

Immigrant Status for PGY2 Residents: A Primer on Immigration



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Introduction



Immigrant Status for PGY2 Residents: A Primer on Immigration was produced as part of ACP IMpower. ACP IMpower offers non-clinical tools and resources expertly crafted to support residents during their training and catalyze their professional future. Crafted by ACP leaders, experienced internists, healthcare experts, and prominent podcasters, IMpower covers a wide variety of topics valuable to residents at every stage of their training, and beyond.

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Immigrant Status for PGY2 Residents



J-1 physicians who wish to remain in the United States long-term need to direct their attention to their immigration needs during PGY2.

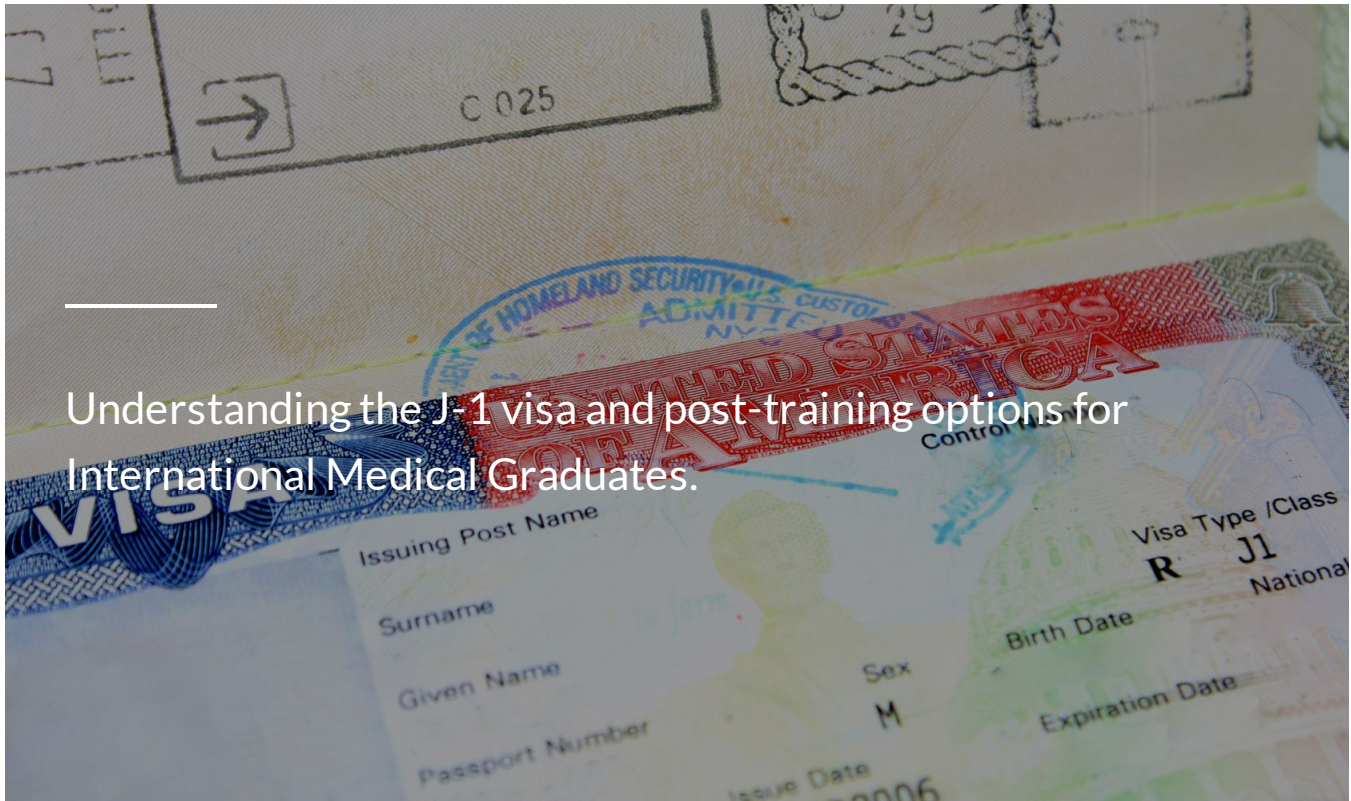
The PGY2 of internal medicine residency is a critical year in the development of a physician's ability to expand his/her clinical skills, to enhance autonomy, and to develop the overall professional skill set required to become a practicing physician. It oftentimes also serves as the watershed year for making a fundamental decision about either pursuing Fellowship training or making a commitment to primary care medicine.

But in addition to developing a professional skill set, J-1 physicians need to actively direct their attention during PGY2 to their ultimate immigration needs, assuming that they desire to remain on a long-term basis in the United States. Quite simply, it is during PGY2 that a J-1

physician needs to undertake appropriate actions in order to attain a J-1 waiver followed by a change into H-1B status with the ultimate aim of attaining permanent resident status.

This primer is intended to provide PGY2 Residents with essentially a road map on the timeline, issues, and actions that need to be undertaken in order to attain long-term immigration status in the United States. Whereas U.S. physicians have substantially greater latitudes in considering job possibilities, as well as greater time flexibilities in making decisions on their professional careers, J-1 physicians are essentially forced into making critical decisions during PGY2 in order to solidify their ability to gain immigration status in the United States following the completion of their residency program.

Background on the J-1 Exchange Visitor Visa Program



Understanding the J-1 visa and post-training options for International Medical Graduates.

Owing to legislation enacted in 1978, International Medical Graduates (IMGs) predominantly enter the United States under J-1 visas in order to do their Graduate Medical Education (GME). Fulfillment of a program of GME is indispensable not only to prepare a physician for medical practice in the United States, but as a requirement to qualify for a state medical license. The only U.S.-accredited GME programs are located in the United States and Canada. IMG's graduating from other medical school programs need to go through the credentialing process administered by the [Educational Commission of Foreign Medical Graduates](#) (ECFMG) and to then complete GME programs in order to gain the indispensable credential of a state medical license (as well as enrollment in payer plans).

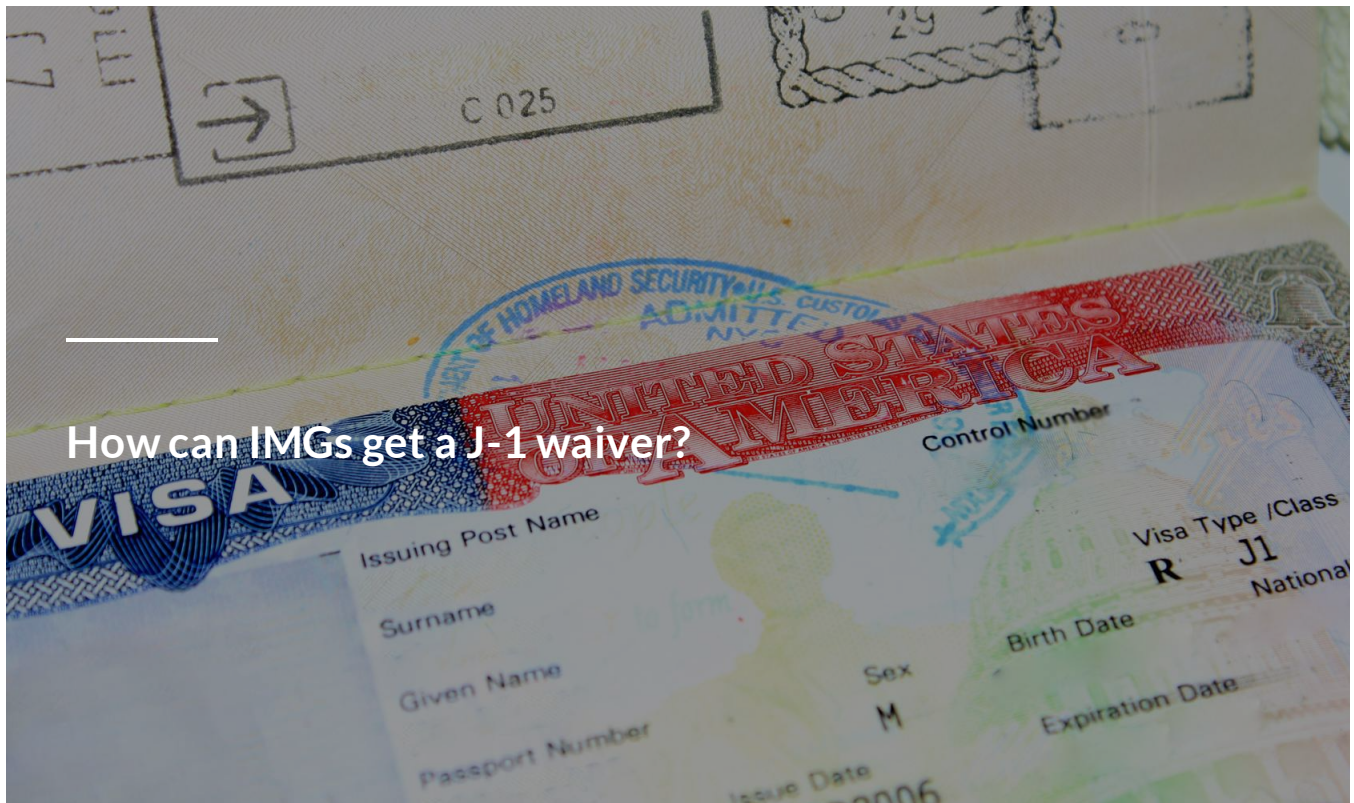
At the time that the aforementioned legislation was passed, there was significant concern that IMGs would create a “brain drain” in their home countries by remaining *en masse* in the United States. In order to prevent this exodus of physicians from their home countries, Congress passed legislation that required ALL IMG’s, regardless of their nationality, to return to his/her home country for a two-year period of physical presence. As long as a J-1 physician remains subject to the two-year home residence obligation, he/she is ineligible for an H-1B visa and/or permanent residence.

IN SHORT, ALL J-1 PHYSICIANS RECEIVING CLINICAL TRAINING
FALL SUBJECT TO THE TWO-YEAR HOME RESIDENCE
OBLIGATION – NO EXCEPTIONS.

Therefore, any J-1 physician pursuing a clinical training program in the United States has the following options upon completing a program of GME:

- 1 Return for two years to his/her home country.
- 2 Obtain a waiver from the two-year home residence obligation.
- 3 Qualify for a non-immigrant visa other than H-1B (or L-1) – generally, an O-1 visa as an “alien of extraordinary ability” or an F-1 student (generally in order to pursue a PhD program).

Options for Getting a J-1 Waiver



Three Bases for Waiver

Under U.S. law, there are only three bases under which a J-1 physician can get a waiver of the two-year home residence obligation:

- 1 Persecution
- 2 Exceptional Hardship

Persecution

Here, the J-1 physician needs to show that he/she likely faces persecution back in the home country on account of race, religion, or political opinion.

Exceptional Hardship

The requirements for this type of waiver involve showing that the J-1 physician has an anchor relative—that is, a U.S. citizen or permanent resident spouse or child—and that the anchor relative will suffer from “exceptional hardship” if the J-1 physician is compelled to return to the home country. Mere separation for two years is simply not grounds for approval of this type of waiver application. Rather, the anchor relative has to experience exceptional hardship either if he/she accompanies the J-1 physician back to the home country for two years or remains apart for this period of time.

Interested Government Agency

Here, an employer NEEDS to convince either a federal governmental agency or a state department of health that the recruitment of a J-1 physician will serve the “public interest” in a manner of direct interest to the sponsoring governmental agency. In a sense, the underlying purpose of this type of application is to request a governmental agency to override the need of the J-1 physician to return to the home country for two years in order to advance key interests held by the sponsoring agency, which generally is an expansion of the safety net for medically at-risk Americans.

Statistically, the vast preponderance of J-1 physicians pursues waivers based on waiver applications filed to Interested Governmental Agencies. There are four basic paradigms of Interested Government Agency waivers:

In select instances, a U.S. government agency might hire an IMG leading it to essentially sponsor a J-1 physician for a waiver as a matter of its own personal interest. The most prevalent example of a J-1 physician's direct employment by a federal agency occurs within the Department of Veterans Affairs through employment at VA hospitals, but there are certainly instances in which J-1 physicians receive offers of employment from military branches.

Physician-Scientists

The Department of Health and Human Services, which is the parent organization to the NIH, maintains a J-1 waiver program specifically for physician-scientists who are doing cutting edge, highly advanced research studies of national importance.

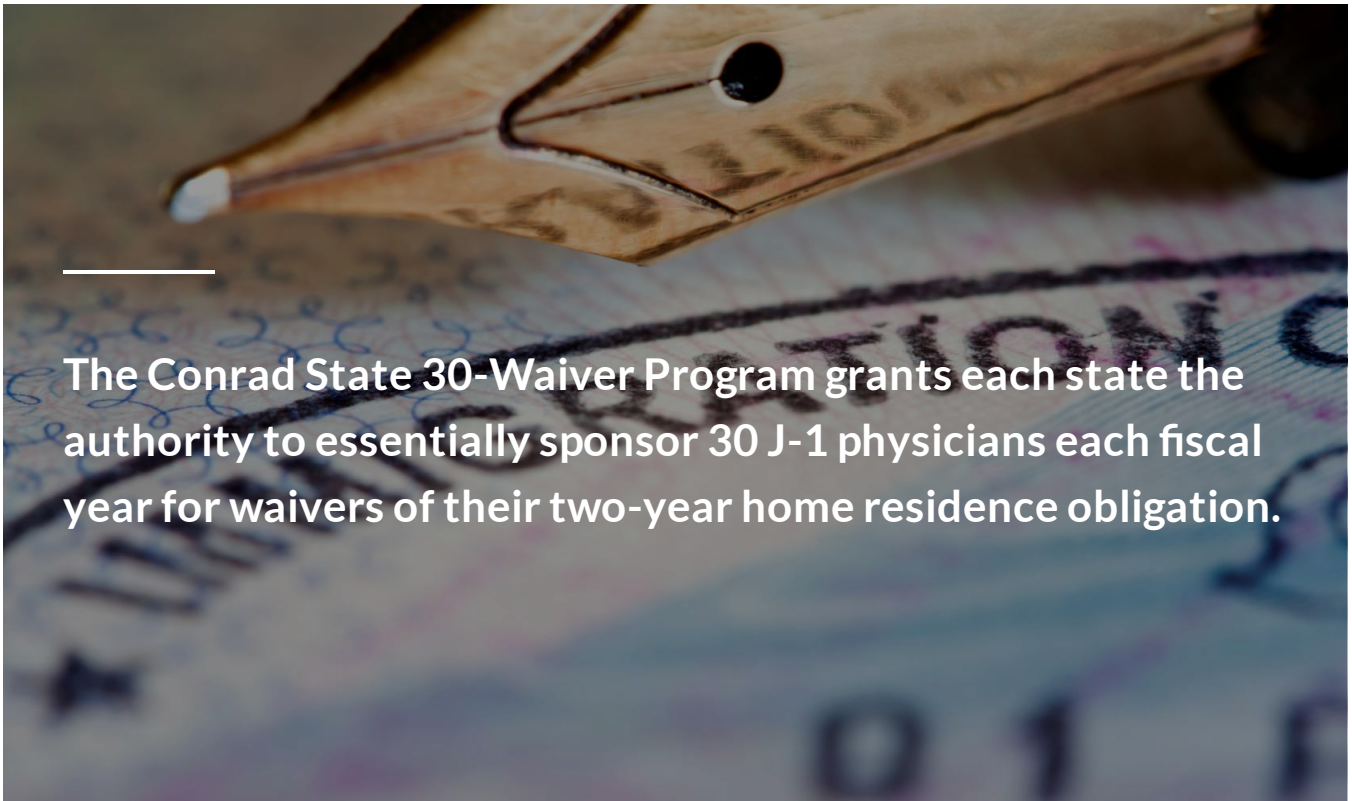
Clinical Physicians Qualifying for Waivers Through Federal Agencies

The Department of Health and Human Services maintains a national waiver program, which is largely restricted solely to primary care physicians working within certain federally supported medical facilities, such as Federally Qualified Health Centers (FQHCs). In addition, there are a number of regional federal agencies—specifically, the Appalachian Regional Commission and the Delta Regional Authority—that sponsor J-1 waivers for physicians specifically working within their own jurisdictions in the belief that the recruitment of physicians is a necessary component to the economic revitalization of geographic areas within their jurisdiction. There are no numerical limits on the number of J-1 waivers that can be recommended by federal agencies.

Conrad State 30-Waiver Program

This is by far the most widely utilized waiver program relevant to J-1 physicians, and therefore this specific program is discussed in a bit greater detail in the following section.

Conrad State 30-Waiver Program



The Conrad State 30-Waiver Program grants each state the authority to essentially sponsor 30 J-1 physicians each fiscal year for waivers of their two-year home residence obligation.

Conrad State 30-Waiver Program Overview

Employers file applications to the state department of health in order to establish that the recruitment of a J-1 physician will expand the safety net for medically at-risk residents of the state. Each state receives its full allotment of 30 waivers on October 1 of each year, which marks the first date of the federal fiscal year.

The Conrad State 30 Waiver program is, in a sense, a federal-state partnership in which the Congress empowered the states to sponsor waivers to IMG's and outlined certain skeletal

provisions to this waiver program and then the states supplement the federal guidelines in a manner deemed to be of maximum benefit to the state.

Under the enabling federal legislation, each state is granted 30 waiver numbers for the entire fiscal year. Of this quantity, ten slots can be utilized for physicians who will not be working in designated medically-underserved areas, but who nevertheless will be making a beneficial impact on the healthcare needs of medically vulnerable populations. The remaining waiver numbers can only be utilized for placements in designated medically-underserved areas—that is, health professional shortage areas (HPSA) or medically-underserved areas/populations (MUA/P).

In addition, the federal legislation requires the physician receiving a waiver to then work for a three-year period of time specifically in H-1B status. It is only upon the fulfillment of the three-year period of H-1B employment that the physician gains eligibility for permanent resident status. In a sense, this three-year H-1B service obligation is a limited retention program that is intended to ensure that an IMG does not get a waiver and then fail to contribute to the healthcare coverage needs of the community.

While the federal legislation creates certain core requirements in order to get a waiver, each state has the right to define additional requirements that will serve the state's objectives of expanding the safety net for vulnerable populations. Among the variations among the states are the following:

- Waiver eligibility limited to primary care physicians or can medical specialists also qualify for waivers?
- Are there any special advantages granted to primary care physicians for J-1 waiver consideration (and many states have stipulated policies giving preference to primary care practitioners)?
- How does a state define primary care medicine and, more specifically, will Hospitalism and Geriatric Medicine qualify for primary care consideration?
- Are there defined application periods?

- Will the state allow non-compete clauses or are they allowed or specifically prohibited?
- Does the state maintain a J-1 application filing fee?
- Does the state main reporting requirements to ensure that the parties are meeting their waiver obligations?
- Will the state allow the employer to impose liquidated damages if the IMG prematurely departs his/her employment?

All of these variables need to be considered by a J-1 physician in determining the likelihood of getting a waiver in a given state jurisdiction.

But perhaps the most important single consideration for a J-1 physician in making an employment decision is the anticipated pattern in which the state's J-1 waiver numbers are drawn down. Various states essentially fill their programs quite early in the waiver cycle and in those instances, it is absolutely imperative for the J-1 physician to line up a position so that the employer can file its J-1 waiver application promptly in October when the J-1 waiver cycle begins. Other states use their waiver numbers much more slowly and in such instances, the J-1 physician has increased flexibility in making a final employment decision and then starting the J-1 waiver process at a latter point in the waiver cycle

CONTINUE

Steps to the Waiver Process

Waiver Process

Essentially, there are four steps to the waiver process, consisting of the following:

Step 1

Step 1

Registering for a J-1 waiver number through the U.S. Department of State. Here, the J-1 physician needs to file Form 3035 in order to get a waiver registration number.

Step 2

Step 2

Filing the waiver application to the state department of health. Here, the employer needs to thoroughly document the benefits arising from the IMG's recruitment and how the IMG's services will benefit medically-vulnerable populations within the state. The waiver application needs to fulfill all applicable state waiver guidelines.

Step 3

Step 3

A state department of health does not issue the final waiver approval. Rather, it recommends a waiver to the U.S. Department of State for review and affirmation. In general, the Department of State readily endorses waiver recommendations issued by the state departments of health, but there are instances, generally tied to contractual deficiencies, in which the Department of State finds fault with a waiver application.

Step 4

Step 4

The final step in the waiver process is for the immigration authorities—U.S. Citizenship and Immigration Services (USCIS)—to issue a final approval of the waiver application through the issuance of the I-612 waiver approval notice. It is only at this point in time that the J-1 waiver actually becomes finalized.

Timeline for Action

One of the major challenges faced by J-1 physicians is concluding a job search in a timely manner that will enable the physician to obtain a J-1 waiver.

Normally, an employer will make its hiring decisions starting in early winter for positions that will start in the coming July. But for J-1 physicians, this timing issue can be extremely problematic given that each state only has 30 waiver numbers and it is imperative for the employer to file a J-1 waiver application prior to the depletion of the state's J-1 waiver number allotment. As noted above, certain states exhaust their J-1 waiver numbers quite quickly while other states parcel out their J-1 waiver numbers in a much more elongated manner.

The key issue is to move forward as quickly as possible with a J-1 waiver case given the imperative of filing the J-1 waiver application prior to the depletion of the state's J-1 waiver numbers. In many instances, this requires the J-1 physician to convince an employer to move up its decision-making process in order to accommodate the need of making the timely filing of the J-1 waiver application.

While the ultimate timeline of a physician's job search and waiver application will vary in large measure owing to the state's utilization of its waiver numbers, here is the optimal sequence of actions that should take place during PGY-2 in order to maximize a successful outcome of a J-1 waiver case:

March–July

The J-1 physician conducts a thorough job search leading to an offer of employment.

July–August

The J-1 physician and his/her employer hammer out the contract and the overall terms of employment.

July–September

The J-1 physician and employer in combination with an immigration attorney develop the J-1 waiver application in a manner fulfilling the state and federal guidelines.

October

Waiver application is filed.

Making an Informed Choice of a J-1 Waiver Job



How Can an IMG Make a Good, Informed Choice of a J-1 Waiver Job?

Job Search Objectives

An IMG should have two objectives going into the job search process:

- 1 To get a good job that will provide stimulation, professional challenge, and personal satisfaction.
- 2 To maximize to the extent possible that the waiver will be approved.

Previous sections have discussed the need to move up the timeline of getting an offer of employment, particularly in states that are recurrently fill their waiver programs at the beginning of the waiver cycle that starts each October. But what appears in this section are some suggested criteria that can be used to assess the likelihood of immigration success and professional fulfillment.

Assessing the Practice Opportunity

Here are some preliminary points that an IMG should investigate when considering possible J-1 waiver jobs:

- While an employer’s experience in J-1 waiver matters is desirable, perhaps more importantly is securing a commitment from the employer to file a J-1 waiver application.
- To what degree will the employer support the IMG’s waiver needs and, in particular, work cooperatively with immigration counsel on providing information and documentation.
- Given that the states maintain certain stipulated requirements for J-1 waiver purposes, to what degree is the employer willing to include certain mandatory provisions in its Employment Agreement (such as a non-complete clause, a three-year agreement, etc.).
- Is the employer a safety-net provider, characterized by its willingness to provide services to public assistance patients and charity care patients? Does it serve significant populations of minorities and those traditionally facing barriers in accessing healthcare services?
- If the practice site located in a medically underserved area—that is, a HPSA or an MUA/P. If not, what is the state’s receptivity to FLEX waivers—that is, waivers filed for placements in non-medically underserved areas.
- Does the IMG have the right to choose the immigration attorney or is this a decision solely residing with the employer. If the latter, will the immigration attorney communicate openly and ethically with both parties—the employer and the IMG or is the representation reserved solely for the employer.

State-Geographic Considerations

- As repeatedly noted throughout this module, a major predictive issue for waiver purposes is to understand the following:
 - What has been the general pattern of waiver number utilization in the state
 - Historically, when have the waiver numbers generally been exhausted
 - At the time of anticipated submission of the waiver, get a “real-time” count of the waiver number situation.
- Is the placement site in a rural or urban setting and does the state grant preference to non-urban placements.
- Does the state process waivers on a first-in/first-out (FIFO) basis or based on community needs. If the latter, this highlights the need to assess the employer’s commitment as a safety-net provider and may increase the value of a high HPSA/MUA score.
- To what degree does the state give preference to primary care practitioners and how does the state define (or limit) its recognition of primary care.
- Does the state have any unusual or concerning issues in its waiver program (and this generally requires legal consultation).
- Does that placement qualify for J-1 waiver coverage under any of the other federal agencies maintaining waiver programs. The importance and relevance here is that federal agencies are not limited in the number of J-1 waivers it can issue whereas the state programs are limited to 30 waivers.

Personal Considerations

Each IMG undoubtedly has his/her own personal criteria guiding the job search/waiver attainment process. But here are some factors that on a personal basis should be considered:

- Will dependent family members—in particular, the spouse—be happy in the community. Unfortunately, our immigration laws do not provide dependents with employment authorization, so it is important to assess spousal satisfaction and to ascertain whether the employer will be empathetic to spousal needs.
- Is the IMG and his/her family receptive to working in remote areas or is there a major, unshakeable need for an urban placement.
- What importance is there to the presence in the community of other members of the IMG’s ethnic community, as well as the availability of cultural events and food connected

to the home country.

- To what degree will the community provide a welcoming, sustaining environment for the family. Related to this is the value of the community on diversity and the availability in the community of quality education for the children of the IMG.

Choosing an Immigration Attorney



There are a range of considerations on the selection of an immigration attorney.

Things to Consider

As a general observation, an IMG should consult with an immigration attorney as he/she begins the job search process—that is, starting roughly in March of the PGY-2 year. In this opening phase of the attorney-client relationship, the key objectives are:

- 1 To form a strong, open professional relationship.

2

To enable the attorney to provide general guidance on states and practice characteristics suitable for the IMG's immigration/waiver objectives.

3

To assess specific, individual placements under consideration by the IMG.

4

To discuss the J-1 waiver and, more generally, the IMG's overall immigration needs with prospective employers and to communicate a commitment for the process to move forward in an efficient manner that will not unduly burden the employer with immigration-related tasks.

Expectations of Immigration Legal Counsel

The IMG needs to understand that the submission of the waiver and, as noted below, the H-1B petition is performed by the employer, which may have its own relationship with an immigration attorney. In most instances, it is the employer rather than the foreign national who selects the attorney to handle the IMG's case. But in many cases, the final selection of an immigration attorney is made by the IMG and in any case, it is quite desirable for the IMG from the very beginning to get formal, structured counsel to maximize the chances that the job search will result in a successful waiver outcome.

When all is said and done here the expectations that an IMG as well as his/her employer should have from immigration legal counsel:

- A commitment to handling the immigration case in an efficient, professional manner.
- A commitment to minimizing the stress and psychological dislocation that arises from the nerve-racking immigration process (particularly in this day and age), meaning that the immigration attorney should be accessible, communicative, and invested in the IMG's total welfare.
- That the case be handled in a manner that complies with the employer's and IMG's legal responsibilities—that is, that the parties understand and adhere to their compliance obligations.

Selecting Immigration Counsel

The key elements in selecting immigration counsel include:

- The attorney's experience, particularly in IMG immigration cases.
- The attorney's record of success both generally and in the state of the IMG's placement.
- The attorney's accessibility to inquiries from the parties and ease of communication in demystifying the complexities of the immigration process.
- The insistence of creating a professional relationship based on "dual representation" in which the attorney represents equally and ethically both the employer and the IMG, thereby ensuring that there is a high degree of trust and transparency among the parties.
- The ability of the immigration attorney to serve as a problem solver—in particular, in ironing out divergences of views between the IMG and the employer and then serving as an advocate on the waiver case to the state's J-1 waiver adjudicator.
- Clarity in the attorney's fees—in particular, are the fees stated clearly and in advance so that the responsible party has a clear and precise understanding of the financial terms of the representation.

Negotiating the Employment Agreement



IMGs need to establish they bring such value to the employer as to lead to the employer's willingness to sponsor the IMG for immigration benefits.

In a sense, an IMG goes into a job search at a disadvantage. Whereas his/her U.S. counterparts need to show only their professional capabilities and ability to fit into the practice group, the IMG needs, in addition, to convince the employer to undertake the J-1 waiver sponsorship process and to then file for a change into H-1B status.

Ultimately, the IMG needs to establish that he/she brings such value to the employer as to lead to the employer's willingness to sponsor the IMG for immigration benefits. But here, it can be very useful to involve the immigration attorney in the recruitment process in order to provide the parties with an assessment of the likely outcome and a reassurance that the

attorney will to the extent possible rationalize the entire waiver process so as to efficiently develop the waiver application.

There is no single rule of thumb on when to raise the need for immigration sponsorship during the recruitment process. As a general rule, it makes sense to raise the IMG's immigration needs early in the recruitment process so as to address the employer's possible reservations or simply in order for the IMG to come to the conclusion that an employer simply will not undertake waiver and immigration sponsorship. Particularly since timing is so critical to a successful waiver case, it simply does not make sense to waste time avoiding a discussion on the IMG's immigration needs since ultimately this will be a key issue that needs to serve the interests of both the employer and the IMG.

Permanent Resident Options for IMG's



Pathways to permanent residence for IMGs.

Becoming a Permanent Resident

Normally, an IMG will start the permanent resident process after working for some period of time—generally, around a year—with the employer. Even though the J-1 waiver requires the IMG to work for three years before gaining eligibility for permanent residence, it is highly advisable to start the permanent resident process as the IMG is working through his/her waiver obligation so that the IMG can file the final application for permanent residence—the I-485 adjustment of status application—immediately upon fulfillment of the three-year period of H-1B employment.

Each case for permanent residence requires an individual consultation to determine the best, most desirable filing strategy. But in general, IMG's pursue permanent residence under either of the following two filing strategies:

- 1 PERM labor certification application
- 2 Physician National Interest Waiver

PERM Labor Certification Application

This essentially is an immigration strategy that will require the IMG's employer to undertake a structured recruitment/advertising effort to establish its inability to recruit a fully qualified U.S. physician for the position. In short, it is not enough to show that the IMG is the best qualified applicant; rather, the goal is to convince the U.S. immigration authorities that the IMG is the only fully qualified applicant for the position. Owing to various factors including the substantial shortage in the physician workforce, the Department of Labor has been largely receptive to cases filed under this theory.

PERM Labor Certification Application Process

There are four steps to the PERM labor certification application process.

Step 1

Step 1

The IMG's employer needs to develop an appropriate recruitment/advertising effort that will meet standards established by the U.S. Department of Labor, as well as to secure confirmation that the IMG's wages are at the appropriate level. In general, this takes around eight months.

Step 2

Step 2

The employer then files its PERM labor certification application. It is at this point that the IMG receives his/her “priority date” -that is, the registration date in the quota lines. At present, the U.S. Department of Labor is taking around six months to process this type of application.

Step 3

Step 3

If approved, the employer then files its I-140 immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS), at which point it needs to show its ability to pay the IMG's wages and that the IMG meets fully the requirements of this position.

Step 4

Step 4

The IMG and his/her dependent family members (defined as spouse and children under 21 years of age) will be able to file their I-485 adjustment of status applications following fulfillment of the mandatory three-year period of H-1B employment and assuming that an immigrant visa number is available. Historically, natives of India and China face long waiting times for availability of an immigrant visa number; natives of other countries generally have not faced waiting periods. During this entire period of time, the IMG needs to continue to work in the position described in the PERM labor certification application, although once the I-485 adjustment of status application has been pending for at least 180 days, the IMG can change employers provided that the new position in the “same or similar occupation” as described in the PERM labor certification application.

CONTINUE

Physician National Interest Waiver (PNIW)

This is a special filing procedure established solely for physicians who are working in designated medically underserved areas. It was created specifically in order to recognize the national importance arising from the recruitment of IMG's to medically underserved areas. By eliminating the PERM labor certification application process that involves a structured recruitment and advertising effort and instead allowing for a direct filing to U.S. Citizenship and Immigration Services (USCIS), it provides a streamlined filing procedure ultimately leading to permanent residence. In addition, and quite importantly in many instances, an IMG in his/her own right can file a PNIW rather than having to be sponsored by an employer.

But the PNIW requires an IMG to work for a five-year period of time in a designated medically underserved area prior to attaining permanent residence. Assuming that an EB2 immigrant visa number is available under the quota system, an IMG can file his/her I-485 adjustment of

status application so as to apply for an Employment Authorization Document (EAD) not only for the IMG, but for his/her dependent family members. But the actual issuance of the “green card” cannot occur unless and until the IMG has complete the mandatory five-year period of employment in a desirgnated medically underserved area.

One interesting facet of the PNIW is that once an IMG completes his/her five-year employment obligation in a medically underserved area, then the IMG can work elsewhere, including in locations that are not medically underserved, and still ultimately attain permanent residence based on the approval of the immigrant visa petition. This is particularly beneficial to IMG’s from countries experiencing long backlogs in their quota lines, such as India. However, the IMG will still need to maintain valid, nonimmigrant status—normally, H-1B status—in order to live and work in the United Sates while waiting for an immigrant visa number to become available so as to file the I-485 adjustment of status application.

PNIW Case Stages

The stages of a PNIW case are the following:

Stage 1

The IMG files a Physician National Interest Waiver petition directly to USCIS.

The submission needs to include a five year employment contract stipulating full time employment in a designated medically underserved area. The submission also needs to include a letter of endorsement on the benefits of the IMG’s services from the department of health in the state of employment.

Stage 2

The IMG along with dependent family members can file their I-485 adjustment of status applications upon the availability of an immigrant visa number.

Historically, India and China have experienced backlogs in the EB2 immigrant visa quota lines; natives from other countries have traditionally not been subject to backlogs. But the situation of immigrant visa number availability is updated on a monthly basis in the Visa Bulletin of the U.S. Department of State.

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Comparative Advantages: PERM vs. PNIW

There is no single, absolute rule indicating which filing pathway is more beneficial to an IMG. Rather, each case needs to be analyzed on its own merits and the strategy then needs to be developed that best serves the IMG's own individual needs and objectives.

But as a general observation, an IMG would more likely structure his/her case for permanent residence based on a PERM labor certification application under the following circumstances:

- The IMG's employer is supportive and willing to undertake the sponsorship process for permanent residence.
- The IMG does not face delays or backlogs in the immigrant visa quota lines.
- There is strong desire to attain permanent residence in the shortest period of time rather than waiting out the five-year employment period of the PNIW.

- The IMG strongly anticipates that there will be no changes to his/her employment in terms of relocation to a new employment site, revision to job duties, etc. since the IMG is essentially restricted to remaining in the job that is described in the PERM application.
- There is a strong, mutual commitment between the employer and the IMG for ongoing employment in the position described in the PERM application.

Conversely, some factors that might well lead to structuring an IMG's case for permanent residence under a Physician National Interest Waiver would be:

- The IMG lacks the agreement of the employer to file a PERM labor certification application.
- From the employer's standpoint, the PNIW option is much more efficient since it eliminates the need to undertake a rather elaborate and exhausting recruitment/advertising effort.
- The IMG desires to secure a "priority date" as quickly as possible.
- There is a desire to provide the dependent family members with employment authorization and international travel permission as quickly as possible.
- The IMG faces major delays owing to the backlogs in the EB2 immigrant visa quota, meaning that once the PNIW is approved and the IMG has worked for five years in a qualifying area, the IMG can change employers and not have to refile for permanent resident status (although the IMG will need to maintain valid nonimmigrant visa status).
- A PERM application is infeasible owing to various factors, such as an inability to meet the prevailing wage figure or a fully qualified applicant for the position.