud:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to provide comment on the U.S. Citizenship and Immigration Services (USCIS) Request for Public Input: Identifying Barriers Across USCIS Benefits and Services. The AMA has commented on numerous USCIS regulatory filings over the past several years that cover various policy areas, including the asylum process, medical education, medical ethics, and privacy rights. A March 2021 letter ([link to letter](#)) summarizes some of our positions on these policies.

Given the breadth of the Request for Public Input, our answers to the questions will focus on USCIS policies impacting medical education. This is a policy area where the Biden Administration's intentions are unclear. Our answers cover the following U.S. Department of Homeland Security (DHS) Dockets:

- USCIS-2020-0019 "Modification of Registration Requirement for Petitioners Seeking to File Cap-Subject H-1B Petitions" (H-1B Interim Final Rule).
- ICEB-2019-0006 "Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media" (Duration of Status Proposed Rule).

Are there any USCIS regulations or processes that are not tailored to impose the least burden on society, consistent with achieving the regulatory objectives?

The H-1B Interim Final Rule to prioritize H-1B visa registrants based on the highest prevailing wage or highest proffered wage would undermine efforts to increase the physician workforce in rural areas and other underserved communities. Fewer than 10 percent of U.S. physicians practice in rural areas that account for 20 percent of the country's population. As a result, over 23 million rural Americans live in Health Professional Shortage Areas (HPSAs).¹ The proposed rule would effectively put rural communities even farther behind urban areas with respect to their ability to recruit and retain physicians. H-1B physicians would be priced out of the market because employers would have to artificially increase H-1B physicians' salaries beyond the local market rates for physicians with similar training and experience to meet the new visa application requirements. The AMA strongly urges DHS to rescind the

¹ <https://www.aha.org/system/files/2019-02/rural-report-2019.pdf>.

IFR and reinstate the previous method used to determine how visas are distributed or, at a minimum, exempt physicians in this rule and any similar rules.

Are there USCIS regulations or processes that disproportionately burden a specific industry or sector of the economy, geographic location within the US, or government type (e.g. a specific tribal or territorial government or a specific local government)?

The Duration of Status Proposed Rule would acutely burden the medical education system by requiring training programs, the Accreditation Council for Graduate Medical Education (ACGME), the U.S. Department of State (DOS), and DHS to completely overhaul preexisting systems for monitoring foreign national physicians. There would also be downstream impacts on patient care as foreign national physicians are forced to return to their country of citizenship to complete extension of stay requirements. As such, during these lengthy renewal processes U.S. patients will be left without their physicians which could potentially result in negative health outcomes.

The H-1B Interim Final Rule would burden the health care system by artificially inflating the wages for H-1B physicians. These changes would be most acutely felt by health care systems in rural and underserved communities that are in the most need of H-1B physicians but cannot afford to pay the higher wages required by the Final Rule.

Are there instances where the costs of USCIS regulations to the public far surpass the benefits, for reasons that were not anticipated or discussed during the rulemaking process?

The current pandemic has severely strained our health care system and laid bare longstanding socioeconomic health care disparities. Given these challenges, we do not understand the urgency of making regulatory changes that could adversely impact the immigration status of thousands of physicians, residents, and medical students and overturn longstanding and well-accepted processes for monitoring visa holders.

The Administration should be easing the administrative burdens for foreign national medical students, international medical graduates (IMGs), and the employers that sponsor them, such as academic medical centers. Foreign trained physicians and medical residents should be prioritized during the visa process to enable the U.S. to, in the short-term, more effectively fight COVID-19 and, in the long-term, ensure the physician shortages in our rural and underserved communities have been remedied. The Duration of Status Proposed Rule, H-1B Interim Final Rule, and a related Department of Labor Final Rule (Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States [DOL Docket No. ETA-2021-0003]) would do the opposite.

Are there instances where the administrative burdens imposed in USCIS regulations are not cost-effective, in the sense that a different approach would achieve regulatory goals with significantly lower burdens?

The Duration of Status Proposed Rule would remove “duration of status” as an authorized period of stay in order to periodically and directly assess whether these nonimmigrants are complying with the conditions of their classifications and U.S. immigration laws, as well as obtain timely and accurate information about the activities in which the nonimmigrants have engaged, and plan to engage. This change would significantly disrupt the medical specialty and subspecialty training of thousands of international medical graduates in the United States in J-1 visa status creating unrealistic annual

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extensions of stay timelines, which in turn will have severe implications for patient care in the United States.

DOS in coordination with the ACGME already annually reviews J-1 physicians' compliance with their visa requirements and their progress in meeting training programs' requirements. This is in addition to the Student and Exchange Visitor Information System (SEVIS), a joint database of DOS and DHS that tracks and monitors J-1 physicians during their stays. These preexisting systems achieve DHS's stated goal thereby making the proposed change redundant and unnecessary.

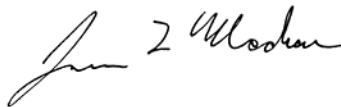
Are there areas where DHS components' regulations (including those of USCIS) create duplicative, conflicting, or difficult to navigate situations for individuals also navigating regulatory requirements of another Federal Government agency (such as those from the Departments of State, Justice, Labor, or Health and Human Services), such that consideration of greater cooperation or coordination would be warranted?

As previously discussed, the Duration of Status Proposed Rule would create new regulatory burdens for both J-1 physicians and their sponsors who already must adhere to ACGME and DOS/DHS requirements designed to ensure compliance with immigration laws and medical training program requirements. The Proposed Rule seems designed to make it harder, if not impossible, for foreign nationals to complete their medical training in the United States.

In closing, the current pandemic has shown that we are not an island where we can ignore problems that will never reach our shore. We compete with other countries to recruit qualified physicians and if we demonstrate, through our policy, that we do not value foreign national medical students and residents then we may lose a generation of physicians who choose to train elsewhere or stay in their home countries to fight COVID-19.

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 "James L. Madara". The signature is fluid and cursive, with a large initial "J" and "M".

James L. Madara, MD