

Immigration Options for Healthcare Employers

Pathways to recruit and retain global healthcare talent.

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Agenda and Scope of Discussion

Immigration Landscape Overview

Current immigration landscape impacting healthcare employers and operational concerns.

Nonimmigrant Visa Categories

Detailed review of nonimmigrant visas focusing on eligibility and procedural steps for healthcare roles.

Permanent Residence Strategies

Explore employment-based green cards and healthcare-specific options with emphasis on planning and alignment.

Compliance and Workforce Planning

Discuss compliance topics including ICE enforcement and I-9 obligations supporting sustainable HR management.

Non-Immigrant Visas

Temporary visas for a limited duration of time, usually anywhere from 3-10 years.

This includes H-1B, J-1, TN, and O-1 visa, among others.

Typically tied to a specific employer.

H-1B Visa

- Non-immigrant visa for specialty occupation (positions that typically require a bachelor's degree or higher).
- Valid for up to six-years in two three-year periods.
- Lottery held every year in March with the visa beginning on October 1st.
 - 65,000 annual cap, additional 20,000 for applicants with Masters Degree or higher
- Institutions of higher education OR non-profits affiliated with institutions of higher education are not subject to the H-1B cap and can apply at any time.
- Provides dual intent.

H-1B Visa for Nurses

- Generally, standard registered nurses do not qualify for the H-1B visa because the minimal education requirement is only a two-year associate degree.
 - Even if they hold a bachelors degree it is not sufficient because the position itself must typically require a bachelors degree.
- More specialized nursing positions can qualify as the standard requires a bachelors degree.
 - This includes: Nurse Manager, Nurse Practitioner, Certified Registered Nurse Anesthetist, Certified Nurse Midwife and Clinical Nurse Specialist

H-1B Visa Changes

- \$100,000 H-1B visa fee for individuals that are outside the United States applying for an H-1B visa.
- Individuals inside the United States in another status (such as students) are not required to pay the \$100,000 fee.
- Lottery selection is now weighted based on the salary paid to the individual. The higher the salary, the more chances an applicant has at being selected.

TN Visa

- Nonimmigrant visa for Canadian and Mexican professionals
- Based on specific occupations under treaty rules
- Can be used for various medical positions, including registered nurses
- In Canada you can simply apply at the border
- In Mexico you must interview at the Embassy
- Can be renewed indefinitely
- Cannot transition to an immigrant visa

J-1 Visa Overview

- Exchange visitor visa
- Largely used in the medical field for Foreign Medical Graduates to complete residency or fellowship in the United States
- Sponsored by the Educational Commission for Foreign Medical Graduates (ECFMG)
- Requires physicians to return to their home country for at least two years before returning to the US on a different type of visa
 - Unless a waiver is obtained

J-1 Visa Waiver

- A J-1 Visa Waiver allows exchange visitors to waive the two-year home residence requirement.
- There are various programs to waive the two-year home residence requirement
- Conrad 30 – Waiver for physicians working in medically underserved areas. 30 available per state.
- Interested Government Agency (HHS, DoD, etc.)
- No Objection Statement – Home country’s government does not object to you staying in the US
- If you qualify for a waiver you can then easily obtain an H-1B visa

O-1 Visa

- Nonimmigrant visa for individuals with Extraordinary Ability
- Extraordinary ability is evidenced by things such as major awards, membership in associations requiring outstanding achievements, cited works, professional publications, judging the work of others, etc.
- No annual cap, no lottery.
- Can switch from J-1 to O-1 without being subject to the two-year home residency requirement.
 - Must still fulfill it at a later date if not waived.

Immigrant Visas

- Also known as a “Green Card”
- Allows an individual to work and stay in the US permanently
- Not tied to a specific employer
- Various categories
 - EB-1 – Priority workers with extraordinary ability
 - EB-1B particularly helpful for Outstanding Professors/Researchers
 - EB-2 Advanced Degree or Exceptional Ability
 - EB-3 Skilled workers (two years training/experience), professionals (bachelor’s degree required)

Visa Bulletin

Employment-based	All Chargeability Areas Except Those Listed	CHINA – mainland born	INDIA	MEXICO	PHILIPPINES
1 st	C	01APR23	01APR23	C	C
2 nd	C	01SEP21	15JUL14	C	C
3 rd	01JUN24	15JUN21	15NOV13	01JUN24	01AUG23
4 th	15JUL22	15JUL22	15JUL22	15JUL22	15JUL22

Visa Bulletin

Employment-based	All Chargeability Areas Except Those Listed	CHINA – mainland born	INDIA	MEXICO	PHILIPPINES
Certain Religious Workers	15JUL22	15JUL22	15JUL22	15JUL22	15JUL22
5th Unreserved (including C5, T5, R5, NU, RU)	C	22SEP 16	01MAY22	C	C
5 th Set Aside: High Rural (20%, including NR, RR)	C	C	C	C	C
5 th Set Aside: High Unemployment (10%, including NH, RH)	C	C	C	C	C
5 th Set Aside: Infrastructure (2%, including RI)	C	C	C	C	C

PERM Process

- EB-2 and EB-3 categories require employers to go through the PERM process with the Department of Labor
- ETA-9141 filed to receive prevailing wage (4-6 months)
- Advertise for position
- ETA-9089 Labor Certification (16-18 months)
- Submit I-140 and I-485 to USCIS (~one year)
- Typically, a 3-year process
- EB-2 National Interest Waiver foregoes the PERM process for employees whose work is in the national interest of the United States

Schedule A Green Card

- Streamlined green card process for foreign nurses and physical therapists
- Allows employers to bypass the PERM labor certification process due to U.S. nursing shortages
- For nurses, filed under the EB-2 or EB-3 category which typically have visa backlogs

What to do if ICE Arrives at Workplace

- Train front desk staff on proper procedure in case a government official shows up at the workplace.
- Select an employee that the front desk can contact if ICE arrives.
- Review all documents provided by ICE to see what level of compliance is required.
- Do not provide any information to agents unless required to or you have previously decided to comply with ICE requests.

Types of Warrants

- ICE agents utilize two different types of warrants:
 1. Administrative Warrant: Warrant issued by the Department of Homeland Security. It does **NOT** allow access to private areas.
 2. Judicial Warrant: Warrant signed by a Judge from a district or state court. Allows for entry to private areas.
- If ICE arrives make sure to review any documents they provide to determine the level of access you are required to provide.

Warrant of Removal/Deportation

File No: _____

Date: _____

To any officer of the United States Immigration and Naturalization Service:

_____ (Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an Immigration judge in exclusion, deportation, or removal proceedings
- a district director or a district director's designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
Section 241(a)(5) of the Immigration and Nationality Act(Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

(Signature of INS official)

(Title of INS official)

(Date and office location)

This is a judicial search warrant. It DOES authorize agents to enter your home.

UNITED STATES DISTRICT COURT - Issued by a COURT.

for the
Eastern District of California

In the Matter of the Search of _____)
 (Briefly describe the property to be searched)
 or identify the person by name and address)) Case No. _____)
 540 Oak Avenue)
 Davis, California 95616)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer 2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ EASTERN District of _____ CALIFORNIA
(Identify the person or describe the property to be searched and give the location).
SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

Read attachments to make sure they are regarding YOU and YOUR address, not someone else's.
The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be seized).
SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property. Date for warrant, not to exceed 14 days

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011 (not to exceed 14 days)

- in the daytime 6:00 a.m. to 10 p.m.
- at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(Name)
 I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) for _____ day(s) (not to exceed 30).
 until the facts justifying the later specific date of _____

Date and time issued: 4-25-2011 9:10:00 AM Signed by a JUDGE.

City and state: SACRAMENTO CALIFORNIA EDMUND F. BRENNAN U.S. MAGISTRATE JUDGE
Printed name and title

Public v. Private Area

- Anyone – including ICE agents- can enter public areas of your business without permission.
 - This includes a lobby or waiting area.
- Without a Judicial Warrant ICE agents are not able to enter private areas in a workplace without express permission from the employer.
- To show that some areas are private, mark them with a “Private” sign and keep doors to those areas closed.

I-9 Audit

- Another form of immigration enforcement that increased in the previous Trump Administration is I-9 audits.
- The I-9 form is used to verify employment eligibility.
- I-9 audits are used to ensure employers are following legal hiring practices.
- ICE Agents must give employers three business days to provide I-9 records for review.
- I-9 reviews can be performed to ensure forms are all filled out adequately in case of an audit.

Ending of Humanitarian Parole and TPS

- The Trump Administration has begun revoking parole and Temporary Protected Status (“TPS”) for various countries.
- This includes revoking Humanitarian Parole for Cubans, Haitians, Nicaraguans, and Venezuelans.
- TPS status provides work authorization to individuals from various countries. Thus far the new administration has ended or plans to end TPS for Venezuela, Honduras, Haiti, Burma, Syria, Afghanistan, South Sudan, and Yemen.
- It is important to keep in mind that employees may be impacted by these changes and revocations.

Key Takeaways

- Multiple immigration tools are available for healthcare employers
- Each visa has distinct requirements and risks that suit different situations
- Early planning improves recruitment, retention, and future success
- Compliance is essential to reduce enforcement exposure

Questions?

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