



Tomorrow's Doctors, Tomorrow's Cures

Immigration and Academic Medicine

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Association of
American Medical Colleges

Kristen A. Harris, Attorney



HARRIS
IMMIGRATION LAW

- Provides comprehensive immigration services for physicians, academic medical centers, and health care systems across the U.S.
- Involved in advocacy efforts to improve immigration policies at national and state level.
- EDUCATION: Yale university (B.A., M.A.); University of Michigan law school (J.D.)
- Principal, Harris immigration law, LLC, a national immigration law firm
- Advocacy chair of the IMG taskforce, a national organization advocating for legal improvements for foreign national IMGs and the health care systems and practice groups that employ them (2010 to present)
- Chair, formerly vice-chair, of immigration affinity group, American health lawyers association (2012-present)
- AILA Chicago chapter/customs and border protection liaison committee (2010-2012; 2014-2016)
- Chair of Chicago bar association's immigration and nationality law committee (2006 - 2007)
- Frequently publishes and speaks nationally regarding physician immigration

Tracy Locklin Wallowicz



- Director, Exchange Visitor Sponsorship Program and Compliance
- SEVIS Responsible Officer
- Focus on J-1 and OFAC issues
- Presenter at national meetings of academic medical organizations
- Published author and co-author on articles related to physician immigration and ECFMG's exchange visitor program
- Undergraduate and graduate studies at Westminster College, University of Pittsburgh and Drexel University

Matthew Shick, JD



- Director, Government Relations and Regulatory Affairs, AAMC
- Joined the AAMC in 2005 and is responsible for regulatory and legislative policy related to higher education, diversity, immigration, and the physician workforce, among others.
- Executive Director, Health Professions and Nursing Education Coalition (HPNEC)
- Executive Committee, Friends of VA Medical Care and Health Research (FOVA)
- Founder, National Health Service Corps (NHSC) Stakeholders
- Editor, *AAMC Washington Highlights*
- Prior to joining the AAMC, he worked for U.S. Representative Nick Lampson (TX)
- Education: B.S. in Biology from Georgetown University and a J.D. from George Mason University School of Law



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Background and Definitions



Association of
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Principal Players

State Department (DoS)

- Headquarters
- Bureau of Educational and Cultural Affairs
- U.S. consular posts
- National Visa Center

Department of Homeland Security (DHS)

- Customs and Border Protection (CBP)
- U.S. Citizenship and Immigration Services (USCIS)
- Immigration and Customs Enforcement (ICE)

Educational Commission for Foreign Medical Graduates (ECFMG)

About ECFMG

- **501(c)3 non-profit**
- **Private, non-governmental**
- **Organizational members**
 - American Board of Medical Specialties (ABMS)
 - American Medical Association (AMA)
 - Association of American Medical Colleges (AAMC)
 - Association for Hospital Medical Education (AHME)
 - Federation of State Medical Boards (FSMB)
 - National Medical Association (NMA)

ECFMG Programs and Services

Programs Supporting U.S. GME and IMGs in U.S. GME

- ECFMG Certification
- Exchange Visitor Sponsorship Program (EVSP)
- ERAS Support Services at ECFMG
- Certification Verification Service
- ECFMG Certificate Holders (ECHO)

Growth in International Programs

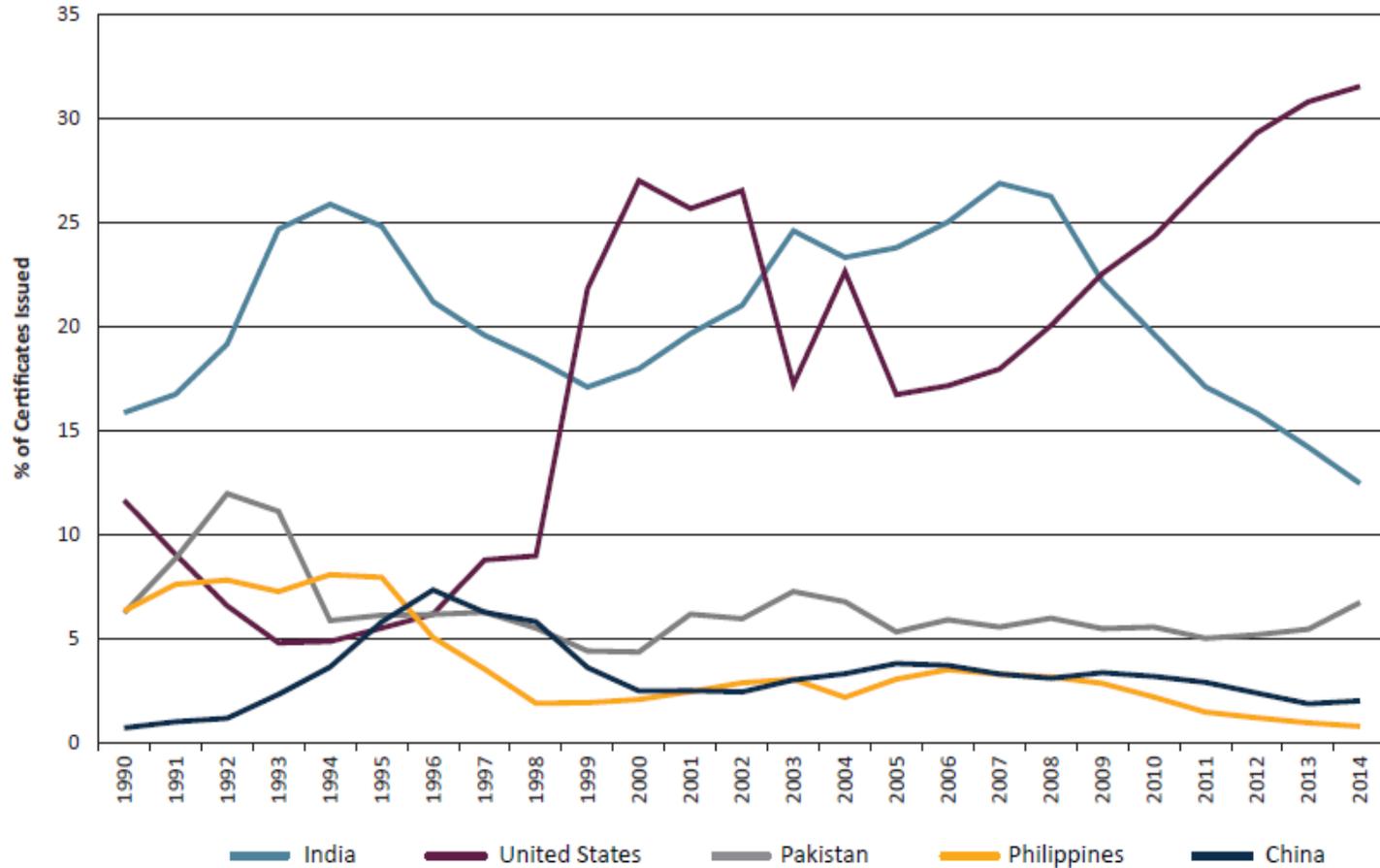
- Electronic Portfolio of International Credentials (EPIC)
- GEMx - Global Educational Exchange in Medicine and the Health Professions

FAIMER®: Foundation for Advancement of International Medical Education and Research

- **Fellowship programs for health professions faculty worldwide**
- **Data Resources on medical education**
- **Research**
 - Characteristics and quality of international medical education programs
 - Role and contributions of IMGs in U.S. physician workforce

Immigration vs International Medical Graduate (IMG)

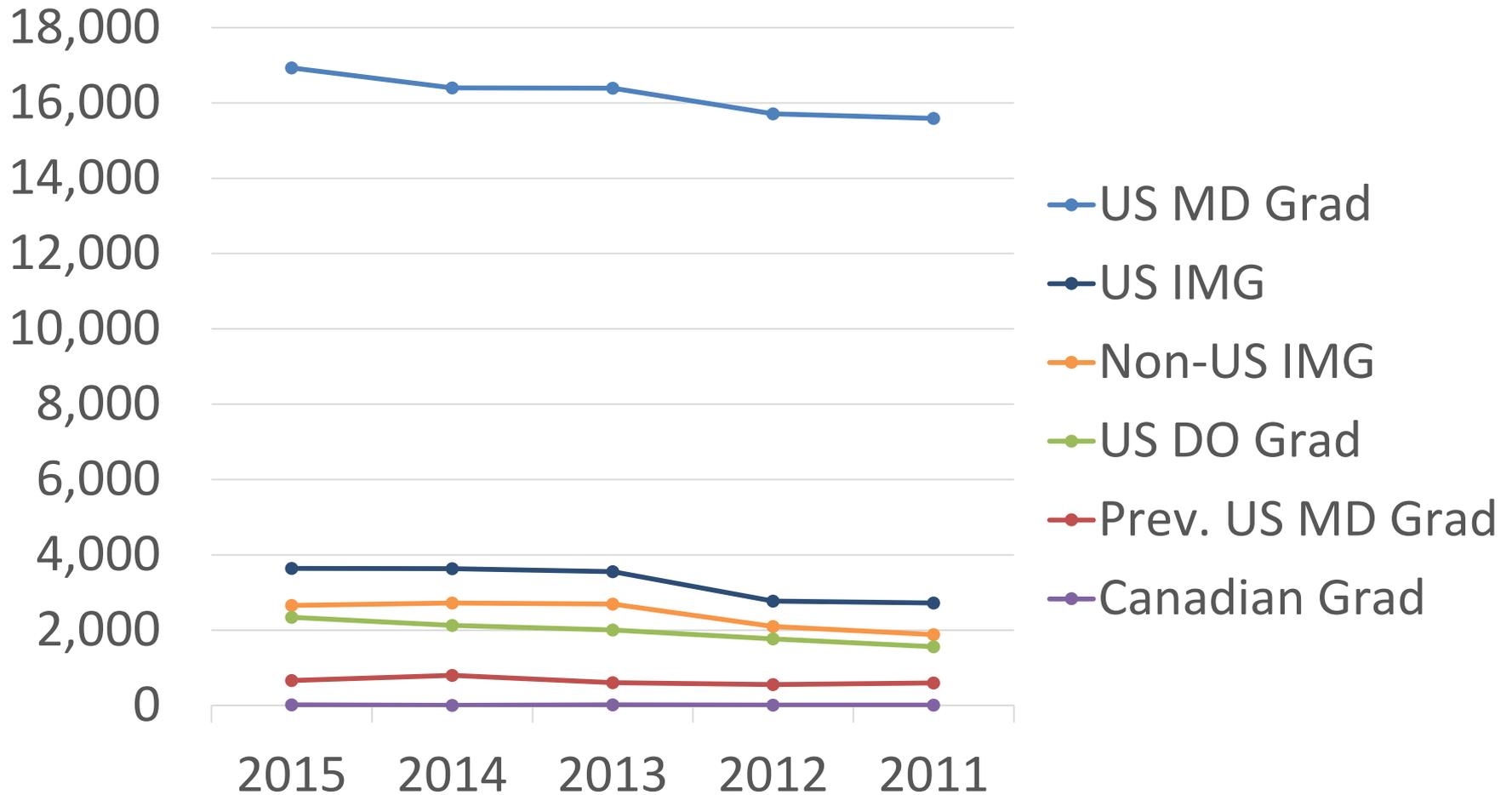
Exhibit 6: Top Countries of Citizenship, Certificants 1990–2014



Citizenship is as of the time of entrance into medical school. Top five countries based on aggregate data over a 25-year period.

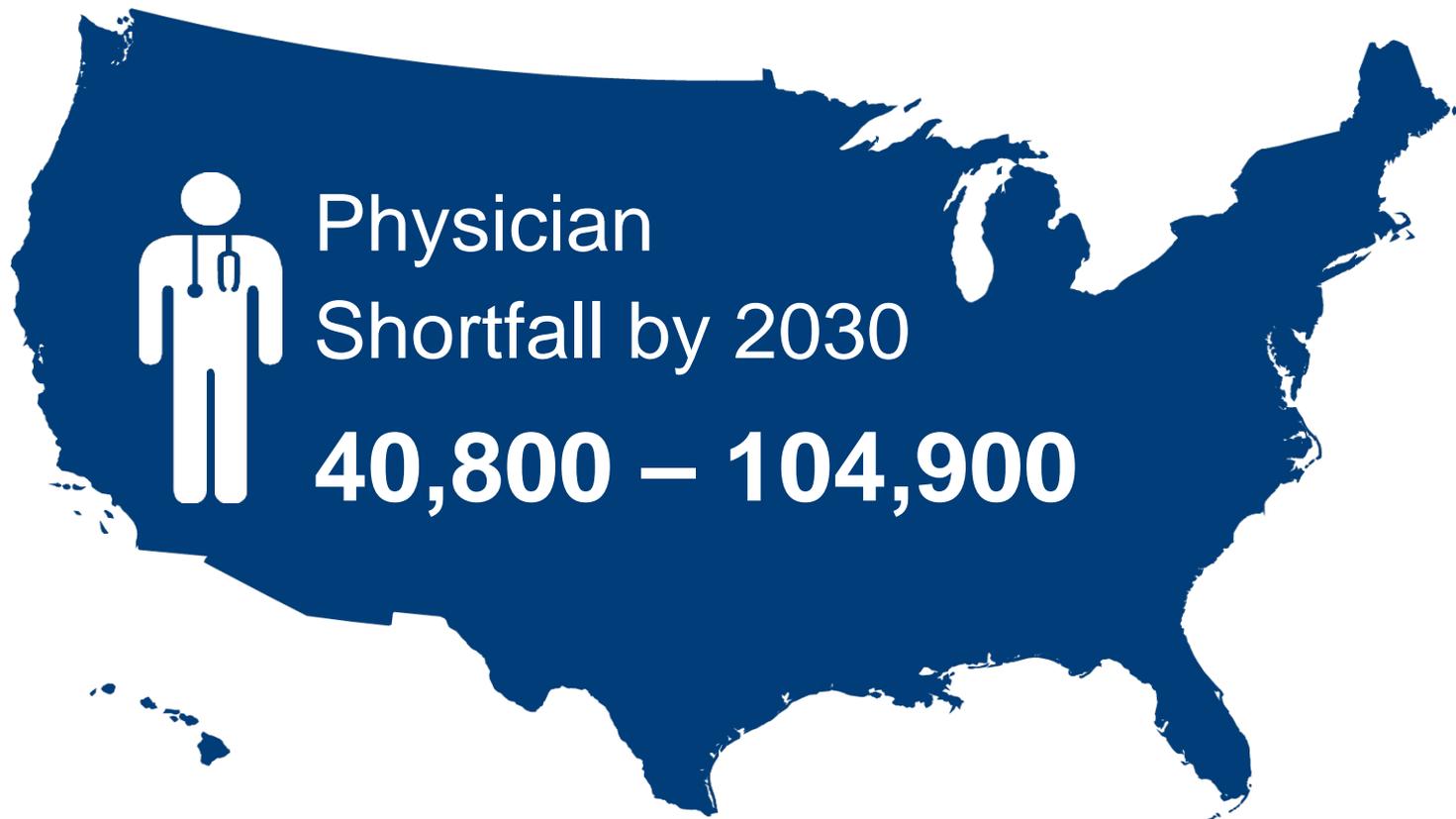
Source: ECFMG database. Data current as of January 22, 2015.

IMGs Are Significant Part of US Workforce



Source: NRMP, Advance Data Tables: 2015 Main Residency Match

AAMC Policy: National Workforce Projections Assume Sustaining IMGs



Primary Care
7,300 - 43,100

Specialty Care
33,500 - 61,800

Projections are not additive because of micro simulation model used

Physician “Non-Immigrant” Pathways

B-1 Temporary Business and Tourism

F-1 Student

H-1B Temporary Work (Specialty Occupation)

J-1 Exchange Visitor (Training)

O Extraordinary Ability

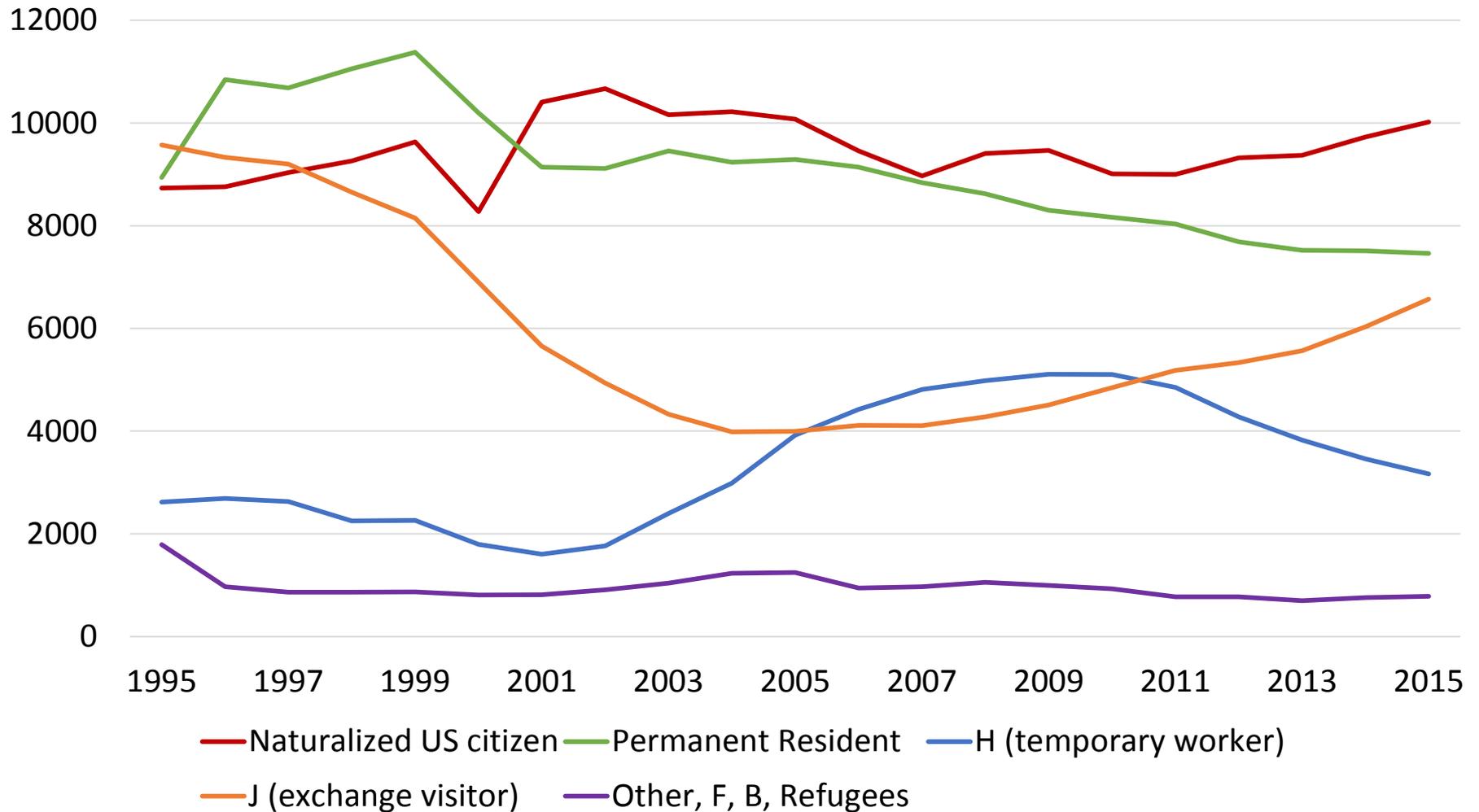
Refugee/asylee/displaced person

(“2” often designates family of primary nonimmigrant visa holder)

Note: Deferred Action for Childhood Arrivals (DACA) is not an affirmative immigration status



Immigration Pathways - GME



Source: Compiled from *JAMA*, Graduate Medical Education, 1996-2016, Appendix II, Tables 6 and 7

AAMC Policy: J-1 vs. H-1B visa

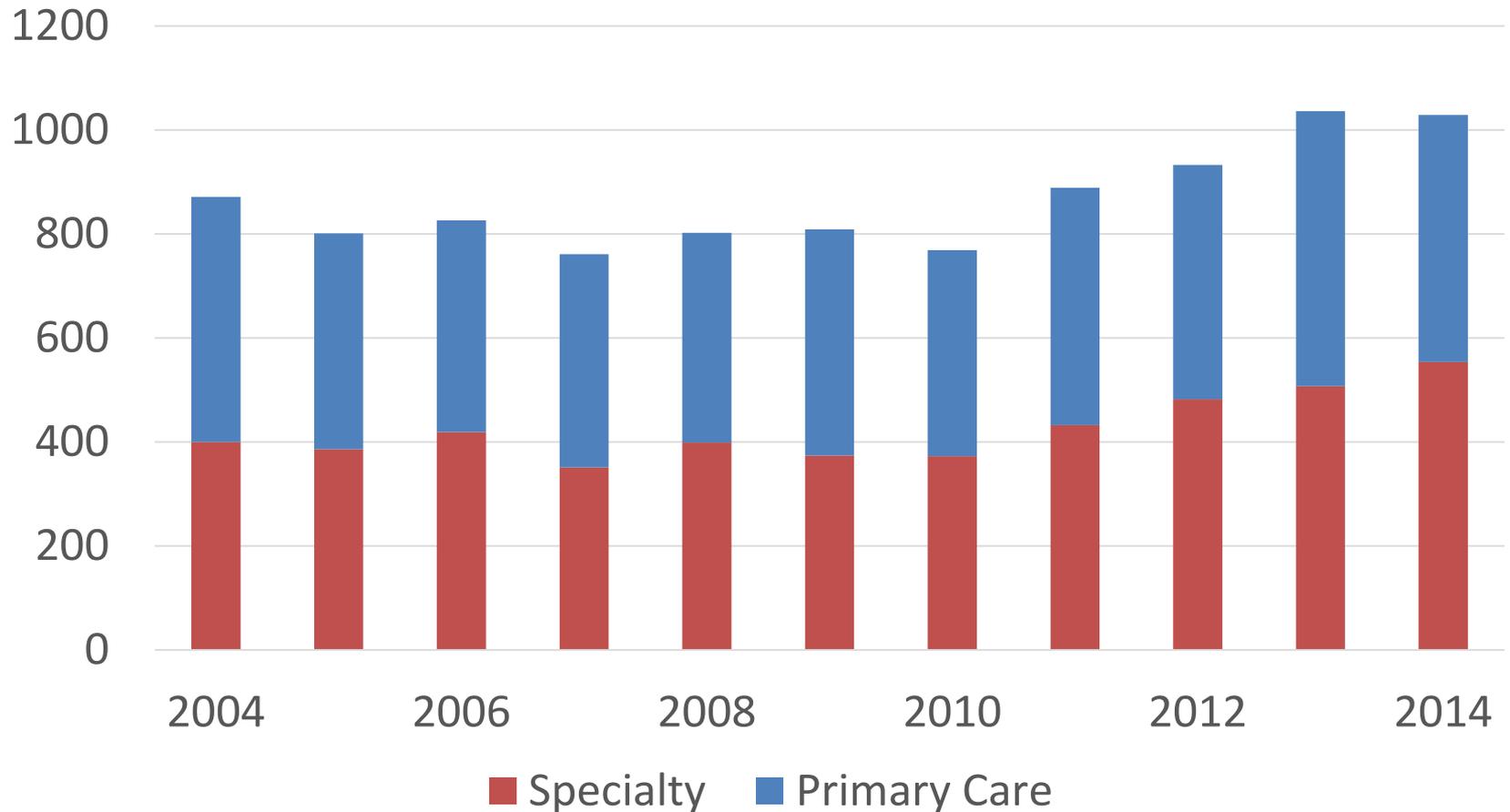
	J-1	H-1B
visa type	Exchange Visitor (<u>Training</u>)	Temporary <u>Employment</u>
oversight	ECFMG Certification	State Licensure
testing	USMLE Steps 1 and 2	USMLE Steps 1, 2, and 3
visa caps	No numerical caps	Annual numerical and country caps with some higher education affiliate exemptions
duration	Valid for length of training; default max of 7 years	Subject to durational limits (3 years, 6 with extension, longer if green card underway)
wage data	N/A	Prevailing wage
fees	Less	More
brain drain	2-year return requirement (may be waived by U.S. public service; other bases)	

J-1 Visa Waiver Programs

- **State Conrad 30 Program**
 - Waive 2-year return requirement in exchange for 3 years
 - Health Professional Shortage Area (HPSA); Medically Underserved Area/Population MUA/MUP); or “Flex Slot” (up to 10)
 - State-defined specialties (primary care and others)
- **Appalachian Regional Commission**
- **Delta Regional Authority (“Delta Doctors”)**
- **Department of Health and Human Services**
- **Department of Veterans Affairs**

State Conrad 30 Impact

New Conrad 30 Physicians by Discipline



Source: AAMC Analysis of Texas Office of Primary Care national survey

State Conrad 30 vs NHSC Impact

Conrad 30 vs. NHSC Physician Field Strength



Source: HRSA Budget Justification and AAMC Analysis of Texas Office of Primary Care national survey



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Current Issues



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H-1B Cap Exemption for Institutions Affiliated with Higher Education

- Non-profit entities that are related to or affiliated with an institution of higher education are exempt from annual limit, or “cap” on new H-1B visas
 - 65,000 1st time H-1B visas/year; additional 20,000 1st time U.S. Master’s H-1B visas/year
- Previously, interim guidance: deference given to H cap exemption approvals made since June 6, 2006
- New regulations effective January 17, 2017

H-1B Cap Exemption for Institutions Affiliated with Higher Education (cont'd.)

- New regulations in comparison with statutory language
 - Additional conditions for “affiliated with or related to”
 - Third party petitioners new, higher standard for “employed at” H-1B employment
 - New limitations on “concurrent employment”

H-1B Cap Exemption for Institutions Affiliated with Higher Education (cont'd.)

- Additional, new conditions on “affiliated with or related to”
 - “The nonprofit entity has entered into a formal written affiliation agreement with an institution of higher education that establishes an active working relationship between the nonprofit entity and the institution of higher education for the purposes of research or education, and a fundamental activity of the nonprofit entity is to directly contribute to the research or education mission of the institution of higher education.” 8 CFR 214.2 (h)(8)(F)(2)(iv)

H-1B Cap Exemption for Institutions Affiliated with Higher Education (cont'd.)

Practical tips:

- Wherever possible, institution of higher education itself as H-1B employer
- Use affiliation agreements within unexpired initial term; if evergreen provision then notice or addendum
- Materials showing active rounds, graduate medical education
- H-1B narrative attachment/letter linking petitioning entity and position to research/education

USCIS Suspends H-1B Premium Processing

- First time premium processing suspended for all H-1B petitions since first available -- July 30, 2001 to present
- USCIS: seeking to “reduce overall H-1B processing times”
- H-1B standard processing times: 7 to 13 months
- Applies to H-1B petitions received by USCIS on or after April 3
- Suspension may last “up to” 6 months
- Petitioners may request expedite on case-by-case basis
- Senators Klobuchar, Collins, Heitkamp - March 10 letter to USCIS – impact on Conrad J Waiver Program

USCIS Suspends H-1B Premium Processing (cont'd.)

- Practical tips:
 - Reminder: USCIS prerogative to meet obligation by refund rather than 15-day adjudication
 - If filed H-1B petition prior to/on 3/31, prep for Request for Evidence re “affiliation” regs, to quickly re-set 15-day clock
 - H-1B petitions on/after 4/3
 - Submit expedite request with petition
 - Telephone USCIS as soon as receive receipt notice, to lodge expedite request for incoming GME fellows, residents or others in need

USCIS Suspends H-1B Premium Processing (cont'd.)

Expedite criteria:

- Severe financial loss to company or person;•
- Emergency situation;•
- Humanitarian reasons;•
- Nonprofit organization whose request is in furtherance of the cultural and social interests of the United States;•
- Department of Defense or national interest situation (These particular expedite requests must come from an official U.S. government entity and state that delay will be detrimental to the government.);•
- USCIS error; or•
- Compelling interest of USCIS.•

Executive Order

March 6, 2017

Key provisions of the March 6 Executive Order (EO):

- **Suspended visa issuance for travelers from Iran, Libya, Somalia, Sudan, Syria and Yemen for 90 days; originally set to go into effect on March 16, 2017.***
 - Clarified that the 90-day ban did not apply to, among others, any lawful permanent resident of the United States; any dual national of a country designated in the Executive Order if/when the individual is traveling on a passport issued by a non-designated country.
 - Stipulated that case-by-case waivers of the visa suspension might be available at the discretion of a consular officer or Customs and Border Protection officer.
 - Confirmed that naturalization and adjustment of status applications for people from the six named countries would continue to be processed.
- **Directed agencies to enhance screening and vetting procedures for all visas / immigration benefits.**
- **Suspended the Visa Interview Waiver Program, with narrow exceptions.**

**Federal judges in Hawaii and Maryland issued a temporary restraining order and preliminary injunction respectively on March 15, 2017 blocking the “travel ban” provision of the EO before it went into effect.*

Executive Order

March 6, 2017

- ECFMG providing ongoing guidance to DIOs, Program Directors, and J-1 Training Program Liaisons (TPLs)
- Messages distributed via email and posted on the ECFMG website
- Information specific to March 6 Executive Order included:
 - General scope of Executive Order(s)
 - Exemptions
 - Waivers to the visa suspension
 - J-1 specific information for both new and continuing ECFMG-sponsored trainees
- Separate email sent to Match applicants
- Updates provided as available (i.e., temporary restraining order blocking “travel ban”)
- *New Fact Sheet for Consular Officials*

Executive Order

March 6, 2017

Current State:

- “Travel ban” remains indefinitely blocked by a preliminary injunction.
- *Visa Interview Waiver* program remains suspended; visa interviews required for all travelers to the United States with limited exceptions.
- Consular officials recently sent cables with instructions for implementing portions of the EO that were not blocked by the courts.

Consular Officials Cables Included:

- Detail on increased vetting procedures.
- Instruction about screening of visa applicants who were “ever present in a territory at the time it was controlled by ISIS.”
- Directive to posts not to schedule more than 120 visa interviews per consular adjudicator/per day.

Executive Order – AAMC Advocacy

- Jan. 30 statement by AAMC President and CEO Darrell G. Kirch, MD
- AAMC Feb. 1 joint letter on behalf of nearly 70 national health organizations
- 164 scientific associations organized by AAAS
- 50 higher ed associations organized by ACE
- Direct outreach to White House, DHS, DOS, DOJ, HHS
- FAQs: www.aamc.org/members/
- Legal challenges and potential amicus brief

State Conrad 30 Reauthorization

- Current authorization expires April 28, 2017
- Seeking permanent or longer term reauthorization period
- Robust version introduced in prior Congress (S.1189)
 - Formula for increasing 30-waiver/state cap, when national thresholds are met
 - Proposed waivers dedicated to Academic Medical Centers (“AMC 3”)
 - Technical fixes, some of which helpful to GME; negotiated physician protection provisions

State Conrad 30 Reauthorization

- Negotiated language for inclusion in Omnibus
- New bill anticipated
- Better align visa terms with residency training and physician practice

Other Issues...

Deferred Action for Childhood Arrivals (DACA)

- Carve-outs from DHS Sec. Kelly's memos; Executive Order or "expiration"
- BRIDGE Act

International Medical Schools

- Sen. Durbin's Foreign Medical School Accountability Fairness Act
- ECFMG 2013 institutional accreditation requirement for certification
- Purchasing clerkships and VA access

Other Issues...

H-1B Reform Legislation

- Durbin-Grassley H-1B and L-1 Visa Reform Act of 2017 (S.180)
 - Prior Congress, Durbin-Grassley-Sessions (S. 2266)
 - Impact on AMCs – recruitment requirements; preference system within cap; do away with cap exemption for providers employed by third party petitioners
 - Issa (H.R. 170); Lofgren (H.R. 670)

“STEM” and Medicine

- Science Technology Engineering Math graduates favored; re-define as **STEMM** so as to include medical education and GME

Other Issues...

H-1B Cap Exemptions – proposals for inclusion in reform

- HHS-designated shortage areas
- Facilities/employers with qualifying payor mix
- Professions with documented national shortage

How can our institutions support those experiencing emotional distress related to immigration?

Immigration and citizenship issues may have profoundly personal impact and cause emotional distress

Encourage affected individuals to seek resources on campus that can offer psychological support:

- student mental health services should be made available with little to no wait time
- Employee Assistance Program (EAP) or appropriate service provider

Questions?

Please use the [Q&A panel](#) located on the right side of your screen to submit your questions and send to “All Panelists”.

Q&A

All (0)

Ask: All Panelists

Select a panelist in the Ask menu first and then type your question here. There is a 256-character limit.

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