

October 8, 2020

Docket Number: ICEB-2019-0006

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
Washington, DC 20528

As leading organizations in medical education and health care, we are greatly concerned about the rule change proposed by U.S. Immigration and Customs Enforcement (ICE) that would change the process to extend the period of authorized stay in the United States for certain categories of nonimmigrants by eliminating "duration of status." We urge you to exclude foreign national physicians in the Department of State's (DOS) Exchange Visitor Program in J-1 visa status from this rule change. This exclusion is necessary in order to avoid very serious negative and unintended consequences for the delivery of health care services to patients at teaching hospitals across the United States. This is especially critical at a time when our health care system is already under incredible strain due to the COVID-19 pandemic and facing an alarming long-term physician shortage.

The Issue

The proposal, "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," published in the Federal Register on September 25, would replace the long-standing "duration of status" policy with a specific end date for certain nonimmigrants. This change, if implemented for J-1 physicians, will significantly and negatively impact patient care at nearly 750 teaching hospitals across the United States provided by more than 12,000 foreign national physicians participating in the Exchange Visitor Program in J-1 visa status. The supervised patient care provided by trainees (residents and fellows) is essential to a teaching hospital's ability to provide accessible continuity of care. As a result, a change to the "duration of status" model has the potential to disrupt the delivery of health care across the country significantly. The patients most impacted will be those in underserved and rural areas and those living in critical access points in large cities. Additionally, other trainees in those programs would have their education and training negatively impacted as more of the clinical responsibilities would shift to them as a result of the loss of the J-1 trainees. To make matters worse, this would occur during one of the worst pandemics in our nation's history and in the face of projected long-term physician shortages¹.

The Current System Works Well

The Educational Commission for Foreign Medical Graduates (ECFMG®) is the sole DOS-designated sponsor for foreign national physicians participating in U.S. residencies and fellowships in J-1 visa status. The more than 12,000 physicians currently participating in ECFMG-sponsored training are located at nearly 750 U.S. teaching hospitals accredited by the Accreditation Council for Graduate Medical Education (ACGME). ECFMG-sponsored training can last from one to seven years, depending on the medical specialty and/or subspecialty being

¹ <https://www.aamc.org/news-insights/press-releases/new-findings-confirm-predictions-physician-shortage>, accessed September 21, 2020.

pursued. As J-1 physicians progress through training, **they are required to apply annually to ECFMG to renew their sponsorship.** The annual application process ensures proper monitoring and assures that each J-1 physician is compliant with visa requirements, progressing in training, and meeting required milestones.

Under the current duration of status model, a J-1 physician's authorized period of stay is extended upon issuance of a new Form DS-2019, generated by ECFMG through the government's Student and Exchange Visitor Information System (SEVIS), during ECFMG's annual review process. Through the required annual review process and SEVIS reporting, ECFMG assures both oversight and monitoring of all J-1 physicians in the United States.

Negative Impact of Proposed Change

If the administrative change is implemented, the J-1 physician's authorized period of stay would not be extended upon completion of the ECFMG annual review process. Instead, J-1 physicians would be required to apply each year for an extension by filing an Application to Extend/Change Nonimmigrant Status (Form I-539), either through a U.S. Citizenship and Immigration Services (USCIS) Service Center or through a consulate outside of the United States. Based on current USCIS processing times, **thousands of J-1 physicians would very likely be unable to continue their training programs on time.** Similarly, annual travel abroad to extend authorized period of stay during residency or fellowship would be problematic due to its likelihood to disrupt training and, in effect, patient care.

There are more than a dozen categories of the J-1 visa classification, of which the physician category is one. Currently, the published processing time² for an I-539 application across all categories of the J-1 visa at USCIS' five Service Centers ranges from five to 19 months. This would be in addition to the average review and processing time for ECFMG's annual review and extension of visa sponsorship, which is six weeks. As such, the combined processing time for a J-1 physician to apply to ECFMG for an extension of sponsorship and subsequently and separately apply for and obtain an extension of authorized period of stay based on current timelines is likely to be six months or more. Moreover, USCIS processing time would be expected to increase should the proposal to eliminate duration of status be implemented. With the majority of residency/fellowship contracts issued only three to five months in advance of the July 1 start of each new academic year, the proposed change would create an impossible timeline, and do so on a recurring, annual basis. Consequently, thousands of J-1 physicians would be unable to continue in their training programs on July 1 each year.

Since physicians in training provide a significant proportion of patient care at U.S. teaching hospitals, the resulting disruption to patient care would be devastating. In addition to the disruption of the training of the J-1 physicians, there would be considerable burden placed on the remaining trainees, negatively affecting their educational experience and sense of well-being.

The disruptions will be felt most acutely in states where high numbers of J-1 physicians train. Some of the states with the highest numbers of J-1 trainees are those hardest hit by COVID-19, including New York, Michigan, Florida, Massachusetts, and New Jersey.

² <https://egov.uscis.gov/processing-times/>, accessed September 21, 2020.

As our ability to respond to the COVID-19 pandemic has demonstrated, we must prioritize policies that maximize access to physician care and reject those policies that threaten such access. Access to health care is an essential component of our national security.

This Proposed Change is Unnecessary

J-1 physicians are already a carefully monitored cohort.

- **The ACGME provides a structured framework for all teaching hospitals** and requires that residents and fellows are provided with appropriate supervision. In addition, each teaching hospital that hosts J-1 physicians assigns at least one staff member to communicate directly with ECFMG and confirm ongoing participation.
- **As with all F, M, and J visa holders, J-1 physicians are already tracked in SEVIS.** Program participation dates and corresponding authorized periods of stay are easily visible at all times in SEVIS. Therefore, there is no ambiguity with respect to the last date of program participation and/or related authorized period of stay which the proposed change aims to address.

Imposing a date-specific end date for J-1 physicians will not yield better information about this carefully monitored cohort and will result in the considerable disruption of services at teaching hospitals where essential patient care is provided.

Conclusion

U.S. teaching hospitals attract physicians from around the world to their training programs. Many foreign national physicians who engage in U.S. medical residency and fellowship programs do so in J-1 visa status as participants in the Exchange Visitor Program, an important educational and cultural exchange program of DOS. The proposal to eliminate “duration of status” would negatively affect patient care and the medical education of both the visa holders and the remaining physician trainees, reduce the supply of physicians in the United States, and affect health care in countries to which J-1 physicians return to apply their knowledge and skills. If implemented including J-1 physicians, the change would have devastating short-term and long-term effects on U.S. and world health care.

We urge policymakers to consider these impacts carefully and recognize that the J-1 physician population in the United States is already carefully monitored through annual application to ECFMG, tracking in SEVIS, and through the oversight of teaching hospitals. As such, their whereabouts and dates of participation are already readily available. **The change to the “duration of status” model will add no value for the J-1 physician cohort. Instead, it will jeopardize the delivery of patient care in the United States. We exhort you to urge ICE to exclude medical trainees from such a proposal.**

If you have questions or need more information on J-1 visa sponsorship of foreign national physicians, please contact Tracy Wallowicz, Assistant Vice President, U.S. Graduate Medical Education Services, ECFMG|FAIMER, at 215-823-2120 or twallowicz@ecfm.org.

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