



March 3, 2021

The Honorable Alejandro Mayorkas  
Secretary, Department of Homeland Security  
2707 Martin L. King Avenue, SE  
Washington, DC 20528

**Re: USCIS-2020-0019; Modification of Registration Requirement for Petitioners Seeking to File Cap-Subject H-1B Visa Petitions; Delay of Effective Date**

Dear Secretary Mayorkas:

On behalf of the American Academy of Family Physicians (AAFP), which represents 136,700 family physicians and medical students across the country, I write in response to the [request for comments](#) on Modification of Registration Requirement for Petitioners Seeking to File Cap-Subject H-1B Visa Petitions; Delay of Effective Date as published in the February 8, 2021 version of the *Federal Register*.

The AAFP is pleased the Department of Homeland Security (DHS) has delayed the effective date of this final rule, which will eliminate the H-1B visa lottery system and replace it with a wage level ranking system that favors visa applicants with higher wages. The AAFP previously submitted [comments in opposition](#) to the proposed rule, since we believe that this rule will exacerbate physician shortages and negatively impact access to timely, high-quality primary care for patients, particularly those living in rural and other under resourced areas. We were disappointed that DHS chose to finalize the rule as proposed. **We remain deeply concerned that this rule will worsen health inequities and undermine our nation's ability to respond to and recover from the COVID-19 pandemic. Accordingly, we recommend that DHS reverse this final rule and reinstate the H-1B visa lottery for cap-subject petitions.**

**H-1B Family Physicians are Vital to the Primary Care Workforce**

Family physicians provide comprehensive primary care services to patients across the lifespan and serve as the first point of contact to the health care system. Family physicians can directly address most health care problems, including acute illnesses, chronic conditions, and injuries. They provide preventive services, such as immunizations and health screenings, as well as help coordinate care with other clinicians and can refer patients to specialty care as needed.

Unfortunately, our country is facing a primary care physician shortage. By 2033, the United States will face a shortage of between 21,400 and 55,200 primary care physicians.<sup>1</sup> International medical graduates (IMGs) play a vital role in filling this gap, making up more than 24 percent of active family physicians.<sup>2</sup> IMGs are more likely to become primary care physicians and practice in rural and other underserved areas where physician shortages are the most dire.<sup>3,4</sup> In fact, nearly 21 million Americans live in areas of the U.S. where foreign-trained physicians account for at least half of all physicians.<sup>5</sup>

**STRONG MEDICINE FOR AMERICA**

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H-1B physicians are also essential to our nation's public health. They have been serving on the frontlines of the COVID-19 pandemic for several months, often at great personal risk. The states where H-1B physicians are providing care are also those with some of the highest proportions of COVID-19 cases. For example, North Dakota has the highest per capita case and death rate of any state, as well as the highest percentage of H-1B physicians in their workforce.<sup>6,7</sup> In order to support our nation's response to the COVID-19 pandemic and mitigate physician shortages, we recommend that DHS encourage IMGs to practice in the U.S.

### **This Rule Will Disrupt the Primary Care Pipeline and Worsen Primary Care Shortages**

In the final rule, DHS eliminated the H-1B lottery system that is used to randomly grant H-1B petitions when the Department receives more petitions than is allowed under the annual cap. Instead the Department will grant petitions based on wage level, awarding them first to those with the highest wages. Due to existing caps on the number of H-1B physicians that are accepted, DHS admits that petitioners with lower wage levels will never be selected and it is therefore unlikely that any early career family physicians that are subject to the cap will receive H-1B visas.

Since physicians typically continue to practice in the areas where they train and practice at the beginning of their careers, the AAFP is concerned that this rule will reduce the overall number of IMGs practicing in the U.S.<sup>8,9</sup> Family medicine and other primary care physicians typically have lower annual salaries than specialty physicians. They are also more likely to practice in small clinics and hospitals that cannot offer higher salaries to increase their chances of securing an H-1B physician. Since this rule favors H-1B petitioners with higher annual salaries, it may also unfairly discriminate against family physicians.<sup>10</sup> This is particularly alarming considering the vital role that H-1B physicians play in providing primary care services to rural and other underserved patients, who are disproportionately impacted by physician shortages and rely heavily on family physicians for ambulatory and emergency care.<sup>11,12,13</sup>

For example, many H-1B physicians participating in pipeline programs practice at Federally Qualified Healthcare Centers (FQHCs) in the beginning of their careers. FQHCs are a vital part of the safety net, serving low-income, medically underserved populations in health professional shortage areas (HPSAs), but do not qualify for an exemption from the DHS H-1B visa cap. If the final rule is enacted, these FQHCs will be unable to obtain early-career H-1B physicians and likely won't be able to offer higher salaries in order to increase their chances of obtaining more experienced H-1B physician candidates. In other words, this final rule will increase the shortage of health professionals in areas that are already designated as HPSAs, exacerbating health inequities and negatively impacting access to care.

DHS states that the wage ranking system will increase the average and median levels of H-1B beneficiaries that are selected. The AAFP does not agree with this policy goal. We believe that increasing the average wages of H-1B visa holders will make it challenging for hospitals and health clinics to hire them. Since our nation is suffering from an ongoing physician shortage, pricing H-1B visa holders out of the physician employment market will only exacerbate these shortages and worsen barriers to care for patients.

Existing shortages also emphasize that the physician employment market is not negatively impacted by H-1B visa holders. In fact, our communities rely on H-1B physicians for ongoing access to

comprehensive primary care and other health services. Therefore, we recommend that DHS reverse the final rule before its effective date.

Thank you for the opportunity to comment on the final rule. Should you have any questions, please contact Meredith Yinger, Senior Regulatory Strategist, at (202) 235-5126 or [myinger@aafp.org](mailto:myinger@aafp.org).

Sincerely,



Gary LeRoy, MD, FAAFP  
Board Chair  
American Academy of Family Physicians

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<sup>1</sup> Association of American Medical Colleges. The Complexities of Physicians Supply and Demand: Projections from 2018 to 2033. June 2020. Available at: <https://www.aamc.org/system/files/2020-06/stratcomm-aamc-physician-workforce-projections-june-2020.pdf>

<sup>2</sup> Association of American Medical Colleges. Active Physicians Who are International Medical Graduates (IMGs) by Specialty, 2019. Available at: <https://www.aamc.org/data-reports/workforce/interactive-data/active-physicians-who-are-international-medical-graduates-imgs-specialty-2017>

<sup>3</sup> Thompson MJ, Hagopian A, Fordyce M, Hart LG. Do international medical graduates (IMGs) "fill the gap" in rural primary care in the United States? A national study. *J Rural Health*. 2009 Spring;25(2):124-34. doi: 10.1111/j.1748-0361.2009.00208.x. PMID: 19785577

<sup>4</sup> Ranasinghe PD. International Medical Graduates in the US physician workforce. The Journal of the American Osteopathic Association, April 2015, Vol. 115, 236-241. Available at: <https://jaoa.org/article.aspx?articleid=2213422#:~:text=Compared%20with%20US%20graduates%2C%20IMGs,th%20US%20health%20care%20system>.

<sup>5</sup> American Immigration Council. Foreign-Trained doctors are critical to serving many U.S. Communities. 2018. Available at: [https://www.americanimmigrationcouncil.org/sites/default/files/research/foreign-trained\\_doctors\\_are\\_critical\\_to\\_serving\\_many\\_us\\_communities.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/foreign-trained_doctors_are_critical_to_serving_many_us_communities.pdf)

<sup>6</sup> The U.S. Department of Health & Human Services, Bureau of Health Workforce Health Resources and Services Administration (HRSA), Bureau of Health Workforce, Fourth Quarter of Fiscal Year 2020, Designated HPSA Quarterly Summary. Data as of September 30, 2020

<sup>7</sup> JAMA Network, Peter A. Kahn, MPH, ThM, et al., Distribution of Physicians With H-1B Visas By State and Sponsoring Employer, June 6, 2017. <https://jamanetwork.com/journals/jama/fullarticle/2620160?resultClick=1>.

<sup>8</sup> Seifer SD, Vranizan K, Grumbach K. Graduate medical education and physician practice location. *JAMA* 1995;274(9):685-91.

<sup>9</sup> Owen JA, Hayden GF, Bowman RC. Influence of places of birth, medical education, and residency training on the eventual practice locations of family physicians: recent experience in Virginia. *South Med J* 2005;98(6):674-5.

<sup>10</sup> Medscape Family Physician Compensate Report. 2019. Available at: <https://www.medscape.com/slideshow/2019-compensation-family-physician-6011329>

<sup>11</sup> U.S. Department of Health and Human Services. Distribution of U.S. Health Care Providers Residing in Rural and Urban Areas. Available at <https://bhw.hrsa.gov/sites/default/files/bhw/nchwa/nchwafactsheet.pdf>

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<sup>12</sup> The Robert Graham Center. (July 2005; Policy Paper Number 31). The Family Physician Workforce: The Special Case of Rural Populations.

<sup>13</sup> Peterson LE, Dodoo M, Bennett KJ, Bazemore A, Phillips RL Jr.: Nonemergency medicine-trained physician coverage in rural emergency departments. *J Rural Health* 2008 Spring 24(2): 183-8.