

Visas & Immigration

J-1 Visa: Exchange Visitor Program

- All J-1 Visa International Medical Graduates (IMG) are sponsored by the Educational Commission on Foreign Medical Graduates (ECFMG)
 - <http://www.ecfm.org/>
- The purpose of this visa is to, “*Enhance international exchange in the field of medicine and promote mutual understanding between the people of the United States and other countries through interchange of persons, knowledge and skills.*”¹
- Requirements:
 - Passed USMLE Step 1
 - Passed USMLE Step 2 CK (Clinical Knowledge)
 - Have a valid Standard ECFMG Certificate
 - Have an official letter of acceptance/offer to an accredited Graduate Medical Education (GME) program, which is affiliated with a medical school
 - Provide statement of need from the Ministry of Health from the country of last legal permanent residence
 - Yearly renewal of J-1 Status with ECFMG
- The J-1 Visa is the most common visa obtained for GME
 - The J-1 Visa allows an IMG to participate in a US Medical Residency Program
 - After training has been completed, there are two paths the IMG can take:
 1. Two-Year Home Country Physical Presence Requirement:

The J-1 Visa status requires the IMG to return to their home country for two years to provide that country with the knowledge gained from U.S. training and education. After the two year requirement has been fulfilled, the IMG is then eligible to apply for; (1) H type Visa: temporary worker; (2) L type Visa: intra-company transferee; or (3) permanent U.S. residence.
 2. J-1 Visa Waiver:

There are only three reasons that *typically* grant a J-1 Visa Waiver:

 1. An Interested Governmental Agency (IGA) sponsors the physician for employment in the U.S – changes to H-1B Visa status.
 - This is the most common method used by physicians to obtain a J-1 Visa Waiver
 2. Proven exceptional hardship to the physician’s family who are U.S. citizens or permanent residents
 3. The physician can prove that he/she will suffer from persecution in his/her home country – or country of last permanent residence

See the IGA handout for a detailed list of **Interested Government Agencies** that typically sponsor physicians

¹ ECFMG. (September, 2005). Exchange Visitor Sponsorship Program. Retrieved on March 13, 2006, from <http://www.ecfm.org/evsp/index.html>.

H-1B Visa: Temporary Worker

- The H-1B Visa does not have a two-year home country physical presence requirement, and allows the IMG to be employed for up to six years.
 - The first three years is considered the “initial admissions” period. After three years, the physician is assessed and there is a possibility for extending the visa for another three years (six years total). After six years, the physician must have achieved permanent resident status in order to stay in the U.S.
- Requirements:
 - Passed USMLE Steps 1,2 and 3
 - Completed a medical residency program in the U.S. (typically with a J-1 Visa)
 - Passed FLEX or equivalent
 - Passed an English language exam
 - Hold a state license to practice medicine
 - Prearranged job, temporary or permanent, prior to receiving the visa
- Obtaining an H-1B Visa involves three steps:
 1. Prevailing Wage Determination (PWD):
 - The employer should request a letter from the State Workforce Agency in the state of employment on the prevailing wage for that area. The prevailing wage is considered, “*the average wage paid to similarly employed workers in the requested occupation in the area of intended employment.*”²
 2. Labor Condition Application:
 - After receiving the PWD, the employer will submit a Labor Condition Application (LCA) to the Department of Labor. This application will state:
 - General information: employer name, address, federal tax ID number, phone number; number of H-1B physicians to be hired, their occupations classification (see DOL *Dictionary of Occupational Titles*), dates of employment, and salaries
 - The PWD
 - A statement of assurance that the physician’s working conditions will not adversely affect U.S. physicians with similar employment
 - A physician strike is not currently happening at the facility
 - A notice has been given to all employees (directly or indirectly – physician representative, postings, etc.) that confirms the filing of the LCA. This notice must have a condition that any employee complaints be directed to the Wage and Hour Division of the DOL.
 - The physician must receive a copy of the LCA
 - The DOL is required to take action on a LCA within seven business days
 3. H-1B Visa Petition:
 - An H-1B Petition to INS can only be submitted after the LCA has been approved by the DOL
 - In the petition, the employer must:
 - Prove that the employment offer and physician qualifications adhere to immigration law
 - Prove the ability to pay the prevailing wage
 - Provide documents that state the physician’s education, licenses, compliance with English language examinations, and appropriate medical examination requirements

² U.S. Department of Labor. (August, 2005). Foreign Labor Certification Prevailing Wages. Retrieved on March 13, 2006, from <http://www.ows.doleta.gov/foreign/wages.asp>.

Immigrant Visa: Permanent Resident

- The Immigrant Visa allows a foreign born citizen to lawfully remain in the U.S.
- Requirements:
 - Filing with the Department of Labor (DOL)
 - <http://www.ows.doleta.gov/foreign/>
 - Filing with the US Citizenship and Immigration Services (CIS)
 - <http://uscis.gov/graphics/formsfee/forms/index.htm>
 - The applicant *may* need to travel abroad to a US consulate, in order to have an immigrant visa issued.
- Typically, an IMG will only qualify for an Immigrant Visa through an existing employment arrangement. This can be done several different ways:
 - National Interest Waiver Classification:
 - Prove that the physician's continued residence and employment will benefit the U.S. This is most commonly done by working in a physician shortage area, or medically underserved area.
 - Employer Labor Certification:
 - Employer certifies that the physician's employment will not hinder the U.S. labor market, and that the IMG was the only qualified applicant for the position. The DOL is responsible for processing this Labor Certification application.
 - Once the physician has received Labor Certification by the DOL, the employer has to submit a Petition for an Immigrant Visa to CIS.
 - After the Petition has been approved, the physician can then complete an application for permanent residence with CIS or a U.S. consulate.
 - Aliens of Extraordinary Ability or Outstanding Professors or Researchers:
 - A physician would be able to apply for this, if they have proven extraordinarily high professional capabilities, working either in clinical practice or in academic medicine. This branding normally accelerates the application process as well.

Additional Resources

U.S. Department of Health & Human Services

Health Resources & Services Administration Bureau of Health Professionals:

<http://bhpr.hrsa.gov/>

Shortage Designation:

<http://bhpr.hrsa.gov/shortage/>

Health Professional Shortage Area:

<http://hpsafind.hrsa.gov/> - Database; search by state/county

Medically Underserved Areas/Medically Underserved Populations:

<http://bphc.hrsa.gov/databases/newmua/> - Database; search by state/county