

The following document was prepared for Merritt Hawkins & Associates by Carl Shusterman, one of the leading immigration attorneys in the United States and an expert in physician-related immigration law. Reprint by permission only.

PHYSICIAN IMMIGRATION FAQ

A Primer for Physician Recruiters

By Carl Shusterman

We now live in a global economy in which it is common for professionals to take their skills from one country to another. Medicine was one of the first fields to “go global,” and today approximately one in four physicians practicing in the U.S. obtained their medical education overseas.

International medical graduates (IMGs) practice in virtually all specialties and now comprise approximately one-fourth of all physicians in active patient care in the United States. According to the AMA Masterfile, 33 percent of all general internal medicine practitioners are IMGs, as are 30 percent of cardiologists, 32 percent of anesthesiologists and 32 percent of psychiatrists.

Many IMGs and their employers have to contend with U.S. immigration laws before they can practice in the U.S. The following FAQ introduces some basic immigration concepts as they apply to physicians and may be useful to IMGs and physician recruiters.

What is an IMG?

From an immigration perspective, an IMG is a foreign national physician trained in any country other than the United States or Canada. This excludes U.S. citizens who trained in non-U.S. or non-Canadian medical schools, though they also can be referred to as IMGs. Canadian nationals who are Canadian trained also are not considered IMGs. They constitute a separate category briefly referenced in this article.

What do IMGs need to practice medicine in the U.S.?

They need a degree from a foreign medical school and an ECFMG Certificate, which shows equivalence to knowledge gained in a U.S. or Canadian medical school. To get an ECFMG certificate, IMGs must pass the U.S. Medical Licensing Examination (USMLE) Parts 1 and 2, as well as the ECFMG-administered English language exam. They also must complete a U.S.-based residency program.

Canadian-trained physicians, by contrast, can be licensed in most U.S. states based on their provincial licenses, Canadian exam (LMCC) and training.

What type of visa do IMGs need to get into a U.S. residency?

Most IMGs get into U.S. residencies by obtaining either “J-1 exchange visitor” status or “H-1B temporary worker” status, known (not quite accurately) as J-1 visas and H-1B visas. IMGs need to pass all three parts of the USMLE to enter U.S. residencies on an H-1B visa, while they only need Parts 1 and 2 to enter on a J-1 visa. However, IMGs on J-1 visas are obligated to return to their home countries for two years after completing their training before they can perform patient care duties in the U.S. By contrast, IMGs

on H-1B visas **are not subject to a** two-year requirement. J-1 visa holders also can avoid the two-year requirement by obtaining a “J waiver.”

How can IMGs obtain a J waiver?

In order to obtain a J waiver, an “interested government agency” (IGA) must agree to sponsor the IMG to work in a federally designated Health Professional Shortage Area (HPSA) or a Medically Underserved Area (MUA). There are thousands of these areas throughout the United States. You can determine if your practice or hospital is in one of these areas by visiting the following page on my Web site: <http://shusterman.com/toc-phys.html>.

In addition to IGA waivers, a limited number of waivers are granted to physicians whose spouse and children, if they are U.S. citizens or permanent residents, would suffer “exceptional hardship” if they had to return to the physician’s home country. Moreover, a few physicians are granted waivers on the basis of persecution they might encounter if they had to return home.

Who sponsors J waivers?

Federal sponsoring agencies include the Department of Health and Human Services (HHS), the Veterans Administration (VA), the Appalachian Regional Commission (ARC) and the Delta Regional Authority (DRA). These agencies sponsor mostly primary care physicians for waivers (including internists), except for the VA, which also sponsors specialists.

In addition, the “Conrad 30” program allows employers in each state 30 J waivers per year. All states participate in this program. Almost all states sponsor both primary care and specialist physicians for J waivers.

What happens once the J-1 physician gets a waiver?

They convert from a J-1 visa to an H-1B visa and then work for the employer for a minimum of three years. Physicians who obtain waivers based on hardship or persecution waivers are exempt from this requirement.

What are the advantages of an H-1B visa?

As mentioned above, IMGs who enter U.S. residencies on H-1B visas do not have to return to their home countries for two years. An H-1B visa must be sponsored by an employer in the U.S. The residency program acts as the IMG’s first employer in the U.S. When IMGs complete their training, they can be sponsored by another employer, such as a medical group or hospital. The medical group need not be in a shortage area, another advantage of the H-1B. While working on an H-1B, IMGs can begin the process of obtaining a green card, which allows them to stay in the U.S. permanently.

What does it take to get a green card?

There are several approaches to obtaining a green card and sometimes the process can be complicated.

However, a standard approach is to go through “Labor Certification.” This is a process by which the employer shows that it has tried to hire a U.S. physician for the position without success. The employer must meet a number of requirements including advertising the job in a major national publication such as JAMA or a major specialty

publication, then review all the CVs that come in to make sure no qualified U.S. physicians are available.

Another method is through the “national interest waiver.” In this method, the employer demonstrates that it has been historically difficult to recruit a physician to the area and that a physician is greatly needed by the service population. The client must be located in a PSA, HPSA, MUA or an MUP. IMGs must practice in undeserved areas for five years to obtain a green card through this method.

There are several other methods for obtaining a green card. The IMG might have a U.S. spouse, or he or she may be a medical “superstar” and qualify for a permanent residence as a person of “extraordinary ability.” Physicians also may obtain green cards by investing \$500,000 in a “regional center” or by winning the annual “visa lottery.”

How long does it take to get a green card?

Depending on the method chosen, obtaining permanent residence can take as little as a few months or more than five years. Physicians born in India or mainland China may face longer waiting times than physicians born elsewhere.

What about Canadian physicians?

Canadian physicians have a comparatively easy path to immigration, provided they have passed a U.S. qualifying exam (USMLE, FLEX, NBME). With a U.S. exam, Canadian physicians may obtain H-1B status in a matter of weeks through an offer of employment. This is contingent upon their obtaining a medical license in the state where they will be practicing. Canadian physicians are licensable in more than 45 U.S. states, however, so this is generally not a problem. If a Canadian physician does not have a U.S. exam, he or she still can obtain a green card through an offer of employment in the U.S. (provided the group or other employer is located in a state that reciprocates Canadian licensure). This process may take up to two years.

Is there a cap on H-1B visas?

Yes. Be aware that H-1B status is subject to strict annual quotas. However, certain employers (e.g., universities or tax-exempt non-profit organizations affiliated or related to universities) are exempt from these numerical caps.

Conclusion

It is important to remember that each physician may have unique circumstances affecting their ability to work and live in the United States. Explore the situation thoroughly with a competent legal professional to ensure the immigration process is timely and efficient.

Carl Shusterman is a Los Angeles-based immigration attorney specializing in obtaining temporary and permanent visas for physicians and other healthcare professionals in all 50 states. He served as Trial Attorney with the U.S. Immigration and Naturalization Service (1976-82) before entering private practice. He can be reached at carl@shusterman.com or at (213) 623-4592.