

## International Medical Graduates (IMG) toolkit: Types of visas & FAQs

International Medical Graduates who seek entry into U.S. programs of Graduate Medical Education (GME) must obtain a visa that permits clinical training to provide medical services. Nearly one-fourth of the active U.S. physician workforce are foreign graduates and international medical graduates (IMG). Nonimmigrant or immigrant visas are needed for IMG physicians to legally practice in the U.S. when they are not U.S. citizens.

Before applying for a visa at a U.S. embassy or consulate, the following is required:

- DOL—The U.S. employer must obtain foreign labor certification from the U.S. Department of Labor, prior to filing a petition with USCIS.
- USCIS—U.S. Citizenship and Immigration Services approval of a petition or application (The required petition or application depends on the visa category you plan to apply for.)
- SEVIS—Program approval entered in the Student and Exchange Visitor Information System

### State department chart

The U.S. State Department, Bureau of Consular Affairs offers a chart defining different types of visas. The chart lists the various purposes of temporary travel and related nonimmigrant visa categories available.

Note: This does not represent a complete list of all travel purposes for the visa category. The chart lists almost all non-immigrant visa categories, but not all. More information can be found in the Foreign Affairs Manual, 9 FAM 402.1 for all non-immigrant visa categories.

### Types of visa status

Physicians can work in the U.S. on four major types of visa status: H-1B, J-1, O-1, and TN. In the 2020 academic year, 4,222 IMG physicians from over 100 countries were offered visas to facilitate residency training in different specialties<sup>1</sup>. All visas need to be renewed for the duration of residency and fellowship training, and each visa type has a different renewal schedule.

## H-1B visa for physicians

The H-1B visa is for temporary workers in specialty occupations who hold professional-level degrees. It has no two-year home residence requirement. The H-1B visa allows a foreign national to enter the U.S. for professional level employment for up to six years.

Since the early 90s, Congress has allowed physicians to access an H-1B visa for clinical practice when academic qualification and licensure requirements are met. The academic and practice requirements include the successful completion of all three U.S. Medical Licensing Examination (USMLE) steps, state medical board licensure requirements, and certification by the Educational Commission for Foreign Medical Graduates (ECFMG). This visa also requires the fulfillment of the Department of Labor requirements of prevailing wage and Labor Condition Application (LCA).

The H-1B visa is available to graduates of foreign medical schools who have passed the necessary examinations, have a license or other authorization required by the state of practice, and have an unrestricted license to practice medicine or have graduated from a foreign or U.S. medical school.

The proportion of residency programs sponsoring H-1B visas for training has gradually decreased in the last few years as the immigration requirements are multistep, costly (for the employer), and often complicated with bureaucratic immigration nuances. In October 2020, the USCIS released an interim Final Rule informing the Department of Labor to review the prevailing wage for several work categories that would potentially affect the prospect of employment for many IMG physicians.

Certain specialties and employment settings might struggle to successfully meet the wage and specialty occupation criteria to obtain a new H-1B status or to renew an existing H-1B status to allow the IMG physicians to continue their training or practice.

## Frequently asked questions about the H-1B visa

### **Can an IMG physician transition to independent practice after their training on an H-1B visa?**

To transition to practice on an H-1B visa, the IMG physician would need a not-for-profit organization or a university system to sponsor their H-1B visa, to be counted as 'cap-exempt', so that they would not have to enter the capped number of 85,000 H-1B visas' lottery every year. Every time they change their employment, they would need to have a sponsor of similar ability to get their 'cap-exempt' H-1B visa.

## **How to smoothly renew an H-1B visa for training and practice?**

During training, the program Graduate Medical Education and the immigration office handle the renewal of this visa. However, as the IMG physician transitions into practice, their employer would hire an immigration attorney to work with the physician in most cases. The renewal of this visa is dependent on the Department of Labor's prevailing wage determination, and LCA, the process has several moving pieces and often needs eight to twelve months.

Once the renewal application is submitted, the physician can work for up to a maximum of 240 days on pending status. After this period, the physician must leave the country and wait for the pending application to be approved. This timeline has been even longer during the pandemic, and many IMG physicians' legal status could be potentially impaired.

## **How long does a physician remain on an H-1B visa?**

An IMG physician's H-1B status depends on their country of birth and their status of immigrant visa application. As IMG physicians fill the workforce gap in rural and underserved areas, most employers would sponsor an immigrant (or permanent) visa status for these physicians. This application can be made in several different categories of employment-based immigration. The most common employment-based immigration category for physicians is EB-2, where the employer would have to file a PERM application and an i-140 application.

Once approved, the physician would have to wait for their "priority date" to be current to petition for "adjustment of status." The priority date's progression depends on several factors; the country of birth is the most important one. The USCIS publishes "The Visa Bulletin" with updates on the status of priority dates for each country and each immigrant visa category.

As long as the priority date is not current, the physician would need to renew their H-1B visas. An H-1B visa can be issued for a maximum of six years. An immigrant petition must be filed before the end of the sixth year for the physician to be allowed to renew their H-1B visa beyond that six-year mark.

## **What are the barriers for IMG physicians on a visa during the pandemic?**

During the pandemic, IMG physicians are facing different barriers in their stability and immigration-related endeavors. The process of immigration was complicated and time-consuming even before the pandemic. With the advent and the protracted nature of the pandemic, given the closure of many consulate offices and delays in processing documents, many IMG physicians faced challenges in starting their residency, continuing their training or practice, and transitioning from training to practice.

The AMA has a COVID-19 resource page for IMG physicians where these challenges are outlined,

and the efforts made by the AMA to resolve these problems are listed. Please refer to the COVID-19 resources for IMGs for more information.

## What is the scope of practice on an H-1B visa?

IMG physicians are restricted to practice only in the location mentioned on their non-immigrant petition and the labor condition application. The employer is required to report any additional work location to the USCIS. They might need to amend the petition when the IMG physician is asked to provide clinical care in any service or program located at a different address.

## J-1 visa for physicians

Most residency programs offer physicians a J-1 visa, a type of exchange visitor visa sponsored by a centralized organization ECFMG. ECFMG is the only sponsor of a J-1 visa for physicians in clinical training programs (residency and fellowship), though universities can occasionally sponsor a J-1 visa for specific research track positions. The J-1 visa is renewed every year with a DS-2019 form from the ECFMG.

A Statement of Need (SON) is needed from the physician's home country, stating the need for specialty training. When transitioning from residency to fellowship, on a J-1 visa, the physicians are responsible for gathering a new SON from their home country for the fellowship program. The programs have a designated person in the Graduate Medical Education (GME) who works with the trainee to secure all requirements and coordination with the ECFMG. Until now, J-1 visas were issued for a "duration of status," enabling the physician to continue their training through each year of residency or fellowship without any disruption or the need to visit their home country. Training program rotations are not built in a way to allow weeks of absence for trainees.

However, with a recent change of rule by the USCIS, the "duration of status" advantage might not be available going forward, posing a challenge for the trainees. The AMA, along with the ECFMG, NRMP, Association of American Medical Colleges (AAMC), Accreditation Council for Graduate Medical Education (ACGME), and American Hospital Association (AHA), have recently urged the Department of Homeland Security (DHS) to exclude medical trainees from the change of "duration of status" model.

The ECFMG Exchange Visitor Sponsorship Program is the one-stop source of information for physicians' J-1 visa. The criteria for obtaining a J-1 visa for physicians includes:

- | USMLE Step 1 and 2 must be cleared
- | ECFMG certification is needed
- | The candidate has an offer letter or a contract of a training program through the Graduate

Medical Education (for residency or fellowship training)

| The candidate obtains a statement of need from the country of last permanent residence

## Obtaining a J-1 visa

The ECFMG is authorized by the U.S. Department of State to sponsor foreign national physicians for the J-1 visa. Information on eligibility and deadlines is available from ECFMG's Exchange Visitor Sponsorship Program.

To apply for a J-1 visa, an IMG must meet the following criteria:

| Passed USMLE® Step 1 and Step 2 CK (or equivalent)

| Have a valid ECFMG Certificate

| Have a contract or official letter of offer for a position in a program of Graduate Medical Education or training with a medical school

| Provide a statement of need from the Ministry of Health of the country of last legal permanent residence (LPR) regardless of country of citizenship

## Two-year home country physical presence requirement

Upon completion of training in the U.S., J-1 visa holders must return to their home country for a period of two years to transmit the knowledge they gained in the U.S.

An individual must fulfill this obligation before being eligible for a change or adjustment of visa status to certain types of U.S. visas. These visa types include:

| H—Temporary worker

| L—Intra-company transferee

| U.S.—Permanent resident

## J-1 visa waivers

The only exception to the two-year home residence requirement of the J-1 visa program is to receive a waiver.

Under the law, three circumstances can provide a waiver of the two-year residency requirement:

| The waiver applicant can demonstrate that he or she will suffer from persecution in his or

her home country or country of last legal permanent residence

Fulfillment of the residency requirement would bring proven exceptional hardship to the applicant's spouse and/or children who are U.S. citizens or permanent residents

The applicant is sponsored by an Interested Governmental Agency (IGA) that is interested in the physician's continued employment in the U.S.

The following governmental agencies have sponsored waivers for international medical graduates:

The Department of Health and Human Services (HHS)

The Department of Veterans Affairs (VA)

The Appalachian Regional Commission (ARC)

The Department of Agriculture (USDA)

The Department of Housing and Urban Development (HUD)

State departments of public health may sponsor up to 30 J-1 physicians per year for waivers to provide care in underserved communities.

Once an international medical graduate receives a J-1 waiver and a state medical license, he or she may obtain a new work authorized status for U.S. employment, which in most cases will be an H-1B visa or an immigrant visa.

## Frequently asked questions about the J-1 visa

### How to obtain a J-1 waiver for IMG physicians?

The J-1 visa is an exchange visitor program, subject to the "home country" rule of Immigration and Naturalization Services (INS), Section 212(e). It means a physician on a J-1 visa must go back to their home country for two years before they would have to apply for another non-immigrant or immigrant visa to be able to practice in the U.S.

IMG physicians are trained in U.S. programs funded by the Centers for Medicare and Medicaid Services (CMS) and or the Veterans Administration (VA). They fill the discrepancy in physician workforce distribution in the rural and underserved areas; different options are available to waive the home country retirement and allow these physicians to continue serving the underserved communities.

Waiver options are:

Conrad-30 waiver is a state-based program allowing up to 30 physicians to serve in the federally designated Health Professional Shortage Areas (HPSA). Every state has its process and regulations for this program. Rural Health Information Hub has a list of states and their processes

described for the Conrad-30 program.

Interested Government Agency (IGA) waiver is a waiver program where government agencies can sponsor a waiver status for the physician to continue the clinical practice and or research work. The U.S. Department of Health and Human Services (HHS), Veterans Administration (PDF), and Appalachian Regional Commission (ARC) and Delta Regional Authority (DRA) are a few of such agencies that commonly work with IMG physicians for a waiver status.

During waiver, IMG physicians need to maintain an H-1B status to be able to practice. A waiver is a status ceding the two-year home country requirement, but a non-immigrant or an immigrant visa is required for the physicians to continue the practice.

### **Are academic jobs available on a J-1 waiver status?**

The waiver status requires the physician to serve in the HPSA areas. If an academic institution is able to fulfill that requirement and willing to work with the state waiver officials, it is possible for them to hire a physician, as long as the state waiver requirements are met, and immigration status is maintained.

However, many academic institutions might be unfamiliar with the process. Coordination between the state health office and state waiver official and the academic institution might facilitate this process.

### **When to initiate the process of waiver?**

The waiver process is lengthy and complicated. When an academic position is sought, the process might need even more time. Familiarizing with the waiver options and requirements should start at least a year or two before the end date of the training. Each state has a waiver application deadline. Waiver approval does not need state licensure but transitioning from training to practice needs a state license, and the process can be longer for IMGs.

## **O-1 visa for physicians**

The O-1A visa can be an option for IMG physicians' training and practice when the training program or an employer can apply. It is a less commonly used visa status for physicians on the clinical track. Still, it might be applicable for IMGs on a research track or IMGs with extraordinary abilities in the field of science. Though O-1 visas do not have the requirement for USMLE, state licensure still requires that all steps of USMLE be completed.



## TN visa for physicians

The TN visa is accessible to only Canadian and Mexican citizens qualified for full-time employment as professionals in an eligible field. The North American Free Trade Agreement (NAFTA) allows these two countries' citizens to use this temporary non-immigrant status with specific requirements for each country.

## Other visa types

Learn more about visas and immigration at the U.S. Citizenship and Immigration Services.

### Immigrant visa

Permits a foreign citizen to permanently remain in the U.S. (also known as a green card or permanent resident status).

A lawful permanent resident (LPR) has the right to become a naturalized U.S. citizen after living in the United States for three to five years.

To obtain immigrant status, one must qualify as a specified immediate relative of a U.S. citizen or another LPR, as an employee of a sponsoring employer or prospective employer or as a "diversity immigrant" under a visa lottery program.

The applicant must not fall into any of the categories of aliens deemed inadmissible by law:

- | Criminality
- | Mental defect
- | Communist party affiliation
- | Drug trafficking
- | Terrorism

### Canadian NAFTA professional workers

A visa not required; apply to U.S. Customs and Border Protection (CBP) at border port of entry.

### K non-immigrant visa





For U.S. citizen fiancé(e) and spouse for immigration related purposes.

## **AMA advocates for international physicians**

The AMA has adopted policy and continues to support legislation that will ensure international physicians, students and residents can practice medicine and obtain their medical training in the U.S.

Read about the AMA's efforts:

- | Addressing restricting admission of certain foreign nationals
- | Addressing restricting admission of certain foreign nationals and DACA
- | Addressing travel ban

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Learn more about the AMA member group International Medical Graduates Section and get involved in policy decision-making for issues affecting IMG physicians.

<sup>1</sup> National Resident Matching Program, Results and Data: 2020 Main Residency Match<sup>®</sup>.