

Health Law Webinar

Immigration Under the Biden Administration for
Healthcare Providers/Systems

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Fredrikson
 & BYRON, P.A.

The Changing Landscape of Immigration: From to Trump to Biden

Immigration Environment Under Trump

- Policies targeting asylum seekers (southern border)
- Policies against nationalities (Muslim bans)
- Policies against employment (RFE, denial rates skyrocket)
- Policies against the poor (public charge)

Employment-Based Reform Initiatives Under Biden

- Revocation of Buy American-Hire American Doctrine
 - BAHA
 - EO released April 2017
 - Widespread policy inactions
 - EO rescinding BAHA January 2021
 - Sets a more open, inclusive tone
 - Possible decrease in denials and RFEs?

Revisions to the H-1B Program

- Definition of Specialty Occupation
 - Proposed changes under previous administration
 - Current standing of proposed changes
 - Current adjudication practices
 - Allowance of telemedicine on an H1B/Waiver

Revisions to the H-1B Program

- H-1B Wage Considerations
 - Employers must pay the required wage
 - Greater of the prevailing wage or actual wage paid to similarly situated employees
 - Calculating the prevailing wage and wage levels
 - Proposed rule and delayed effective date
 - Would impact H-1Bs and permanent residency process through PERM labor certification

H-1B Lottery Registration

- 85,000 H-1Bs available per fiscal year (October 1-September 30)
- Lottery to determine who is selected for coveted slots
- Employer registration selection process – same as last year
- Proposed changes to the lottery and delayed effective date

Miscellaneous EB Updates

- Status of the Public Charge Rule
 - On again and off again...and on again and off again
- F/J Reforms
 - Not moving forward
- H-4 Employment Authorization
 - Rule to rescind withdrawn

Conrad 30 Program

- Remains unchanged
- Bills introduced to expand program
 - Conrad State 30 and Physician Access Act S.948
 - Would provide faster path to green cards for doctors and nurses
- Today: slow processing by agencies

HHS Expands J Waiver Program Eligibility

- Eliminates requirement that employer must be a Federally Qualified Health Center (FQHCs) or Rural Health Center
- Eligibility
 - Provide primary care
 - HPSA score of 7 or higher
 - Apply within one year of residency training

International Travel Restrictions and Visa Bans Under the Biden Administration

International Travel Restrictions and Visa Bans

- Travel restrictions
 - Schengen Area, UK, Ireland, Brazil, South Africa
- Essential travel restrictions
- Visa Suspensions
 - H, L, J
- Consular processing
 - Emergency, Expedited, Closures

Travel Restrictions/Bans by Biden Administration

- Immigrant visa restriction lifted
- Keeps in place ban on new H, L, J visas if outside the country on June 24, 2020
- Further travel limits due to COVID – limited use of exemptions for critical infrastructure
 - Healthcare qualifies as critical infrastructure

International Travel

Restrictions and Visa Bans

- International Student Exemption
- Quarantine and negative test requirements

What's in the Biden Immigration Bill?

Restoring Integrity to our Immigration System

- DREAMERS & earned legalization
- Immigration court system
- Family separation policies to end
- New Lawful Prospective Immigrant category

Shortening Permanent Resident Wait Times

- Eliminates per country quotas
- Recapturing unused immigrant visas
- Exempting spouses and dependents from quota calculations
- Accelerated adjustment of status submission dates

Enhancing Administrative Processing Efficiencies

- Restoration of deference rule
- Time requirements for issuing interim benefits
- Eliminating biometrics for H dependents
- Waiving adjustment of status interviews for employment-based cases

Enhancing U.S. Competitiveness in Brain Race

- H-1B reforms
- Pathways to permanent residence for STEM
- Expanded exemptions from quota system
- Reforms for international students and scholars
- Dual Intent for international students and scholars
- Reforms and expansions to OPT

Occupation-Specific Reforms to Address Workplace Shortages

- Physicians and healthcare workers
- Immigrant investors
- Agricultural workers
- Temporary workers

Immigration Legislation and Court Proceedings

Immigration Legislation and Court Proceedings

- U.S. Citizenship Act of 2021 (Biden)
- Conrad State 30 & Physician Access Act (Senate)
- Other legislation
- Litigation
 - DOL Wage Rule
 - Public Charge Rule
 - Fee Increase

Conclusion

Presenters



Loan Huynh

612.492.7165

lhuyh@fredlaw.com



Debra Schneider

612.492.7214

dschneider@fredlaw.com