Options For Medical Residents
J-1 Exchange Visitor Status
H-1B Professional Worker Status
O-1 Extraordinary Ability Status

Q. What Issues Affect Hiring International Medical Graduates?
A. International Medical Graduates (IMGs) need special credentialing from the Educational Commission on Foreign Medical Graduates (ECFMG) in order to become licensed physicians or begin residency training. In addition, IMGs who are not U.S. citizens or permanent residents ("green card" holders) must obtain an employment-authorized temporary visa before beginning employment (including residency training) in the United States.

Q. What Visa Options Do IMGs Have For Their Residency?
A. IMGs generally have three nonimmigrant status options for their residency: a J-1 Exchange Visitor, sponsored through ECFMG; H-1B Professional Worker, sponsored by the hospital where they will be a resident; and O-1 Extraordinary Ability, sponsored by the hospital where they will be a resident.

Q. What Are The Requirements For J-1 Status?
A. A residency program must be sponsored by ECFMG, which will issue a Form DS-2019 to a physician to enable him or her to obtain J-1 status or apply for a J-1 visa abroad. ECFMG requires a physician to have obtained ECFMG certification, which includes a credentials review and satisfactory scores on the USMLE Step 1, Step 2 Clinical Knowledge, and Step 2 Clinical Skills (or the ECFMG Clinical Skills Assessment plus a passing score on the Test of English as a Foreign Language (TOEFL)) examinations.

Q. What Are The Limitations On J-1 Status?
A. J-1 status is limited to the length of a normal training program in the specialty for which the physician is being trained, as recognized by ACGME. In addition, the overall time limit for a J-1 physician is seven years. Finally, any physician who receives graduate medical education (GME) in J-1 status must return to his or her home country for two years before being eligible for H status or permanent residence, unless a waiver of that requirement is granted.
Q. What Are The Requirements For H-1B status?

A. An H-1B petition may be filed for an IMG who has an ECFMG certificate, has completed all three steps of the USMLE examination and has a valid training (or house) license in the state of intended training. An employer must first file a Labor Condition Application (LCA) with the U.S. Department of Labor (DOL), attesting that it is offering the position at the prevailing wage for the occupation and is offering the H-1B the same wages and working conditions as it offers its other residents. The LCA is filed with Form I-129, Petition for Nonimmigrant Worker, and supporting documentation, to United States Citizenship and Immigration Services (USCIS). A petition on behalf of a person in valid status in the United States can request the person’s status be changed to H-1B with the petition approval; a petition on behalf of a person outside of the U.S. allows the person to apply for an H-1B visa at a U.S. Consulate upon petition approval.

Q. What are the filing fees for H-1B status?

A. The filing fee is U.S. $185. Employers must also pay a $1500 “U.S. Worker Training Fee” to Department of Homeland Security for the initial petition they file and for the first extension they file on behalf of a particular employee. Effective March 8, 2005, employers will also be required to pay a $500 “Anti-Fraud Fee” for the initial petition filed on behalf of a particular employee. Finally, if faster adjudication is desired, USCIS provides an option to pay an extra fee of $1000 and obtain “premium processing” of an H-1B petition, which guarantees adjudication within two weeks of filing.

Q. How long does this petition process take?

A. It may take from 12 to 16 weeks to complete the petition process if all of the required documentation was filed with the petition. USCIS provides an option to pay an extra fee of $1000 and obtain “premium processing” of an H-1B petition, which guarantees adjudication within two weeks of filing. The process will take longer if USCIS requests additional documentation.

Q. Are there any times of the year when new H-1B visas are unavailable?

A. Yes. H-1B petitions may be filed as soon as six months ahead of time, or on April 1 for an October 1 start date. In recent years, the quota or “cap” for H-1B visas has been reached as early as mid-May for a start date of the following October 1. When the cap is reached, no individual in a cap-subject job may obtain an H-1B until October 1 of the following fiscal year unless the individual is already in H-1B status and seeking an extension, change of employer, or addition of employer.
Q. Are Training Hospitals Exempt From The H-1B Cap?

A. An institution of higher education, or a nonprofit organization “affiliated with” an institution of higher education, is not limited by the annual cap on H-1B status. Nonprofit hospitals conducting residency training that have affiliation agreements with university medical schools have been able to argue successfully that their H-1B petitions should be approved in spite of the cap on the basis of those affiliation agreements.

Q. How long may an individual remain in H-1B status?

A. In most cases, an individual may remain in H-1B status for a maximum of six years. The initial petition may be approved for up to three years, and subsequent requests for extensions may be approved for up to a maximum of six years. The six years cannot be extended by changing employers. In certain limited situations, the individual can obtain H-1B extensions beyond six years while a permanent resident case is pending.

Q. What Are The Requirements For O-1 Status?

A. O-1 status is for physicians of “Extraordinary Ability”; that is, status for those who have sustained recognition either internationally or in their home countries. Because even prominent physicians may need to participate in one or more years of residency training in the United States for licensing purposes, a physician with an international or national reputation for excellence may be sponsored for O-1 status, even for a residency program.