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Physician Immigration Takes Center Stage in Washington

Note: This article went to print on July 10, 2006. Legislative updates may have occurred since that time.

While the public is generally focused on building a fence on the U.S.-Mexican border and legalizing millions of undocumented immigrants, Congress is considering several measures that will have an important impact on physician immigration.

In order to practice in the U.S., a foreign medical graduate (FMG) must undergo graduate medical training in the U.S. Approximately 6,000 FMGs enter the U.S. each year for residency training, filling roughly one-quarter of the 25,000+ training positions.

More than half of those doctors enter with a J-1 visa. Unless a waiver is secured, a J-1 is obligated to return to his or her home country for a two-year period following completion of a program. The growing physician shortage and the increased realization that FMGs can play a critical role in addressing the health care needs of the public have led Congress to liberalize the requirements for securing waivers. Some employers have been reluctant to go through the J-1 waiver process due to the expense and the perceived difficulties in the process, but the easing of some of the rules and the dwindling physician supply have made many reconsider their positions.

Most of the remaining doctors coming to train in the U.S. enter on the H-1B visa. This visa is generally perceived to be for high-tech workers, but it is open to any professional. The H-1B category has a general cap of 65,000 visas issued per year, and the demand for the visa has been so strong that the quota is usually used up months in advance. Unlike the J-1, there is no home residency requirement associated with the H-1B. However, to secure an H-1B

visa the applicant must pass USMLE part 3. In addition, the H-1B visa is limited to six years, so for longer training programs, a physician can run into problems maintaining legal status for the duration of the training and into a post-training position.

Expiration of the Conrad Program for Doctors Working in Underserved Areas

Congress will soon address many looming physician immigration issues. First on the priority list is dealing with the June 1, 2006 expiration of the Conrad 30 J-1 physician waiver. This program allows a state to sponsor up to 30 physicians annually to remain in the U.S. upon completion of their training programs. Physicians willing to work in medically underserved communities for three years can avoid the requirement that they return to their home countries for two years.

All 50 states now have their own participating programs, and the Conrad doctors now account for the vast majority of J-1 waivers. The Conrad 30 program's expiration does not mean the immediate end of these waivers. Any physicians in the U.S. on June 1, 2006, will still be able to seek waivers, so the death of the program will not likely be noticed for a couple of years.

In all probability, however, it won't be too long before Congress extends the Conrad 30 waiver. The comprehensive immigration reform bill, ever-present in the news this year, contains a provision permanently extending the Conrad program. And in the event that this massive piece of legislation doesn't pass, permanent reauthorization language is included in separate standalone bills that were introduced in both the House and Senate. The House had its first hearing on the measure on May 18, 2006, and heard from a representative of the Association of American Medical Colleges regarding the physician shortage as well as an official from the General Accounting Office who

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testified that most states are pleased with the program.

The Conrad Program once supplemented various federal waiver programs run by the U.S. Department of Agriculture, Housing and Urban Development, Veterans Administration, and Appalachian Regional Commission. Today, most waivers are Conrad 30 waivers. A new eight-state program by the Delta Regional Authority is gaining strength, buoyed by 2004 legislative changes permitting the agency to sponsor specialist physicians. And the VA program is still very much alive. But the Appalachian Regional Commission and the Health and Human Services waiver programs are now only approving a very small number of cases.

More Slots for Larger States

Aside from permanently extending the Conrad program, several other proposals are being promoted for inclusion in the standalone legislation. First, advocates are urging Congress to include language to permit leftover waiver slots to be reclaimed by populous states such as Texas and New York. An exemption from the employment-based green card cap for doctors who have worked in underserved communities is being pushed (right now, the wait for Indian and Chinese doctors can be several years due to green card backlogs). Measures designed to give favorable treatment to communities in Hurricane Katrina-affected parts of the country are on the table. And an exemption from the H-1B visa quota for doctors working in medically underserved communities is being discussed.

Increasing Work Visa and Green Card Availability

The Conrad 30 legislation is the only physician-specific legislation currently being debated, but several other bills would have a significant effect.

The comprehensive immigration reform legislation noted above passed in the Senate just after Memorial Day and has a provision that would expand the number of H-1B visas from 65,000 per year to 115,000 per year. The cap could grow by up to 20 percent per year if demand for the H-1B is high.

That legislation would be important to doctors because an increasingly large number of international medical graduates are entering the country each year on H-1B visas instead of J-1s. When these doctors complete their training, they generally become subject to the annual H-1B quota. The unavailability of visas for doctors completing their training is a problem that continues to grow.

The bill also expands employment-based green card numbers. Under the comprehensive immigration reform bill pending in the Senate, the number of employment-based green cards would more than double. The per-country limit requiring that no more than 7 percent of visas in a particular green card category go to members of a particular nationality would rise to 10 percent and would immediately free up visas for many (particularly Indians and Chinese).

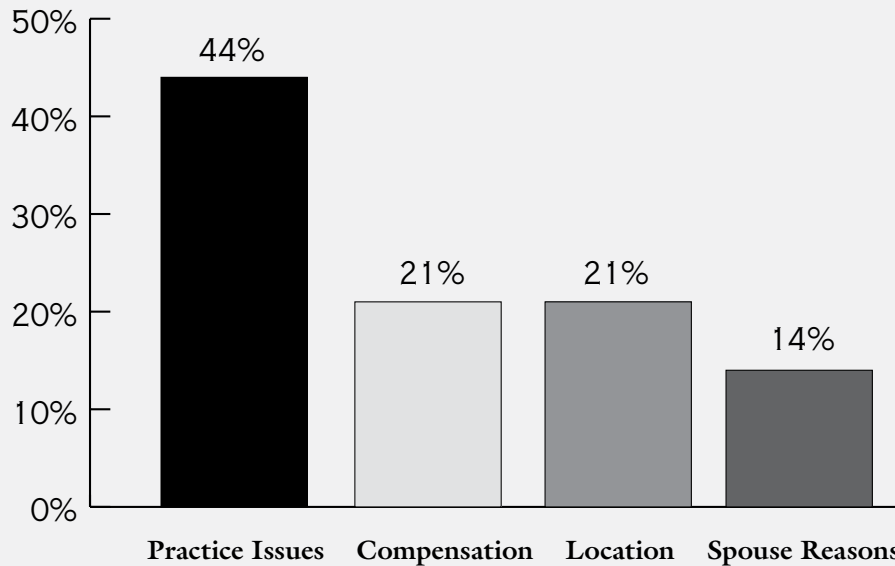
Sen. John Cornyn (R-TX), chair of the Senate Immigration Subcommittee, recently introduced the Securing Knowledge, Innovation, and Leadership Act of 2006 or "SKIL" Act. The SKIL Act would also expand the H-1B visa for doctors. First, the actual numbers of H-1Bs would rise to 115,000 and could grow up to 20 percent each year if the cap is fully used in a year. The bill would also exempt those who complete U.S. graduate programs from the H-1B cap, and those who complete foreign countries' graduate programs could tap into a 20,000 bonus quota. That would free up many H-1Bs for those currently affected by the cap. Finally, the bill exempts specialist physicians from the H-1B cap, and it would expand green card availability along lines largely similar to the comprehensive immigration reform package.

While the Conrad program will likely be extended, other legislative changes will face a tough fight. But as the physician shortage in the nation worsens, the politics in favor of physician immigration improve, which provides an arena for more serious consideration of other solutions.

Source: Greg Siskind is a partner at Siskind Susser, a national immigration law firm. He can be reached at gsiskind@visalaw.com. For more information, visit www.visalaw.com or call (800) 343-4890.

MARKET WATCH

Top Four Reasons for Voluntary Resignation



PHYSICIAN TENURE AT TIME OF SEPARATION

	ALL GROUPS	GROUP SIZE			
		3-50	51-150	151-500	>500
LESS THAN 1 YEAR	9%	0%	15%	5%	9%
1-3 YEARS	38%	55%	27%	40%	48%
4-5 YEARS	13%	10%	15%	13%	9%
MORE THAN 5 YEARS	40%	35%	43%	42%	34%

Source: 2005 Cejka Search and AMGA Physician Retention Survey. To obtain a copy of the Cejka Search and AMGA 2005 Physician Retention Survey, please visit www.cejkasearch.com.

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www.aspr.org

**Ohio Network of
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September 11-12, 2006
Newark, OH
paulaa@ohanet.org

**Interscience Conference
Antimicrobial Agents
and Chemotherapy***
September 27-29, 2006
San Francisco, CA
www.iccac.org

**Association of
Program Directors in
Internal Medicine**
October 26-30, 2006
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www.im.org/apdim

**Midwest Recruiters
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ISSUE	CLOSING DATE	SPECIALTIES
September 14	August 25	CD, D, END, ENT, FM, GE, HEM/ ONC, HOSP, ID, IM, NEP, N, ORS, PUD, DR, RHU, and U

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