

Presidential Proclamation

On June 22, 2020, a Presidential [Proclamation Suspending Entry of Aliens Who Present a Risk to the U.S. Labor Market Following the Coronavirus Outbreak](#) (Proclamation) was issued. As it pertains to physicians, the Proclamation states that there are exemptions for:

- Sec. 4(a)(i)... [individuals who] are involved with the provision of medical care to individuals who have contracted COVID-19 and are currently hospitalized; are involved with the provision of medical research at United States facilities to help the United States combat COVID-19...
- Or Sec. 3(b)(iv) any alien whose entry would be in the national interest as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees.

In response to the proclamation, the U.S. Department of State (DoS) issued a [statement](#) that “as resources allow, embassies and consulates may continue to provide emergency and mission-critical visa services. Mission-critical immigrant visa categories include applicants who may be eligible for an exception under these presidential proclamations, such as...certain medical professionals.” As such, on June 26, 2020 the AMA sent a [letter](#) to the Department of Homeland Security (DHS) and the DoS strongly urging the Administration to consider J-1 and H-1B IMGs and their families’ entry into the U.S. to be in the national interest of the country so that families can remain together and IMG physicians can immediately begin to provide health care to U.S. patients. We understand that every physician is mission critical, especially at this time.

The proclamation is effective as of June 24, 2020, is set to expire on December 31, 2020, and may be extended. The Secretaries of Homeland Security, State, and Labor must recommend any necessary modifications to the Proclamation within 30 days of its effective date, and every 60 days thereafter.

Valid Visas

The Proclamation does not affect individuals currently working in the U.S. on [valid visas](#). Individuals who currently have valid visas can still file for extensions, changes of status etc. The proclamation also does not prevent individuals in possession of valid visas, prior to June 24, 2020, from entering or re-entering the country, if they have been abroad, provided they have not otherwise rendered themselves inadmissible. However, individuals whose visas expire and wish to apply for a renewal will be subject to the Proclamation.

Visa Interviews

Even if you already had an approved (H-1B, H-2B, or J-2) [petition](#) from DHS, and are just waiting for a visa interview, per section 3 of the Presidential Proclamation, suspension of entry applies to any individual “who does not have a nonimmigrant visa that is valid on the effective date of this Proclamation.” This means that if you did not already have a valid visa as of June 24, 2020 and do not fall under one of the exceptions, the ban applies to you.

J-1 Physicians

J-1 physicians have been given an exemption from the June 22, 2020 proclamation. The Educational Commission for Foreign Medical Graduates (ECFMG) is authorized by the DoS to sponsor foreign national physicians on a J-1 visa. As such, ECFMG has been working with the DoS to ensure that J-1 physicians, especially those who are beginning their residencies in July and August 2020, are able to receive exemptions to enter and begin working in the U.S. If you have specific questions about your J-1 visa you can contact ECFMG at EVSP-support@ecfm.org.

U.S. Citizenship and Immigration Services (USCIS) [reopened](#) its offices in June. As such, we are hopeful that J-1 physician visas will be processed quickly as USCIS begins to operate at full capacity throughout the coming months. If you want to check the processing time on your application you can check [here](#) for domestic processing and [here](#) for international processing.

Update: DoS has issued additional [guidance](#) on J-1 visa holders and their ability to enter the United States.

DoS has stated that “Specialized Teachers in Accredited Educational Institutions with a program number beginning with “G-5” on Form DS-2019: An exchange visitor participating in an exchange program in which he or she will teach full-time, including a substantial portion that is in person, in a publicly or privately operated primary or secondary accredited educational institution where the applicant demonstrates ability to make a specialized contribution to the education of students in the United States. A “specialized teacher” applicant must demonstrate native or near-native foreign language proficiency and the ability to teach his/her assigned subject(s) in that language.”

DoS has provided additional guidance and carveouts for J-1 visa holders. See the hyperlink above for more information.

H-1B Physicians

The proclamation still applies to most H-1B physicians. Per our May 4, 2020 [letter](#) to Vice President Pence urging the Administration to allow J-1, H-1B, and O-1 International Medical Graduates (IMGs) to be exempt from any future immigration bans or limitations, we have been aware of, and advocating against, any physician immigration bans since before this proclamation was issued.

Moreover, we authored and coordinated a [sign-on letter](#) for our specialty societies. The letter urges the DoS and DHS to issue clarifying guidance pertaining to the [Proclamation](#) by directing Consular Affairs to advise embassies and consulates that H-1B physicians and their dependent family members’ entry into the U.S. is in the national interest of the country.

Finally, it is possible that ECFMG may be able to assist H-1B physicians on a case by case basis. The ECFMG is authorized by the DoS to sponsor foreign national physicians on a J-1 visa. However, they may be able to give you advice concerning your H-1B visas. You can contact ECFMG at EVSP-support@ecfm.org.

Update: DoS has issued additional [guidance](#) on H-1B visa holders and their ability to enter the United States.

DoS has stated that “travel as a public health or healthcare professional, or researcher to alleviate the effects of the COVID-19 pandemic, or to conduct ongoing medical research in an area with a substantial public health benefit (e.g. cancer or communicable disease research). This includes those traveling to alleviate effects of the COVID-19 pandemic that may be a secondary effect of the pandemic (e.g., travel by a public health or healthcare professional, or researcher in an area of public health or healthcare that is not directly related to COVID-19, but which has been adversely impacted by the COVID-19 pandemic).”

Additionally, “applicants seeking to resume ongoing employment in the United States in the same position with the same employer and visa classification” will be allowed to enter and resume working in the United States.

Moreover, DoS has made exceptions for H-1B visa holders that are "technical specialists, senior level managers, and other workers whose travel is necessary to facilitate the immediate and continued economic recovery of the United States." To qualify for this category an H-1B visa holder must meet two of the following five criteria:

1. The petitioning employer has a continued need for the services or labor to be performed by the H-1B nonimmigrant in the United States.
2. The applicant’s proposed job duties or position within the petitioning company indicate the individual will provide significant and unique contributions to an employer meeting a critical infrastructure need. **Healthcare and public health are considered critical infrastructure sectors under this guidance.**
3. The wage rate paid to the H-1B applicant meaningfully exceeds the prevailing wage rate by at least 15 percent.
4. The H-1B applicant’s education, training and/or experience demonstrate unusual expertise in the specialty occupation in which the applicant will be employed.
5. Denial of the visa pursuant to P.P. 10052 will cause financial hardship to the U.S. employer.

J-2 and H-4 Family Visas

Per [guidance](#) issued by DoS “If an H-1B, H-2B, L-1, or J-1 non-immigrant is not subject to the Proclamation, then neither that individual nor the individual’s spouse or children will be prevented from obtaining a visa due to the Proclamation.”

Moreover, “[n]ational interest exceptions are available for those who will accompany or follow to join a principal applicant who is a spouse or parent and who has been granted a national interest exception to P.P. 10052. Note, a national interest exception is not required if the principal applicant is not subject to P.P. 10052 (e.g. if the principal was in the United States on the effective date, June 24, or has a valid visa that the principal will use to seek entry to the United States). In the case of a principal visa applicant who is not subject to P.P. 10052, the derivative will not be subject to the proclamation either. However, it is unclear exactly how this guidance will be implemented. As such, the AMA will continue, advocating for physicians’ families.

Additional Resources for IMG Physicians During COVID-19

The AMA continues to aggressively advocate on behalf of our U.S. and non-U.S. IMGs. We encourage you to visit our IMG [resource guide](#) to learn more.