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Immigration

USCIS Updates Guidance for Schedule A Occupations

Legal Update

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This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

On December 2, 2020, U.S. Citizenship and Immigration Services (USCIS) announced updated guidance for adjudicating EB-2 and EB-3 Schedule A petitions for registered nurses, physical therapists and immigrants who have exceptional ability.

USCIS said the update does not change policy but clarifies how agency adjudicators should apply Department of Homeland Security and Department of Labor (DOL) regulations when deciding Schedule A petitions. Generally, USCIS noted, EB-2 and EB-3 petitioners must obtain a labor certification from DOL verifying that there are no qualified U.S. workers available. However, DOL has pre-certified certain occupations, known as Schedule A, so those petitioners do not need to obtain a labor certification. Instead, EB-2 and EB-3 Schedule A petitioners file Form I-140, Immigrant Petition for Alien Workers, directly with USCIS.

Details:

- USCIS news release, <https://www.uscis.gov/news/alerts/uscis-updates-guidance-for-schedule-a-occupations>
- USCIS policy alert, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20201202-ScheduleA.pdf>