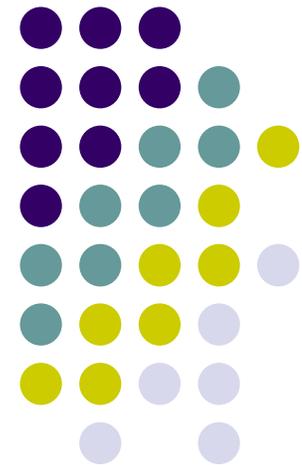




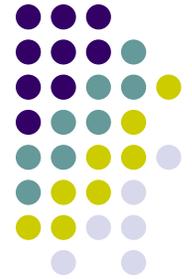
**VISA STRATEGIES FOR INTERNATIONAL
MEDICAL GRADUATES IN GME PROGRAMS**

**WEBINAR – WEDNESDAY, NOVEMBER 3,
2010**





Educational Commission for Foreign Medical Graduates



ECFMG Services & Visa Options for Foreign National Physicians

Presented by:

ECFMG – Exchange Visitor Sponsorship Program

Eleanor Fitzpatrick, Manager
Irene Anthony, Assistant Manager



Learning Objectives

Upon completion of the webinar, participants should have a better understanding of:

- ECFMG Certification Requirements
- ECFMG J-1 Sponsorship Requirements
 - U.S. Federal Regulatory Requirements
 - Sponsorship Application Process
 - Roles and Responsibilities
 - Special Appeals to the U.S. Department of State
- Effective Pre-Screening Recruitment
- Alternate Visa Options for Foreign National Physicians



ECFMG Certification Requirements

- Medical Education Credentials
 - Completion of medical school curriculum of at least 4 years
 - School and graduation year listed in ***The International Medical Education Directory (IMED)*** www.faimer.org/resources/imed.html
 - Primary source verification of medical diploma and transcript by ECFMG
- USMLE Exams
 - Step 1 Basic Science
 - Step 2 Clinical Knowledge (CK)
 - Step 2 Clinical Skills (CS)



IMGs & Entry into U.S. GME

- Complete ECFMG Certification (if IMG)
- Apply for U.S. Residency Training Position
 - Apply to training programs through ERAS
 - Interview with programs
 - Enroll in the NRMP Match
 - Secure a contract / letter of offer
- Seek Appropriate U.S. Training Visa / Status (if foreign national physician)

ECFMG J-1 Visa Sponsorship

Sole Sponsor of J-1 Physicians in Clinical Training



- Temporary, non-immigrant visa
- Full-time educational training / GME
 - Not employment
- Two-year home residency obligation *INA §212(e)*
- Non-immigrant intent *INA §214(b)*
- Seven-year maximum for progressive training

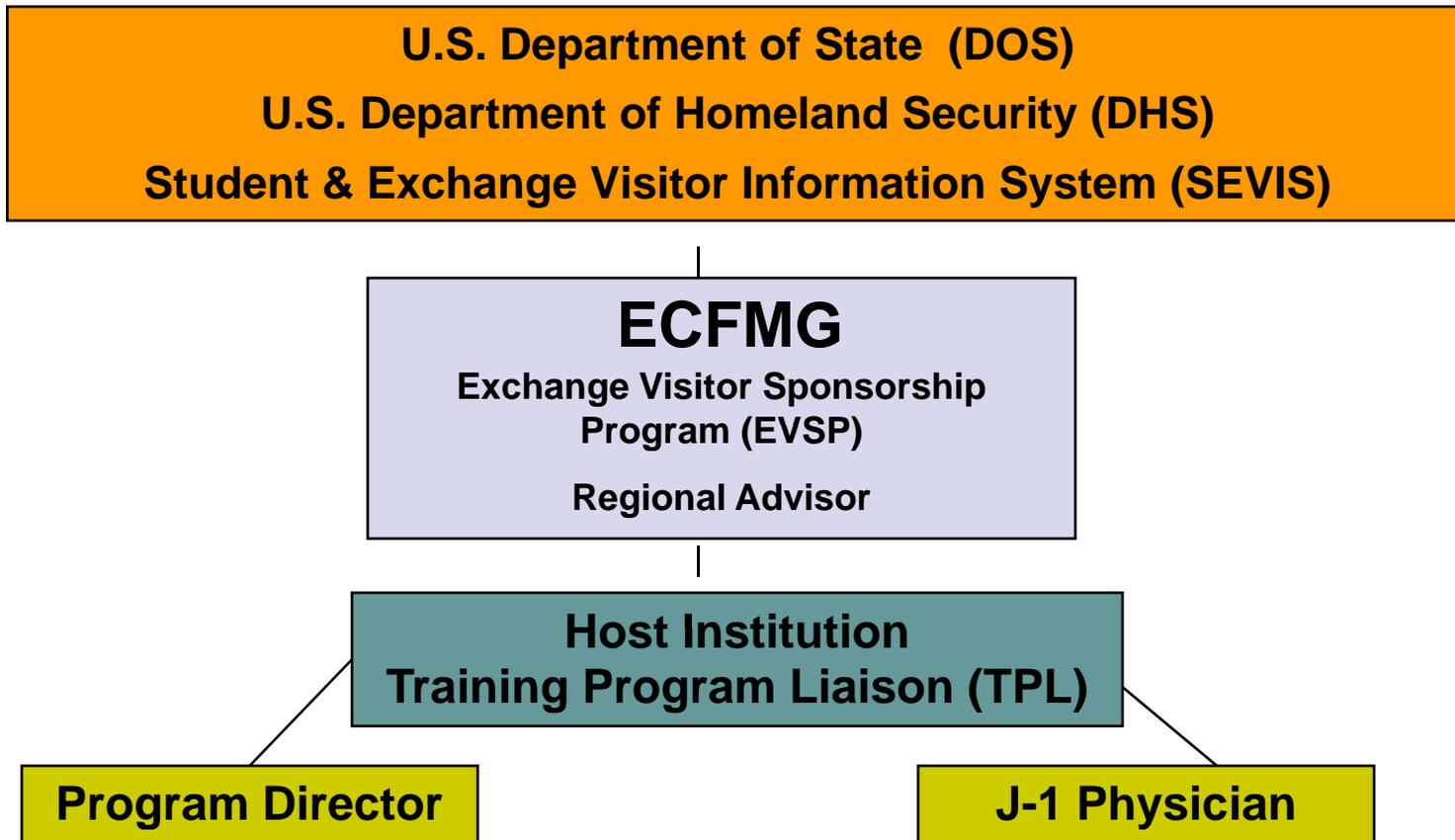


ECFMG J-1 Sponsorship Requirements

- ECFMG Certification
- GME Contract / Letter of Offer
- “Statement of Need” from Ministry of Health in Country of Most Recent Legal Permanent Residence
- Adequate Prior Education

J-1 Regulations 22CFR§62.27(b)

J-1 Visa Sponsorship: Roles and Responsibilities



Roles and Responsibilities in the J-1 Visa Sponsorship Process



- **DoS and DHS** oversee J-1 program and visa processes
 - ✓ Track J, F, M visa holders in the SEVIS database
- ECFMG, through its EVSP **Regional Advisors**, evaluates applications and approves visa sponsorship
 - ✓ Interfaces with DoS and DHS in SEVIS tracking
- Host Institution/ **TPL** cooperate with ECFMG in providing on-site monitoring of J-1 physicians
- **J-1 physician** and J-2 dependents must comply with all pertinent immigration laws and regulations

ECFMG J-1 Sponsorship Application



J-1 Physician + TPL = Complete Application

Sponsorship Available for Participation in:

- ACGME Accredited Residency Training
- ACGME Accredited Subspecialty Training
- Non-Standard Programs (*Advanced Fellowships*)
- Board Examinations

Application Materials Available @ <http://www.ecfm.org/evsp/index.html>

On-line Payment / Status updates through OASIS @ <http://www.ecfm.org>



J-1 Sponsorship Application Process

- Regional Advisor evaluates for eligibility
 - 4 - 6 weeks for review
- If approved, SEVIS record is created
- ECFMG issues Form DS-2019
- Sponsorship duration based on annual increments (contract)

ECFMG notifies applicant via e-mail, provides instructions for obtaining J-1 visa status

Special Appeals to the U.S. Department of State



- Changes in J-1 Visa Category
- Exceptional Extensions of Stay Beyond Seven Years
- Advisory Opinions in Unusual Circumstances

**Reviewed on case-by-case basis;
contact EVSP directly for additional information**



Required Reporting by Program

- Arrival / Delays (within 30 days of SEVIS start date)
- Proposed Changes to Approved Training Plan
 - Leave of absence
 - Remedial training
 - Resignation or termination
 - Gaps in training (i.e. licensure delay)
- Legal Concerns



Effective Pre-Screening of IMGs

Who, what, when, why and how?

Best Practices:

- Define institutional and program policies
- Accuracy and consistency in gathering and evaluating the facts
- Effective communication

Pre-Screening IMGs



- Education and Medical Credentials
- Program Priorities
- Immigration History and Options
- Applicant's Personal Issues



Medical Education & Credentials

- Medical education
- Valid ECFMG Certificate
- Valid medical examinations
 - USMLE (FLEX, FMGEMS)
 - Dates, number of attempts, scores
 - Licensure requirement for position

Best Sources:

USMLE Transcript , CVS, ERAS, state medical license



Medical Education & Credentials

- Previous experience in U.S. or abroad
- U.S. board credit
- Change in specialty
- Research

Best Sources:

Institution, ERAS/CV, specialty board, ECFMG, physician



Program Priorities

- Best fit for program
- Begin training on time
- Successful progression in training
- Post training recruitment

Best Sources:

ERAS, program, physician



Immigration History & Options

- Current and previous visa status
 - Type/s of activity
 - Restrictions
 - Duration of stay in United States
- Consular processing
 - Security clearance

Best Sources:

ERAS / CV, U.S. sponsoring institution, physician



Applicant's Personal Issues

- Dependents
 - Immigration status
 - Spouse's profession
- Special needs / requests

Best Source:

Physician



Developing Best Practices

- Gather the facts
 - Be objective, ask the right questions
- Consider the options
 - Weigh the interest of institution, program and physician
- Communicate with all responsible parties
 - Seek consensus but insist on compliance

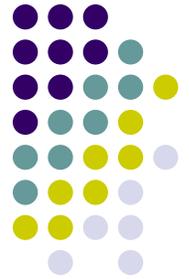
Questions?



Exchange Visitor Sponsorship Program

Tel: (215) 823-2121

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NAFSA: Healthcare Institutions Interest Group (HIIG)

Other Visa Options and Issues for IMGs in GME Programs

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NAFSA: Association of International Educators



- HIIG: Healthcare Institutions Interest Group
one of many Special Interest Groups
- 9,000 members, many of whom serve
incoming students and scholars
- There may be one on your campus who will
partner with you to keep you informed of the
latest immigration information

H-1B Temporary Worker

Core Requirements: the IMG

- Must have passed USMLE Steps 1, 2CK/2CS & 3 (includes Canadian medical school graduates)
- Must have a valid ECFMG Certificate (Canadian MGs exempt – graduates of Canadian medical schools take USMLE through the NBME, so no need for ECFMG)
- Must have either a training or permanent license to practice medicine





H-1B Temporary Worker

Core Requirements: the Employer

- Employer must pay salary/benefits (no self-funding or third party funding), must be at prevailing wage
- Approved Labor Condition Application (LCA, Form ETA 9035)
- Employer must pay all fees associated with filing of H-1B petition (application fees & attorney fees)
- Application fees \$325 for regular processing, additional \$1225 for premium processing (rates effective 11/23/2010).



H-1B Temporary Worker

Employer Requirements Continued

- Employer must pay the higher of the prevailing or actual wage.
- Prevailing wage must be from an approved source
- U.S. Department of Labor has the right to question or deny an LCA if the source is unacceptable in their opinion.
- Employer must keep a public file which contains documentation of how the wage was determined and a comparison of the actual/prevailing wage



H-1B Temporary Worker

Employer Requirements Continued

Prevailing Wage Sources

Safe Harbor Source

U.S. Department of Labor Prevailing Wage Determination (allow 60 days)

Other Sources

Association of American Medical Colleges (AAMC), Survey of Resident/Fellow Stipends & Benefits:

https://www.aamc.org/download/158738/data/2010_stipend_report.pdf

Industry Survey

Example: Towers Watson Survey Report on Health Care Clinical & Professional Personnel Compensation

Employer Survey: an employer may hire a private survey company to conduct a survey. Employer cannot conduct their own survey.



H-1B Temporary Worker

Timing: 2 Types of Issues

Type 1: processing time issues, premium vs. regular processing; is time between “Match Day” and your June orientation enough?

(Recommend setting a deadline for taking/receiving score on Step 3)

Type 2: duration is 6 years total; will your resident have enough time to complete all educational objectives? i.e. surgical specialties; lengthy fellowships

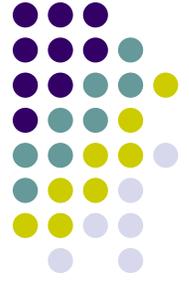
H-1B Temporary Worker



Special Topics

- Multiple worksites and short-term placement
 - 20 CFR 655.735 LCA
 - Program training sites
 - Elective rotations
 - LCA responsibility
 - 30 to 60 days in a fiscal year
 - considerations and filing

H-1B Temporary Worker



Special Topics

The USCIS Administrative Site Visit and Verification Program

- I-129 Petition fact checks
- Worker interviews
- Examination of working conditions
- Department of Labor Investigations
 - H-1B worker questionnaire published in 2009
 - LCA fact checks
 - Examination of working conditions



Other Visa Options

- A1-2 with EAD
- E-1/E-2 Spouse (only) with EAD
- E-3D with EAD
- J-2 with EAD
- K1-4 with EAD
- L-2 Spouse only with EAD
- NATO 1-6 Dependent with EAD
- T 1-4 with EAD
- V 1-3 with EAD
- Pending Permanent resident with EAD
- Permanent Resident
- Asylum applicant with EAD
- Refugee or Temporary Protected Status with EAD

EAD: Employment Authorization Document

Employment Authorization Documents (EADs)



- F-1 Optional Practical Training (OPT) encouraged for the first year out of U.S. Medical School in F1 status (adds 1 year to H1 time); Good for 12 months maximum
- Must apply before graduation with help from Foreign Student Advisor at F1 sponsoring university, and have EAD in hand to begin program
- OPT STEM extension of 17 months NOT available for residency training



EAD for J2

- J2 EAD is good for the duration of J1 Principal's eligibility only (up to 5 years generally). If it is a long program, this may not allow enough time for completion
- Two year home residency requirement may apply to dependent
- Note: it takes time and filing fees to get the document
- Consider: Is it discriminatory to disallow this status for your IMGs?



Not an Option

- TN (Trade NAFTA)
- Cannot be used for residency training
- May be used for research for individuals from Canada or Mexico
- O-1 Individuals of Extraordinary Ability or Achievement

Visa Options for Foreign Physicians

Many More Options Off the J-1 & H-1B Beaten Path



Presenter on this Topic



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- O-1 Extraordinary Ability
- Employment Authorization Documents (EAD)
- Plus Many Other Exotic Employment Authorization Options

O-1 Visa Basics



- A person who “has extraordinary ability in the sciences, arts, education, business or athletics which has been demonstrated by sustained national or international acclaim”
- Usually requires extensive evidence and supporting documentation
- No Requirement that the position requires a person of O-1 caliber
- Initial Validity of up to 3 years (extensions often available indefinitely)
- Can be Obtained within 15 days or less after filing if Premium Processing Is Used

Employment Authorization Documents (EAD Options)



- Usually based on Form I-765
- Many Options Including:
 - DED, TPS, F-1 OPT, J-2 Spouse, L-2 Spouse, E-2 Spouse,
 - (c)(9) Pending Adjustment Applicant on Extraordinary Ability, National Interest Waiver, Marriage-based application etc.,
 - Deferred Action, Suspension of Deportation, and many more

Other More Exotic Employment Options



- More than 100 additional options
- Infrequently used but can be valuable
- Most are **personal** immigrant options
- Immigrant can pursue without the knowledge, consent or cooperation of the Employer
- Unlike the H-1, usually the Physician hires the lawyer and pays for these exotic options

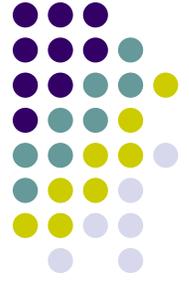
Pre-Employment Inquiries Regarding Sponsorship for an Employment Visa: What is Permissible?



- “Are you legally authorized to work in the United States? Yes or No”
- “Will you now or in the future require sponsorship for employment visa status (e.g. H-1B visa status)? Yes or No”

Cite: Letter from John D. Trasvina, Special Counsel U.S. Department of Justice, Civil Rights Division, dated August 6, 1998.

Best Practices



- Plan in Advance
- Have A Policy
 - J-1s Only?
 - H-1s or J-1s both ok?
 - General Policy plus exceptions?

Best Practices



- Recommendation:
 - Whatever General Policy is selected, allow for exceptions (e.g. by special permission on written application to an Ad Hoc Committee)
- Warning on a “J-1 only” policy:
 - Appears simpler in the short term
 - But, can hurt long term career and immigration interests of the Institution (particularly Academic Medical Centers), Physician, and Family

Questions?



If You Have Additional Immigration or Visa
Questions, Please Call.

612-321-0082