

IMG TASKFORCE

INTERNATIONAL MEDICAL GRADUATE TASKFORCE

1028 Oakhaven Road
Memphis, TN 38119

VIA EMAIL

March 27, 2020

Mark Koumans
Acting Director
U.S. Citizenship and Immigration Services

RE: Proposed Actions to take considering Coronavirus pandemic

Dear Acting Director Koumans:

The International Medical Graduate (IMG) Taskforce comprises professionals in law who are dedicated to helping Americans in rural and other physician-shortage areas obtain the basic medical services they so desperately need and deserve. We work on behalf of universities, teaching hospitals, medical centers, and clinics of all sizes, and on behalf of physicians (“international medical graduates” or “IMGs”) in their immigration processing. Ultimately, we share a deep desire to ensure that Americans in underserved areas and underserved populations of the United States receive adequate health care services and IMGs play a critical role in addressing the country’s persistent and increasingly dire physician shortage.

The International Medical Graduate Taskforce Liaison Committee is extremely concerned about the ability of healthcare institutions to provide adequate levels of care considering the current Coronavirus pandemic. Even before the current pandemic, a number of healthcare facilities were reporting on staffing problems; and, the current outbreak of Coronavirus is only exacerbating the situation, as increasing numbers of Americans are infected, and as healthcare providers themselves begin to get sick. There have already been reports of healthcare workers nationwide being infected by the virus. International healthcare workers, including International Medical Graduates, stand ready to assist during these difficult times, but many of them are unable to provide their much-needed services due to unduly narrow and burdensome requirements placed on them by their visa status and/or limitations on their access to immigration benefits imposed by the Coronavirus situation.

IMGT believes that current law is flexible enough to allow for the expansion of the services that these international healthcare workers can provide in these difficult times. In that regard, we have the following suggestions:

1. Expedited Processing of Applications for Health Care Workers

On March 20, 2020, USCIS announced an immediate suspension of premium processing for all Form I-129 and Form I-140 petitions due to the Coronavirus outbreak. Healthcare facilities rely on the premium processing service to be able to assign workers in areas of critical need without delay. With the suspension of premium processing for nonimmigrant and immigrant visa petitions, it is urgent that USCIS process all petitions for healthcare workers on an expedited basis - either by exempting healthcare workers from the premium processing suspension or by auto-expediting all petitions filed on behalf of healthcare workers, including but not limited to physicians, nurses, therapists, healthcare technologists and technicians, and other healthcare support personnel, until premium processing is restored.

2. Expedited EADs for Health Care Workers

The current USCIS expedite criteria allow for expedites on a case-by-case basis in situations where there is a compelling U.S. government interest, such as urgent cases for the Department of Defense or DHS, or other public safety or national security interests. Given the March 13, 2020 Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, all EADs for healthcare workers should be expedited.

3. Automatic Extensions of EADs for J-2, E-2, L-2, and H-4 spouses

There are large numbers of individuals working in health care who have employment authorization based on their marriage to individuals in other employment-authorized status. These individuals are not currently eligible for an automatic extension of their EADs for 180 days while their application for an extension is pending. Because of systematic slowdowns in processing EAD applications, such individuals are often unable to work for extended periods of time, meaning critical health care services are not being provided.

4. Suspend restrictions on worksites imposed by guidance memo issued in July, 2015 after Simeio Solutions decision

On July 15, 2015, USCIS issued a policy memorandum titled "USCIS Final Guidance on When to File an Amended or New H-1B Petition After Matter of Simeio Solutions, LLC". This guidance makes it extremely difficult for healthcare workers to move quickly to locations where their services are critically needed. Relaxing these restrictions will allow healthcare providers to be more nimble and to move workers where they are needed when they are needed.

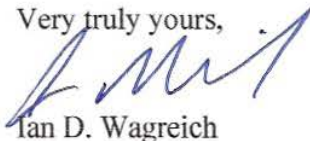
5. Accept H-1B petitions without a medical license in the state of intended employment

The Vice President has already announced a new HHS rule that would permit physicians licensed in one state to respond to the pandemic in another state even if they are not yet licensed there. Similarly, USCIS should permit physicians who are licensed in one state to file H-1B petitions for employment in another state even if they have not yet been able to obtain a license from that state. This could be done by permitting USCIS to exercise its discretion to excuse the submission of what would ordinarily be "required initial evidence" and permit the filing an H-1B petition on behalf of beneficiaries who are licensed anywhere in the U.S. even if not in the state of intended employment, and simply issue a Request for Evidence for the required state license later, or approve the petition for a 1 year term, similar to what USCIS does now for physicians who are being sponsored to work in states that will not approve a medical license until after the H-1B petition has been approved.

In the past USCIS has assigned a dedicated individual to address health care issues such as the ones raised above. We would encourage USCIS to return to that practice and again assign a dedicated individual to that role. This will help ease communication and provide for the efficient resolution of issues related to the provision of critical health care in this country. Additionally, to ensure efficiency and consistency, we would suggest that the same individual be assigned as the point person for expedite requests for petitions related to medical professionals. We hope to be able to work together with such an individual within the agency to ensure readiness when the next crisis hits.

In addition to the above, we have attached a list of additional ways that USCIS can act to improve the ability of healthcare providers to provide necessary care during the current crisis. Thank you for considering our request, and please let us know if we can provide any further assistance in your consideration.

Very truly yours,



Ian D. Wagreich

Chair, International Medical Graduate Taskforce Liaison Committee

cc: Michael Dougherty, USCIS Ombudsman
Senator Amy Kloubuchar

Appendix A

1. Confirmation that telecommuting (including providing telemedicine), does not trigger a new posting requirement for H-1Bs
2. Automatic extensions for late filers if a city is on lockdown or has asked businesses to close
3. Grant EAD for H-4 spouses, where the spouse's work—in medicine, computers, logistics, research—is related to solving the pandemic
4. Waive filing fees, including premium processing fees for hospital where residents/fellows want to work for a hospital entity other than their petitioning employer, to assist in the treatment of the pandemic
5. Suspend all deadlines, including extensions of stay, for health care workers
6. Waiving interviews in I-140 cases for health care workers
7. Allow H-1B change of status from J-1 in hardship waiver cases
8. Lift location, and job description limitations on healthcare workers temporarily
9. Allow change of status to O/E/F etc for those subject to 212e
10. TPS for individuals stuck in the US due to the pandemic with expedited EADs for health professionals
11. Allow H-1B without USMLE 3 or provide for remote testing
12. Designate any COVID19 related transfer during a physician's 3 years of J-1 service to be per se extenuating circumstances
13. Expedite changes of status to J-1 inside the US for medical residents/fellows & waive need for biometrics



**U.S. Citizenship
and Immigration
Services**

June 24, 2020

Ian D. Wagreich
Chairman, Liaison Committee
International Medical Graduate Taskforce
1028 Oakhaven Road
Memphis, Tennessee 38119

Dear Mr. Wagreich:

Thank you for your March 27, 2020 letter. In the letter, you provide several suggestions regarding the expansion of immigration services during the coronavirus pandemic.

The Department of Homeland Security (DHS) has no greater responsibility than ensuring the safety and security of our country. Responding to the pandemic requires everyone to work within rapidly changing, complex circumstances that create a variety of situations and conditions unique to individuals and communities.

We understand that there are immigration-related challenges that individuals, employers, and others face as a direct result of the national emergency. We carefully analyze these issues and leverage our resources to effectively address these challenges within our existing authorities. DHS continues to act to protect the American people and our communities and is considering a number of policies and procedures to improve the employment opportunities of U.S. workers during this pandemic.

It is important for us to emphasize that U.S. Citizenship and Immigration Services (USCIS) continues to accept and process petitions and applications for immigration benefits, including petitions for healthcare workers. As of June 22, 2020, we have resumed premium processing for all eligible Form I-140 and I-129 petitions. In addition, we continue to consider requests for expedited processing and special circumstances of individual petitions on a case-by-case basis.

In response to the coronavirus (COVID-19) pandemic, USCIS has announced new flexibilities for physicians in H-1B nonimmigrant status working in medically underserved areas for an agency of the federal government (Interested Government Agency, or IGA) or through the sponsorship of a state agency (Conrad State 30 program). During the public health emergency, DHS will eliminate certain immigration consequences for former J-1 exchange visitors participating in the Conrad 30 or IGA waiver programs, and currently in H-1B classification, if they engage in telehealth services or are unable to work full-time due to quarantine, illness, travel restrictions, or other consequences of the pandemic. USCIS will not consider these physicians to have violated their contracts with their employers if they are temporarily unable to

work full-time due to illness, reduced hours at healthcare facilities, or other impacts related to the COVID-19 pandemic.¹

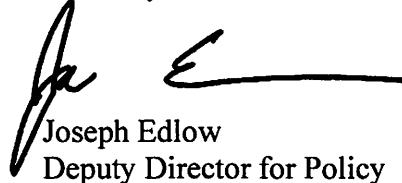
Under current law, an H-1B healthcare worker generally can immediately begin to work at a new place of employment (including in an area of critical need) after a petitioner properly files an amended or new H-1B petition. In many instances, a petitioner does not have to wait for a final decision on the amended or new petition for the H-1B employee to start work at the new place of employment.

We recognize there is an urgent need for certain workers in the United States and we have taken steps to offer additional flexibilities during the COVID-19 pandemic. In addition, we announced options that are available to nonimmigrants to extend their stay or change their status, and we have extended deadlines for responding to certain notices and decisions. Our website and outreach efforts provide guidance, resources, and information to the public on the actions and policies we are implementing through these uncertain times. For further information on our policy updates, please see www.uscis.gov/coronavirus.

As we begin moving toward reopening the country, DHS remains steadfast in our commitment to protect the safety of the American people. We continue to closely monitor the evolving COVID-19 situation in order to protect our nation, our workforce and communities, and to minimize the impact of COVID-19 on American citizens and workers.

Thank you again for your letter and interest in these important issues. We will consider the recommendations you have put forward.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Edlow', followed by a horizontal line.

Joseph Edlow
Deputy Director for Policy

¹ USCIS Policy Memorandum, PM-602-0178, *Temporary Policy Changes for Certain Foreign Medical Graduates During the COVID-19 National Emergency* (May 11, 2020).