INDEX

Alphabetization is word-by-word (e.g., “R visas” precedes “REAL ID Act”)

A

ABMS (American Board of Medical Specialties), 1, 33

Academic positions
outstanding professors and researchers, 209–211
special handling of, 192

Accreditation Council on Graduate Medical Education (ACGME), 1

Acquisitions. See Mergers and acquisitions


ACWIA. See American Competitiveness and Workforce Improvement Act of 1998

Adjudicator's Field Manual (USCIS), 46, 102, 150, 178, 209

Adjustment of status
Application to Register Permanent Residence or Adjust Status (Form I-485), 173, 232, 246
backlogged processing, 200–201, 204
change of employers while application pending, 232–234, 245
courter filing for, 182, 208
consular processing vs., 174–175
EB-2 visas and, 200, 204
filing for, 175–176
H-4 visas for family members pending applications, 155
interviews, 175
nonimmigrant who falls out of legal status and, 230–231
petition to adjust J-1 status to LPR, 17, 46, 54
PNIW service and time of filing for, 200
portability, 232–233
travel while application pending, 176
working while pending, 176

Administrative processing
advantages of PNIW petition in cases of, 204
visit visa applications, 26

Advertising, PERM process, 186–187

Advisory opinion on home-residency waiver, 49

Affirmative immigration obligations, 234, 237–238

Agriculture Department, U.S., 71

American Bar Association on unbundling of legal services, 269

American Board of Medical Specialties (ABMS), 1, 33

American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), 188, 192


American Immigration Lawyers Association (AILA), 265

American Medical Association (AMA)
“Fifth Pathway” certificate, 2, 7
types of graduate medical training programs, 5–6

American Medical Association’s Graduate Medical Education Directory (“The Green Book”), 6

Appalachian Regional Commission (ARC), 63, 69–71, 79–87, 251

Appeal
of hardship or persecution waiver denial, 108
of home-residency waiver denial, 53
of PERM labor certification denial, 195
of researcher waiver applications, 79
Application for Alien Employment Certification (Form ETA-750B), 212, 214

Application for Employment Authorization (Form I-765), 153, 155

Application for Naturalization (Form N-400), 226

Application for Permanent Employment Certification (Form ETA 9089), 185, 189, 212, 214

Application for Waiver of the Foreign Residence Requirement (Form I-612), 50, 53, 101–102

Application for Waiver of the Two-Year Foreign Residence Requirement of the Exchange Visitor Program (Form HHS 426), 74, 78

Application to Extend/Change Nonimmigrant Status (Form I-539), 28, 151–152, 154

Application to Register Permanent Residence or Adjust Status (Form I-485), 173, 232, 246

Application to Replace Permanent Resident Card (Form I-90), 219

ARC. See Appalachian Regional Commission

Arrival Departure Record (Form I-94)

Canadian physicians, 259

expiration, 27, 150–151

grace periods, 231

H-1B status, 129

H-4 status, 153

J-1 visas, 37–38

J-2 visas, 37–38

Association of American Medical Colleges (AAMC), Electronic Residency Application Service (ERAS), 6–7

Asylum process, 106–107, 145, 168

Attorneys, hiring of, 263–270

AILA membership, 265

attorney’s fees, 265

bar complaints, 270

board certification in immigration law, 267

caseload issues, 266

client references, 266

communication with and availability of attorney, 267

collision of interest, 227–228, 268

determining when to hire, 263–264

disciplinary action against attorney, 265–266

educational background, 267

engagement letters, 268

ethical conduct, 269

factors to consider when hiring, 265–269

focus of practice, 266

IMG Taskforce membership, 265

immigration consultants vs. attorneys, 264

immigration-exclusive practice, 266

in J-1 waiver process, 99

lack of funds or indigent clients, 269

language skills, 269

local vs. national, 268–269

malpractice actions, 270

merger attorney to communicate with immigration attorney, 247

mismanagement of case, 269–270

over-promising, 268

paralegal-attorney ratio in law firms, 266

personality compatibility, 268

promotional materials and marketing, 268

publishing and authorship, 267

rankings, 267

recruiters, role of, 255

reputation of attorney, 266

technology skills, 267

unbundling of services, 269

years in practice, 266

Attorney’s fees

factor in choosing attorney, 265

H-1B visas, 11, 13, 15

Automatic visa revalidation, 157

B

B-1 visas. See Visitor visas

B-2 visas. See Visitor visas

Backlogged processing

EB-1, 208

EB-2, 182, 214

family sponsorship, 168

H-4, 154

LPR status, 154

PERM cases, 182

PNJW, 204

status adjustment, 200–201, 204

“Benching” barred, 135

Biometrics, 28, 111, 151–152, 154

Board certification. 1. See also Specialties

Bureau of Human Rights and Humanitarian Affairs, 106
INDEX

C

“California Letters,” 7

Canadian physicians, 48, 142–143, 157, 259–261

Cap-exemption strategies, 139–147
alternatives to H-1B visas, 142–147
avoiding H-1B cap, 139–141
E-3 visas, 142
filing concurrent H-1B visa petition, 141–142
H-1B1 visas, 142
mergers and acquisitions and, 241
TN visas, 142–143

CBP (Customs and Border Protection, U.S.), 19, 27

Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019)
application process, 30–31
Conrad 30 waivers, 64
consular processing, 158
expiration, 35–36, 38
J-1 visa requirements, 13
lost forms, 50, 52–53
skills, 44
spouses and minor children, 32

Change of citizenship after coming to United States, 49

Change of employer
adjustment of status application pending, 232–234, 245
before contract is finished, 257
during green-card processing, 232–234
H-1B visas, 131, 133, 150–151
H-4 visas for family members, effect on when H-1B makes change, 150–151
PERM labor certification, 194
PNIWs, 200

Change of status to work visa, 54, 260

Children. See also H-4 visas for family members; J-2 visas for family members
adopted children, 170
Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019), 32
citizenship of, 226
definition of, 169–170
Form DS-2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status), 32–33
green card based on parental status, 169–170
home-residency requirement (J-1 visa), 45. See also J-2 visas for family members
Immigrant Petition for Alien Worker (Form I-140), 16
orphans, 170
out-of-wedlock, 169
stepchildren, 169

China
backlogged in EB-2 category, 182, 214
EVUS, 26–27
nationals from, 26–27, 49, 121

Citizenship, 219–221
absence for six months to a year in five years prior to application, 222–223
benefits of naturalization, 219–220
change of citizenship after coming to United States, 49
children’s applications, 226
costs of naturalization, 221
ease of travel, 221
exceptions to requirements, 225
good moral character, 225
loss of home-country citizenship, 221
naturalization petition, 225
negatives of, 221
residence, definition of, 222
spouse of U.S. citizen applying for, 224–225
U.S. citizen employed abroad, spouse of, 224–225
U.S. residence requirements, 219–221
waiver of residence requirements, 223–224

Communicable diseases
denial of green card due to, 176–177
HIV and TB testing of Conrad program waiver applicants, 64

Composition-of-the-family hardship, 103

Conrad 30 waivers, 55–67
contract provisions, 61–62, 353–389
costs, 61
credentials and résumé, 63–64
differences between state programs, 58–64
depressed patients, 62
exhaustion of state waivers, 67
fees, 61
filing of multiple applications, 66–67
flex slots, 55, 60, 198, 242, 353–389
Form DS-2019, 64
Form I-94, 64
Form I-797, 64
funding for application from home country, 65
H-1B cap and, 66
HHS-designated shortage area, 57–58
HIV and TB testing of applicants, 64
indigent patients, 62
interested government agency (IGA) waivers vs., 70
languages, 62
letters from individuals in community, 61
limits on number of applications, 63
liquidated damages clauses, 61–62
local ties, 64
Medically Underserved Areas (MUAs), 55
noncompetition clauses, 61
primary care, state definition of, 353–389
primary-care physicians, 59
recruiting, 62–63, 353–389
requirements for, 55–57
scoring system to prioritize applicants, 58
self-petition by physician, 65–66
state chart, 353–389
state license, 67
states with federal programs, 63
subspecialties, 59, 353–389
telemedicine positions, 66
third-party employer sponsors, 64–65
timing, 58–59
types of facilities and locations eligible, 60
types of physicians, 59
wages, 62

Consolations. See Mergers and acquisitions

Consular processing of nonimmigrant visas, 157–165
adjustment of status vs., 174–175
administrative processing, 162–163
B-1 visitor visas, 163–164
Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019), 158
certified translation, 161–162
E-2 visas, 164–165
E-3 visas, 165
electronic filing, 160
family member processing, 161–162
H-1B visas, 165
H-1B1 visas, 165
J-1 visas, 35–36, 164–165
O-1 visas, 165
Online Nonimmigrant Visa Application (Form DS-160), 35, 158–160
photo requirement, 160–161
processing application at consulate different than one on DS-160 form, 160
variations in, 157–158
website information, 157

Contracts
for ARC waivers, 83–85
attorney input, importance of, 256
change of employer before contract is finished, 257
for Conrad program waivers, 61–62, 353–389
for DRA waivers, 89–90
for HHS waivers, 73
for J-1 visas, 17–18
Labor Condition Application (LCA), contract restrictions, 257
mergers and acquisitions, sample transaction contract language, 248–249
PNIWs, 201–202
primary-care physicians, contract requirements, 73, 83–85

Corporate name changes. See Mergers and acquisitions

Costs. See also Attorney’s fees
ARC waivers, 87
Conrad program waivers, 61
DRA waivers, 91
H-1B visas, 15, 121, 136–137
J-1 visas, 15
of naturalization, 221
new I-129 filing, 241
payment of fees when hiring foreign worker, 257

Customs and Border Protection, U.S. (CBP), 19, 27

D
Defense Department, U.S., 100
Delta Regional Authority (DRA), 63, 69–71, 87–93, 251

Departments. See name of specific department

Deportation, 220
DHS (Homeland Security Department, U.S.), 140, 155–156

Disciplinary actions against attorneys, 265–266
Displacement of U.S. workers, 236
Diversity Visa Lottery, 168


Divorce
J-2 spouse, 45, 100, 111
stepparent relationship and immigration benefits after, 169

Driver’s license of J-2 visa holders, 115
Dual intent visas, 17, 122, 149

Due-diligence checklist, immigration documents for, 247–248

E

E-1 visas, 135, 229

E-2 treaty investor visas
as alternative to H-1B visa, 143–144
documents to present at U.S. consulate, 164–165
layoffs, 229

E-3 visas
as alternative to H-1B visa, 142
cap-exemption strategies, 142
documents to present at U.S. consulate, 165
layoffs, 229
EAD. See Employment Authorization Document
Ease of travel, 221. See also Travel in and out of United States
EB-1 visas
credentialing examinations, 178
extraordinary ability, 181, 232
as green-card category, 170
individual as beneficiary, 146
Neufeld memorandum, 245
outstanding professors and researchers, 209–211
who is included, 205–206
EB-1A visas, 205–208
EB-1B visas, 205, 210–211
EB-1C visas, 205
EB-2 visas, 211–214
adjustment of status for physicians from EB-2 backlogged countries, 200–201, 204
backlogged processing, 182, 214
credentialing examinations and, 178
as employment-based green-card category, 171
Immigrant Petition for Alien Worker (Form I-140), 214
layoffs and, 232
LPR status and, 146, 171, 178
mergers and acquisitions, effect of, 245
PERM cases, 181–182
PNIW cases, 197
EB-3 visas, 146, 171–172
EB-4 visas, 172
EB-5 visas, 214–218
amount of investment, 216
application process, 215
eligible investments, 216
as employment-based green-card category, 172
evidence required, 216–217
full-time vs. part-time jobs, 217
investor involvement, 217–218
LPR status and, 172
methods of investment, 216
multiple investors, 217
qualifying businesses, 215
requirements, 215
Economic hardships, 103
Educational Commission on Foreign Medical Graduates (ECFMG)
applying for ECFMG J-1 sponsorship, 30–31
certification, 1–5
educational requirements for certification, 5
electronic credentials evaluation pilot program, 5
identification number provided by, 2, 7
J-1 visas and, 11, 13, 29. See also J-1 visas
J-2 visas for family members, ECFMG J-1 sponsorship and, 30
Medical Education Credentials Submission Form (Form 344), 9
Medical School Release Request (Form 345), 9
notification of hospital merger or acquisition, 244
Online Applicant Status and Information System (OASIS), 7, 30–31
program transfer requests, 32
state requirements, 273–307
termination of employment with teaching hospital, 228
travel in and out of United States approval, 36–37
types of medical degrees recognized, 193
Elderly patients, 62
Elective clerkship, 21–22
Elective positions, eligibility for, 220
Electronic Residency Application Service (ERAS), 6–7
Electronic System for Travel Authorization (ESTA), 20–21
Electronic Visa Update System (EVUS), 26–27
Employment Authorization Document (EAD)
H-4 spouses, 152–156
J-2 spouses, 16
litigation, 155–156
Employment contracts. See Contracts
Employment Eligibility Verification (Form I-9), 114, 132
Energy Department, U.S., 100
ERAS (Electronic Residency Application Service), 6–7
ESTA (Electronic System for Travel Authorization), 20–21
Evidence standards for EB-1A visas, 207–208
EVUS (Electronic Visa Update System), 26–27
Exceptional hardship, defined, 102
Exchange Visitor Waiver Review Board (EVWRB), 74–75, 78–79
Extension of status
H-1B visas, 16–17, 128
H-4 visas, 152
J-1 visas, 54
J-2 visas, 115
visitor visas, 28
Extraordinary ability, 144, 206–208. See also EB-1A visas; O-1 visas
F
Falling out of legal status, 230–231
Family members. See also H-4 visas for family members; J-2 visas for family members
preference categories for, 170
Federal grants, 220

quotas applied to, 170–171

Federal grants, 220

Federal jobs, 220

Federation of State Medical Boards (FSMB), 2

Fees. See Attorney’s fees; Costs

“Fifth Pathway” certificate, 2, 7

Flowcharts

H-1Bs, 351–352
J-1 waivers, 349–350

Foreign Affairs Manual (FAM)

B-1 and B-2 status, 21, 109–110
on extension of stay if waiver granted, 54
medical residency programs not mentioned in, 21

Foreign residence requirement. See Home-residency requirement (J-1 visa)

Form 344 (Medical Education Credentials Submission Form), 9

Form 345 (Medical School Release Request), 9

Form AR-11 (Change of Address), 219

Form DS-156E (Investor Visa, Treaty Trader Application), 164–165

Form DS-160 (Online Nonimmigrant Visa Application), 23–24, 35, 158–160

Form DS-2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status)

application process, 30–31
Conrad 30 waivers, 64
consular processing, 158
expiration, 35–36
J-1 visa requirements, 13, 56, 109
lost forms, 50, 52–53
skills, 44
spouses and minor children, 32–33

Form DS-3035 (J-1 Visa Waiver Recommendation Application), 50–51, 56, 101, 112

Form ETA-750B (Application for Alien Employment Certification), 212, 214

Form ETA 9035. See Labor Condition Application

Form ETA 9089 (Application for Permanent Employment Certification), 185–186, 189, 212, 214

Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative), 74, 91, 99

Form HHS 426 (Application for Waiver of the Two-Year Foreign Residence Requirement of the Exchange Visitor Program), 74, 76, 78

Form I-9 (Employment Eligibility Verification), 114, 132

Form I-90 (Application to Replace Permanent Resident Card), 219

Form I-94 (Arrival Departure Record)

Canadian physicians, 259
Conrad 30 waivers, 64
expiration, 21, 27, 150–151
grace periods, 231
H-1B status, 129, 150
H-4 status, 153
J-1 visas, 37–38
J-2 visas, 37–38, 113

Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record), 20

Form I-129 (Petition for a Nonimmigrant Worker), 15, 136, 241

Form I-130 (Petition for Alien Relative), 172–173

Form I-140 (Immigrant Petition for Alien Worker)

EB-1A petitions, 208
EB-2 petitions, 214
green-card process, 172–173
H-1B extensions, 17, 128
H-4 visas, 153
home-residency requirement, 46
layoffs, 233–234
LPR status and, 172
PERM process, 182, 194–195
PNIW cases, 204
spouses and children, 16
successor employers, 245–246

Form I-1485 (Application to Register Permanent Residence or Adjust Status), 173, 199, 232, 246

Form I-526 (Immigrant Petition by Alien Entrepreneur), 215

Form I-539 (Application to Extend/Change Nonimmigrant Status), 28, 110–111, 151–152, 154

Form I-612 (Application for Waiver of the Foreign Residence Requirement), 50, 53, 101–102

Form I-693 (Report of Medical Examination and Vaccination Record), 175–176

Form I-765 (Application for Employment Authorization), 113, 153, 155

Form I-766. See Employment Authorization Document

Form I-797 (Notice of Action), 51, 64, 153
Form IAP-66. See now Form DS-2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status)

Form N-400 (Application for Naturalization), 226

For-profit hospitals, 15, 118, 140–141, 144, 242

Fraud, 26, 177, 233

Fringe benefits, 124, 235

FSMB (Federation of State Medical Boards), 2

Full-time vs. part-time jobs

EB-5 requirement to create, 217

H-1B visas, 135

PERM labor certification, 192

PNIWs, 198

G

Glossary, 391–398

Governor’s role in ACR waivers, 82

Grace period

E-1 visas, 135

E-2 treaty investor visas, 135

E-3 visas, 135

following termination of employment, 231

Form I-94 (Arrival Departure Record), 231

H-1B visas, 18, 135, 231

H-1B1 visas, 135

high-skilled worker regulation, 231

J-1 visas, 39

J-2 visas, 39

L-1 visas, 135

O-1 visas, 135

TN visas, 135

Graduate medical training in United States, 1–9

accreditation of programs, 1

Educational Commission on Foreign Medical Graduates (ECFMG) role, 1–5

“Fifth Pathway” certificate, 2, 7

PERM labor certification and, 191

repeating graduate medical training, 34

USMLE, 2–5

visas for. See specific types of visas

Grant-funding, 79

“The Green Book,” 6

Green cards. See Lawful permanent residency

H

H-1B visas, 117–137

adding or changing employers, 131

advantages and disadvantages, 14–18

alternatives to, 142–147

Arrival Departure Record (Form I-94), 129

attorney’s fees, 11, 13, 15

“benching” barred, 135

Canadian physicians, 259–260

cap/quota, 13–14, 66, 106, 118–120, 133, 149, 152, 228, 241. See also Cap-exemption strategies

costs, 15, 121, 136–137

documents to present at U.S. consulate, 165

dual intent visas, 17, 122

ease of administration, 15

employer penalties, 17, 236

employment flexibility, 18

exam requirements, 14

faster processing fee, 136

flowchart, 351–352

for-profit hospitals, 15

full-time vs. part-time jobs, 135

grace period, 18, 135, 231

“H-1B dependency,” 235–236, 238

hardship or persecution waiver and, 105–107

home-residency requirement compared, 12

Immigrant Petition for Alien Worker (Form I-140), 17, 128

international renown, 126–127

J-1 visas compared, 11–18

Labor Condition Application (LCA), 15, 123–126

layoffs, 229

licenses, 127–128

locum tenens positions, 252–253

mergers and acquisitions, effect of, 240–243

multiple employers filing for same worker, 133–134

national renown, 126–127

necessary factors, 118–121

petition. See Form I-129

petitioner (institution as), 11

planning for six years, 121

Portability, 131–133, 228–229, 232–233

post-training physicians on, 351–352

premium processing, 137

prevailing wages, 121–123

quota, 125–126

renown, 126–127

secondary employers and, 236

self-employed individuals, 252

60-day grace period, 18

sponsorship requirements, 13–14

at teaching hospitals, 123, 242

termination of employment implications, 235–237

third-party employers, 129–131

timing issues, 16–17

Copyright ©2020 Alan House Publishing.
H-1B1 visas, 135, 142, 165, 229

training periods, 14
tavel outside of United States, 135
USMLE requirements, 4, 126–127
validity duration, 128–129
visitor visas, change of status to, 229
wages paid, 13

H-1B1 visas, 135, 142, 165, 229

H-4 visas for family members, 149–156
Arrival Departure Record (Form I-94), 153
backlogged processing of green cards, 154
change of employer by H-1B, effect of, 150–151
change of status to H-1B, 152
definition of H-4 visa, 149
dual intent visas, 149
EAD litigation, 155–156
educational studies of, 149–150
employment authorization, 152–156
extension of employment authorization, 155
extension of stay, 152
H-1B cap and, 149
H-1B1 spouses, 155
H-2 spouses, 155
H-3 spouses, 155
LPR status, waiting for, 155
meeting I-9 requirements for employment, 155
pending adjustment applications, 155
process for obtaining, 151–152
processing time for EAD, 154
proving spousal relationship, 154
status when H-1B traveling outside United States, 150
validity duration, 149

Hardship and persecution waivers, 101–108
appeal of denial, 108
composition-of-the-family hardship, 103
economic hardships, 103
examples of hardship factors, 103–105
exceptional hardship, defined, 102
J-1 hardship waiver, 102, 106–107
medical hardships, 104
persecution vs. asylum process, 106–107
persecution waiver, 105–107
political and security-related hardships, 104
process of seeking, 101–102
psychological hardships, 104
public policy, 105
separation for two years, 105
sociocultural hardships, 104
source of funds, 105

Health and Human Services Department (HHS)
clinical waivers, 71–75
designation of medically underserved areas, 57–58, 198
Exchange Visitor Waiver Review Board (EVWRB), 74–75, 78–79
grant-funding, 79
locum tenens and, 251–252
Medically Underserved Areas (MUAs), 57–58, 252
primary-care physicians, HHS waivers, 72
public interest waivers, 69–71
researcher waivers, 75–79
specialties, clinical waivers, 72
waiver application requirements, 73–74

Healthcare Integrity and Protection Data Bank reports, 97

Health Professional Shortage Areas (HPSAs).
See also Conrad 30 waivers
defined, 57–58
Delta Regional Authority physicians, 88–89
HHS clinical waivers and, 72
PNIW and, 198
state programs, 309–342

HHS. See Health and Human Services Department

Higher Education Act of 1965, 136

High-skilled worker regulation
adjustment portability, 232
caps, 132, 140–141
employment authorization criteria, 146
employment termination, 142, 231
governmental research organization, defined, 141
peace period, 231

HIV and TB testing of Conrad program waiver applicants, 64

Homeland Security Department, U.S. (DHS), 140, 155–156

Home-residency requirement (J-1 visa), 41–54
advisory opinion, 49
appeal of waiver denial, 53
asylum, 107
Canadian physicians, 260
change of citizenship after coming to United States, 49
change of status to work visa, 54
commuting to work in United States, 49
defined, 41–43
denial of green card due to failure to satisfy, 177
extension of stay if waiver granted, 54
failure to satisfy, 46
Form DS-3035 (J-1 Visa Waiver Recommendation Application), 51, 56, 101
H-1B visa compared, 12
Immigrant Petition for Alien Worker (Form I-140), 46
leaving United States and re-entering in another nonimmigrant category, 46
location to satisfy requirement, 47
petition to adjust status to LPR, 17, 46, 54
physicians subject to, 43–44
processing time for waiver, 53
proving requirement has been satisfied, 47
return to home country, 47–48
spouse and children, 45. See also J-2 visas for family members
substantial compliance, 49
time spent in home country during J-1 program not counted, 47
unclear whether requirement applies, 49–50
waiver case number, 51–52
waiver process, 50–51
working for home country in place other than home country, 47
Hospitals
for-profit hospitals, 15, 118, 140–141, 144, 242
teaching hospitals. See Teaching hospitals
types eligible for state J-1 waivers, 60
Housing and Urban Development Department (HUD), 71
HPSAs. See Health Professional Shortage Areas

| IGA waivers. See Interested government agency (IGA) waivers |
| IMED (International Medical Education Directory), 5 |
| IMGs. See International Medical Graduates |
| Immigrant investors, 214–218. See also EB-5 visas |
| Immigrant Petition by Alien Entrepreneur (Form I-526), 215 |
| Immigrant Petition for Alien Worker (Form I-140) |
| EB-1A petitions, 208 |
| EB-2 petitions, 214 |
| green-card process, 172–173 |
| H-1B extensions, 16–17, 128 |
| home-residency requirement, 46 |
| layoffs, 233–234 |
| LPR status and, 172–173 |
| PERM process, 182, 194–195 |
| PNIW cases, 204 |
| spouses and children, 16 |
| successor employers, 245–246 |
| Immigration and Nationality Act of 1952 (INA) |
| §212(e), 12–13, 22, 41–49, 52, 69–70, 96, 101, 111, 259 |
| §214(b), 26, 33, 46 |
| §214(f), 55–56 |
| §248, 96 |
| §248(a), 42–43 |
| §319(b), 224 |

| Immigration consultants, 264 |
| Independent contractors, 252 |
| India |
| backlogged in EB-2 category, 182, 214 |
| nationals from, 121 |
| Indian Self-Determination and Education Assistance Act, 72 |
| Indigent patients, 62, 85–86 |
| Insurance requirements for J-1 visas, 35 |
| Intent to return home |
| J-1 visas, 33 |
| J-2 visas, 33 |
| Interested government agency (IGA) waivers, 69–71, 99–100, 349–350. See also Public interest waivers |
| Interior Department, U.S., 100 |
| Internal medicine, 6 |
| International, 6 |
| International Medical Education Directory (IMED), 5 |
| International Medical Graduates (IMGs). See also Graduate medical training in United States; H-1B visas; J-1 visas |
| employment resources, 271 |
| government resources, 271–272 |
| IMG Taskforce, 265 |
| locum tenens positions, 251–253 |
| organizations involved in processing, 271 |
| qualifying for graduate medical training, 1 |
| websites applicable, 271–272 |
| Investors. See E-2 treaty investor visas; EB-5 visas |
| Investor Visa, Treaty Trader Application (Form DS-156E), 164–165 |

| J-1 visas, 29–39 |
| advantages and disadvantages, 14–18 |
| applying for ECFMG J-1 sponsorship, 30–31 |
| ARC sponsorship, 81 |
| Arrival Departure Record (Form I-94), 37–38 |
| Canadian physicians, 259–260 |
| Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019), 13 |
| change of specialties after arrival, 34 |
| change of status, 28 |
| contracts, 17–18 |
| conversion to H-1B status, 252 |
| conversion to J-2 status, 113 |
| costs, 15 |
| dependents, 33. See also J-2 visas for family members |
J-1 Visa Waiver Recommendation Application (Form DS-3035), 51, 56, 101

documentation needed, 29, 31–32, 35–36
documents to present at U.S. consulate, 164–165
ease of administration, 15
ECFMG and, 2, 11, 29
employment flexibility, 18
exam requirements, 14
extension of status, 54
extension to sit for specialty board examination, 39
filing at consulate for, 35–36
foreign residence requirement upon program conclusion, 12
Form I-94 (Arrival Departure Record), 37–38
grace period at end of stay, 39
H-1B visa compared, 11–18
H-1B visa converted to J-1 status, 144–145
hardship or persecution waiver and, 102, 106–107.
See also Hardship and persecution waivers
home-residency requirement, 41–54. See also
Home-residency requirement
institution’s preference for, 11
insurance requirements, 35
intent to return home, 33
Labor Condition Application (LCA), 15
locum tenens positions, 251–253
maintaining status in United States, 38–39
mergers and acquisitions, effect of, 242
moonlighting, 35
qualifications, 29
requirements and restrictions, 12–13
research positions, 33–34
Statement of Need, 30
termination of employment implications, 228
timing issues, 16–17
training periods, 14
travel in and out of United States, 36–37
underserved areas, 15, 17
unlawful presence policy, 38–39, 86
USMLE requirements, 4, 13
validity duration, 34
visa revalidation for certain trips outside of United States, 36–37
waivers, 12, 15–16, 51–52, 100, 350
J-1 Visa Waiver Recommendation Application (Form DS-3035), 51, 56, 101
J-2 visas for family members, 109–115
advantages and disadvantages of H-1B and J-1 status, 16
application process, 110–111
Arrival Departure Record (Form I-94), 37–38
conversion to H-1B status, 113
conversion to J-1 status, 113
divorce, effect of, 45, 100, 112
driver’s license, 115
duration of status, 109
ECFMG J-1 sponsorship and, 30–31
eligible persons, 109
employment authorization, 113–114
extension of status, 115
family member other than spouse or minor child, 109–110
family member qualifying for other status, 110
Form I-94 (Arrival Departure Record), 37–38
grace period at end of stay, 39
home-residency requirement, 45, 111–112
intent to return home, 33
procedure for including dependents, 32–33
remaining in United States while J-1 travels outside of United States, 115
school enrollment, 115
Social Security numbers, 114–115
travel in and out of United States, 36–37

L

L-1 visas, 12, 135, 229
Labor Certification Application (Form ETA-9089), 212, 214
Labor Condition Application (LCA, Form ETA-9035)
contract restrictions, 257
H-1B visa and, 15, 123–126
J-1 visa and, 15
mergers and acquisitions, effect of, 240–241
purpose of, 124–125
Labor Department, U.S.
Labor Condition Application, filing with. See Labor Condition Application
mergers and acquisitions, effect of, 240–241
payment of fees when hiring foreign worker, restrictions on, 99, 121, 257
PERM process. See PERM labor certification
prevailing wage determination, 122–123
termination of employment, factors in determining, 235
withdrawal of H-1B petition required to eliminate liability for foreign worker, 133, 235
withdrawal of VA sponsorship for waiver, notice to, 99
Language skills
attorney choice and, 269
Conrad 30 waivers, 62
PERM labor certification, 192
Lawful permanent residency (LPR), 167–179
as alternative to H-1B visa, 145–147
application process, 173
asylees and refugees, 168
backlogged process, 173
cancellation of removal, 168
categories of, 168
cancellation of removal, 168
cancellation of removal, 168
cancellation of removal, 168
cancellation of removal, 168
child, defined, 169–170
citizenship, 168
comparison to citizenship, 168
comparison to citizenship, 168

credentialing examinations for physicians to qualify for, 178–179
defined, 167
denial of, 176–177
diversity immigrant visas, 168
EB-2 visas and, 146, 171, 178
EB-5 visas and, 172
employment-based (EB) categories, 168, 171–172
family sponsorship, 168
first preference, 169–170
fourth preference, 169, 171
green-card categories, 169
H-4 visas for family members and, 154
Immigrant Petition for Alien Worker (Form I-140), 172–173
J-1 doctors and, 17
layoff, effect on already held LPR status, 234
layoff, effect on pending application, 232–234
legalization program, 168
license requirements, 177
lottery, 168
mergers and acquisitions, effect on, 244–246
methods to obtain, 167
O-1 visas and, 146
parent, defined, 169–170
per-country limits, 172
permanent residency following, 177
PERM labor certification and, 145–146, 178
petition to adjust J-1 status to, 17, 46, 54
PNIWs and, 146, 177
priority dates, 233–234
registry, 168
second preference, 169, 171
spillovers, 172
spouse, defined, 169–170
termination of employment, effect of, 234–236
third preference, 169, 171
wait time for processing, 172–173
Layoffs, 227–238. See also Termination of employment
LCA. See Labor Condition Application
Liaison Committee on Medical Education (LCME), 29, 261
Licensing requirements by state, 9, 260, 273–307
Liquidated damages clauses, 61–62, 257
Locum tenens, 251–253
Lotteries, Diversity Visa, 168
LPR. See Lawful permanent residency
Married couples. See also H-4 visas for family members; J-2 visas for family members
green card based on marriage, 169–170
J-2 spouse who previously had J-1 status, 45
same-sex marriages, 169
“The Match,” 7–9
Medical clerkship, 22
Medical Education Credentials Submission Form (Form 344), 9
Medical hardships, 104
Medically Underserved Areas (MUAs). See also Conrad 30 waivers
Conrad 30 waivers, 55
DRA, 88–89
HHS designations, 57–58, 252
HPSA requirement, 72
J-1 visas, 15, 17
locum tenens, 252
PNIW, 198
primary-care physicians, 57–58
state programs, 309–342
waivers, 17
Medical residency programs. See also National Resident Matching Program; Teaching hospitals
couples, 8
Electronic Residency Application Service (ERAS), 6–7
Foreign Affairs Manual silent on, 21
July 1 as start date of, 242
licensing requirements by state, 9, 260, 273–307
“The Match,” 7–9
Medical School Release Request (Form 345), 9
Medical Student Performance Evaluations (MSPES), 7
Medicare, number of resident positions determined by, 7
Mental Health Professional Shortage Areas (MHPSA), 57, 88–89, 198, 309–342
Mergers and acquisitions, 239–249
cap-exemption strategies and, 241
determining effect of deal on immigrant physicians, 239–240
due-diligence checklist, immigration documents for, 247–248
green-card applications, effect on, 244–246
H-1B visa holders, effect on, 240–243
immigration issues to consider, 246–247
J-1 visas, effect on, 244
sample corporate reorganization memo, 243–244
sample transaction contract language, 248–249
successors in interest, 240–241, 244–246
timing of closing, 240
travel in and out of United States, effect on, 247
types of deals, 240
MHPSA. See Mental Health Professional Shortage Areas

MHPSA. See Mental Health Professional Shortage Areas

Moonlighting, 35

MSPEs (Medical Student Performance Evaluations), 7

MUAs. See Medically Underserved Areas

Multiple employers and H-1B visas, 133–134

Multiple locations of employment, 193, 253

N

NAFTA (North American Free Trade Agreement), 142

National Aeronautics and Space Administration (NASA), 100

National Board of Medical Examiners (NBME), 2

National Health Service Corps (NHSC) program, 72

National Institutes of Health (NIH), grant-funding, 79

National Interest Waivers (NIWs). See EB-2 visas; Physician National Interest Waivers

National Practitioner Data Bank Reports, 97

National Prevailing Wage Center (NPWC), 187–188

National Resident Matching Program, 2, 5, 7–9

National Science Foundation, 100

Native American/Alaskan Native tribal facilities, HHS clinical waivers for, 71–72

Naturalization. See also Citizenship

age requirement, 221
benefits and costs of, 219–221
physical requirements for, 222
U.S. residence requirement, 222

NBME (National Board of Medical Examiners), 2

Network Review and Certification of Facility Waiver Request (VA-Form 10-0422b), 96

Neufeld memorandum (Aug. 2009), 245

NHSC (National Health Service Corps) program, 72

NIH (National Institutes of Health), grant-funding, 79

NIWs (National Interest Waivers). See EB-2 visas; Physician National Interest Waivers

Noncompetition clauses, 61, 257

Nonimmigrant visas. See also Consular processing of nonimmigrant visas; E-2 treaty investor visas; J-1 visas; Visitor visas falling out of legal status, 230–231

Form DS-160 (Online Nonimmigrant Visa Application), 23–24, 35, 158–160

Form I-129 (Petition for a Nonimmigrant Worker), 15

Form I-539 (Application to Extend/Change Nonimmigrant Status), 28, 151–152

leaving United States and re-entering in another nonimmigrant category, 46

physicians coming to United States for training, 167

Nonimmigrant Visa Waiver Arrival/Departure Record (Form I-94W), 20

North American Free Trade Agreement (NAFTA), 142

Notice of Action (Form I-797), 51, 64

NPWC (National Prevailing Wage Center), 187–188

O

O-1 visas
aliens of extraordinary ability, 144
documents to present at U.S. consulate, 165
EB-1A visas and, 206–207
grace period, 135
J-1 visas and, 12, 46, 96
J-1 waivers, 76
letters of recommendation, 77–78
LPR status and, 146

Observerships, 21–22

Online Applicant Status and Information System (OASIS), 7, 30–31, 36

Online Nonimmigrant Visa Application (Form DS-160), 23–24, 35, 158–160

Outstanding professors and researchers, 205, 209–211

Overstay
denial of green card due to, 177

VA waiver and, 95
INDEX

P

Part-time positions. See Full-time vs. part-time jobs

Patriotism, 219, 221

Penalties

H-1B violations, 17, 236
payment of fees when hiring foreign worker, 257

Permanent residency

Canadian physicians, 260–261
paths to achieving, 205–218. See also EB visa headings
PERM labor certification leading to, 181–195
time after lawful permanent residency for, 177

PERM labor certification, 181–195
academic positions, special handling of, 192
adjudication process, 194
advertising requirements, 186–187
appeal of denial, 195
audits, 194
backlogged processing, 182
change of employer, effect of, 194
contacting applicants and interview process, 190
disadvantages of, 182
EB-2 visas, 181–182
employer’s attestations, 189
failure to complete training prior to starting position, 193
full-time vs. part-time jobs, 192
graduate medical training in United States and, 191
hiring both qualified candidate and immigrant candidate, 194
Immigrant Petition for Alien Worker (Form I-140), 182, 194–195
J-1 visas and, 17
language requirements, 192
layoffs, 232
license requirements, 173
LPR status and, 145–146, 178
minimum job requirements, 190–191
multiple worksites, 193
notice requirements, 186
permanent residency, leading to, 181–195
PNIW compared to, 181–182, 204
prevailing wages, 187–188
protected U.S. workers, 191
relocation of physician during process, 194
for residents and fellows, 191
rural health clinics, 183
self-employed physicians, 193
steps in process, 182–185
type of medical degree, 193
validity duration of PERM approval, 195
valid reasons to reject U.S. candidates, 189–190
wage requirements, 187–188

Persecution. See Hardship and persecution waivers

Petition for Alien Relative (Form I-130), 172–173

Petition for a Nonimmigrant Worker (Form I-129), 15, 136, 241

Physician National Interest Waivers (PNIWs), 197–204
adjustment of status before completion of service, 200
administrative processing, advantages of PNIW petition in cases of, 204
approved labor certification, 211–212
backlogged processing, 204
change of employers, 200
clinical work, 198
continuous service, 199–200
credit for work in shortage area prior to filing application, 199
definition of, 197
EB-2 visas, 197
employment contracts, 201–202
evidence, 212–214
five-year service requirement, 199–200
flex slots, 198
full-time vs. part-time jobs, 198
HPSAs and, 198
Immigrant Petition for Alien Worker (Form I-140), 204
J-1 three-year service and, 201
LPR status and, 146, 177
Medically Underserved Areas (MUAs), 198
new employers, 214
no limits on number allowed, 198
PERM compared with, 181–182, 204
petitioners, 211–212
premium processing of I-140 petitions, 203
primary-care physicians, 201
proving completion of service, 203
same government agency letter for both J-1 waiver and PNIW, 202
self-employment, 202
self-petitions, 202
shortage areas qualified for, 198
specialties, 201
sponsoring government agencies, 199
state programs, 309–342
state restrictions, 202–203

Political and security-related hardships, 104

Political contributions, 220

Portability of H-1B visas, 131–133, 228–229, 232–233

Postgraduate Training Authorization Letters (PTALs), 7

Prevailing wages
Primary-care physicians

H-1B visas, 121–123
PERM labor certification, 187–188

Primary-care physicians
ARC sponsorship, 81, 86
Conrad 30 waivers, 59
definition of primary care (by state Conrad 30 program), 353–389
definition of primary care (by state NIW program), 309–342
DRA waivers, 88–89, 93
employment contract requirements, 73, 83–85
graduate medical training programs, 6
HHS waivers, 72
IGA waivers, 70
MUAs, 57–58
PNIW, 201

Program Electronic Review Management System. See PERM labor certification

Psychological hardships, 104
PTALs (Postgraduate Training Authorization Letters), 7
Public interest waivers, 69–100
application contents for IGA waivers, 70–71
HHS, 69–71
interested government agency (IGA) waivers vs.
Conrad 30 waivers, 70
rules governing interested government agency (IGA) waivers, 69–70
Public policy waiver, 105

Q

Questionnaires
for physician candidate, 255–256, 343–345
for physician employer, 255–256, 347–348

R

Reciprocity of licensing, state provisions, 273–307

Recruiting
ARC waivers, 83
Conrad program waivers, 62–63, 353–389
DRA waivers, 90–91
HHS clinical waivers, 73
physician expectations, 257–258
role of recruiter, 255–258
VA waivers, 94–95, 99

Refugees, 168
Report of Medical Examination and Vaccination Record (Form I-693), 175–176
Reputation of attorney, 266
Researcher waivers, 75–79
Research scholars
J-1 visas, 33–34
outstanding professors and researchers, 205, 209–211
Resources and websites, 271–272
Return fare, 235
Rural health clinics
HHS clinical waivers, 72
HPSA designation, 58
PERM qualifications, 183
state J-1 waivers, 60, 72

S

Same-sex marriages, 169
Save Jobs USA, 155
Schooling for family members
H-4 visas, 149–150
J-2 visas, 115
Secondary employers and H-1B workers, 236
Security clearances for visitor visa applications, 26
Self-employed physicians
H-1B visas, 252
PERM labor certification, 193
PNIWs, 202
Self-petitions
Conrad 30 waivers, 65–66
PNIWs, 202
Severance benefits, 230
SEVIS (Student and Exchange Visitor Information System), 30
Shortage areas. See Health Professional Shortage Areas; Medically Underserved Areas; Mental Health Professional Shortage Areas
SMSA (Standard Metropolitan Statistical Area), 241
SOAP (Supplemental Offer and Acceptance Program), 9
Social Security Act, 72
Sociocultural hardships, 104
Specialties
American Board of Medical Specialties (ABMS), 1, 33
ARC waivers, 82
board certification, 1
change of specialties after arrival (J-1), 34
Conrad program waivers, 59, 353–389
extension of J-1 visa to sit for specialty board examination, 39
HHS clinical waivers, 72
PNIWs, 201
requirements for practice in, 5–6

Spillovers, 172

Spin-offs. See Mergers and acquisitions

Spouses. See Citizenship; H-4 visas for family members; J-2 visas for family members

State licensing requirements, 9, 260, 273–307
Statement of Need, 30
State Physician National Interest Waiver (PNIW) programs, 309–342
Student and Exchange Visitor Information System (SEVIS), 30
Successors in interest, 240–241, 244–246
Supplemental Offer and Acceptance Program (SOAP), 9

T

Taxation, 220–221

TB testing of Conrad program waiver applicants, 64

Teaching hospitals. See also Educational Commission on Foreign Medical Graduates; Medical residency programs
classification of residents and fellows, 123
H-1Bs at, 123, 242
July 1 as start date of residency in, 242
owned by for-profit hospital systems, 118
termination of employment with, 228

Telemedicine positions, 66

Temporary Protected Status (TPS), 145

Termination of employment, 227–238
change of status to visitor status, 229
employers’ consequences, 235–237
factors in determining, 235
falling out of legal status, 230–231
grace period after, 231
“H-1B dependency” and, 235–236, 238
H-1B visas, implications for, 235–237
J-1 visas, implications for, 228
LPR status, effect on, 234–236
notice, 227, 237–238
pending green card applications, 232–234
portability. See Portability of H-1B visas
strategies for preventing negative immigration consequences, 237–238
unemployment compensation, eligibility for, 230
voluntary termination, 236

Third-party employers
H-1B visas, 129–131
as sponsors, 64–65

TN visas, 135, 142–143, 229
TPS (Temporary Protected Status), 145
Translation of documents, 5, 9, 161–162

Travel in and out of United States
adjustment of status application pending, 176
ECFMG and, 36–37
H-1B visa holders, 135
H-4 visa holders, 150
J-1 visa holders, 36–37
J-2 visa holders, 36–37
J-2 visa holders remaining in United States while J-1 travels outside of United States, 115
leaving United States and re-entering in another nonimmigrant category, 46
mergers and acquisitions, effect on, 247
visa revalidation for certain trips outside United States, 36–37

Tuberculosis testing of Conrad program waiver applicants, 64

U

Unemployment compensation, 230

United States Departments. See name of specific department

United States Medical Licensing Examination (USMLE)
Bulletin of Information, 2–3
Canadian physicians, 260
fee schedule, 4
graduate medical training, 2–5
H-1B visa requirements, 4, 126–127
J-1 visa requirements, 4, 13
state requirements, 273–307

University professors, 205, 209–211
VA-Form 10-0422b (Network Review and Certification of Facility Waiver Request), 96

Visa Bulletin, 172–173

Visa revalidation, 36–37

Visa Waiver Program (VWP), 19–21, 157

Visitor visas, 19–28
 administrative processing, 26
 application process, 23–24
 approval of applications, 25
 change of status, 28
 denial of applications, 25–26
 documents to present at U.S. consulate or port of entry, 24–25, 161–162
 Electronic System for Travel Authorization (ESTA), 20–21
 entry stamp, 27
 EVUS, 26–27
 exceptions, 19–21
 extension of stay, 28
 Form DS-160 (Online Nonimmigrant Visa Application), 23–24, 35, 158–160
 Form I-94 (Arrival Departure Record), 27
 Form I-539 (Application to Extend/Change Nonimmigrant Status), 28
 H-1B visa seeking change of status to, 229
 interviews, 25
 legitimate reasons for, 21–22
 multiple entries, 21
 photograph for, 23
 port-of-entry interview, 27
 validity duration, 21
 Visa Waiver Program (VWP), 19–21, 157
 wait time for processing applications, 22–23

Voting rights, 219

VWP (Visa Waiver Program), 19–21, 157

W

Wages. See Prevailing wages

Waiver Review Division, 102, 105

Waivers. See also Conrad 30 waivers; Hardship and persecution waivers; Interested government agency (IGA) waivers; Physician National Interest Waivers; Public interest waivers

flowchart, 349–350
J-1 visa holders, 15–16, 51–52, 99
J-1 visas, 12
 medically underserved community work, 17
Veterans Affairs, 98–99