



10 Immigration Rules Every Physician Recruiter Must Know
*Presented by Badmus Law Firm
Sponsored by National Coalition of Healthcare Recruiters
March 11, 2010*



Audio Portion to Today's Webinar

Use your computer's microphone and speakers (VoIP) or call in using your telephone
Dial 312-878-0218
Access code 563-163-837




Ask Questions Anytime

- ✓ On your GotoMeeting control panel, you will see a Question and Answer pane. Click on the right arrow to expand the Q&A pane
- ✓ Type and send your question or type that you want to ask your question through audio.
- ✓ We will answer questions during the Q&A session at the end of the presentation

Featured Speaker



Ann Massey Badmus
Attorney, Badmus Law Firm
 Ann has more than 15 years of experience providing strategic advice and counsel to physicians and medical employers on issues of immigration law.



International Medical Graduate (IMG) Statistics

US and IMG Physician Population Overview

Number of Physician in US	902,053
Number of IMG Physicians	228,665 (from 127 countries)
% of IMG Physician in US	25.3%
% of IMG in Residency Programs	28.2%
% of IMGs in Primary Care	37.6%
% of USMGs in Primary Care	31.9%
% of IMGs in Patient Care	80.1%
% of IMG in Academics	16.2%

Source: Physicians Characteristics and Distribution in the U.S. 2007 Edition; AMA, Chicago, IL
 Medical Graduates by Specialty*



International Medical Graduate (IMG) Statistics

Percentage of the IMG population within each specialty

Internal Medicine	36%	55,467
Anesthesiology	29%	11,757
Psychiatry	31.4%	13,080
Pediatrics	28%	20,180
Family Medicine	17.8%	21,669
Obstetrics/Gynecology	17.8%	7,589
Radiology	18.8%	1,53
General Surgery	20%	7,97



Source: Physicians Characteristics and Distribution in the U.S. 2007 Edition; AMA, C

* These data exclude residents and students.



Webinar Agenda

- Placing J-1 Physicians
- Placing H-1B Physicians
- Placing Physicians with O-1 or Pending Green Cards
- Question and Answer






Placing J-1 Physicians

**Immigration Fact No. 1 –
Two Year Foreign Residency Requirement
for J-1 Physicians**

After residency or fellowship training is completed, all J-1 physicians must return to home country for two years or obtain a *waiver* of this requirement before he or she can be employed in H-1B status or adjust to permanent residence ("green card").

*Home Country - Country of last citizenship or permanent residence
(even if dual citizenship retained) before J-1 visa*






Placing J-1 Physicians

**Immigration Fact No. 2 –
Waivers of the Two-Year Foreign Residency
Requirement ("J-1 Waivers")**

Three types of waivers for J-1 Physicians



- Interested Government Agency (IGA)
- Hardship
- Persecution

Placing J-1 Physicians

Interested Government Agency (IGA) – Standard Options



- Conrad 30 State Program
- Department of Veterans Affairs (VA)
- United States Department of Health and Human Services (USHHS)
- Appalachian Regional Commission (ARC)
- Delta Regional Authority (DRA)

Placing J-1 Physicians

Conrad 30 State Program



- Administered by each state health agency
- 30 slots per fiscal year – *October 1 to September 30*
- Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA) –
 - <http://datawarehouse.hrsa.gov/GeoAdvisor/ShortageDesignationAdvisor.aspx> - Health Resources and Service Administration website to determine HPSA or MUA designation
 - *Flex 10 slots available for facilities not located in HPSA/MUA but serve HPSA/MUA population*
- Three year contract required (some states require more) – non-compete clause prohibited
- Primary care or specialty, depending upon state

Placing J-1 Physicians

**Immigration Fact No. 3 –
J-1 Waiver Obligations**



- Must work in **H-1B** status for minimum of three years as an employee, *not independent contractor*, of sponsoring employer
- Periodic reporting to state or federal sponsoring agency
- Cannot change employer unless extenuating circumstances
 - e.g. termination by employer (not for cause), breach of contract by employer. Personal reasons are usually not acceptable for change of employer

Placing J-1 Physicians

**Immigration Fact No. 4 –
Timeline for J-1 Waiver Process**



- Employer and Physician apply to Interested Government Agency
- IGA issues recommendation to Department of State (DOS) (1 to 3 months)
- DOS issues recommendation to USCIS (1 to 2 months)
- USCIS issues final waiver approval I-612 (1 to 3 months)
- H-1B petition filed and approved (1 to 2 months)
- Total time – 4 to 10 months

Placing J-1 Physicians

Strategic Planning for Placing J-1 Physicians



- Candidates should be entering 3rd year of residency or have one year before completion of fellowship
- Finalize employment agreement by early Fall of 3rd year of residency or final year of fellowship
- Match your employers located in HPSA/MUA or who serve HPSA/MUA populations
- Refer physician or employer to immigration attorney early in process

Placing H-1B Physicians

H-1B Physicians Defined



- IMG Physicians who completed residency or fellowship with H-1B visa (no J-1)
- J-1 Physicians who returned to home country for two years after residency or fellowship completed
- J-1 Physicians who obtained hardship or persecution waiver and seek employment

Placing H-1B Physicians

Immigration Fact No. 5
H-1B Physicians can be Subject to H-1B Cap

- Limit of 65,000 new H-1B visas per fiscal year (except Free Trade Act (FTA) nationals)
- 20,000 per fiscal year for persons who hold US Master's degrees or higher
- Fiscal year runs from October 1 to September 30
- Employers may apply for H-1B on April 1 with a start date of October 1


Placing H-1B Physicians

Who is subject to the cap?

First time H-1B employees

and

Employees who already hold H-1B status with cap-exempt employers



Placing H-1B Physicians



Immigration Fact No. 6 –
Exceptions Apply

Cap-exempt employers

- Universities and non-profit petitioners affiliated with post-secondary educational institutions
- Government research organizations and non-profit petitioners affiliated with government research institutions
- For-profit employers who place physician at a non-profit, university-affiliated facility for at least 50% of work week

Cap-exempt beneficiaries

- Physicians who are beneficiaries of J-1 IGA waivers

Placing H-1B Physicians

Immigration Fact No. 7 – Employer Obligations for H-1B

- Employer must pay minimum of prevailing wage or actual wage, whichever is higher, for the term of the H-1B
 - <http://www.flcdatcenter.com/> - Department of Labor wage data for prevailing wage
 - Salary must be guaranteed at prevailing wage or actual wage – productivity bonuses okay after minimum guarantee
- Employer must pay ACWIA fee of \$750 (25 or fewer employees) or \$1500 (greater than 25 employees) unless exempt
- Physician must be an employee of sponsoring employer –
 - self-employment or independent contractor status are no longer possible at this time



Placing H-1B Physicians

Immigration Fact No. 8 – Period of Stay and Employment are Limited

- H-1B status can be valid up to 3 years initially, renewable for 3 more years.
- 6 year maximum stay with some exceptions -
 - 1 year extensions available after 6th year if green card application pending for at least one year
 - 3 year extension available if green card application is on hold because of limited availability of green cards
- Physician is eligible for another 6 years after 1 year outside U.S.
- No specific contract term requirement (except if J-1 waiver involved)



Placing H-1B Physicians

Immigration Fact No. 9 – H-1B Portability

- If employee is already in H-1B status and changing employers, new employer must file H-1B petition
- May start new employment upon filing of new H-1B petition – need not wait for final approval
- Concurrent H-1B petitions are permitted – “moonlighting”
- Extenuating circumstances required for former J-1 physicians who are in middle of J-1 waiver



Placing H-1B Physicians

Strategic Planning for Placing H-1B Physicians

- Start job search immediately after 2nd year of residency or one year before completion of fellowship
- Match with exempt employers or exempt locations
- If competing for non-exempt H-1B, have contract in place by February or March so that H-1B petition can be filed on April 1
- Encourage early application for medical license as physician must be licensed to apply for H-1B
- Refer physician or employer to immigration attorney early in process



Placing Physicians with O-1 or Pending Green Cards

Immigration Fact No. 10 – Other Work Authorization for IMG Physicians

O-1 Visas – extraordinary ability

- Physician has "risen to the top of the field"
- Allows work for specific employer
- Work authorization can be extended indefinitely
- Physician can change employment so long as new employer files and is approved for new O-1
- *J-1 waiver not required so can be "stop-gap" visa when waiver not available*





Placing Physicians with O-1 or Pending Green Cards


Employment Authorization Document (EAD)

- Issued with pending green card application
 - Family
 - Employment
 - Diversity Lottery
- Limited period of authorization – must renew at least 3 to 4 months before expiration
- Can work for any employer
- If green card application denied, no longer authorized to work



Question and Answer
Session






Legal Notice

Facts of individual situations differ.

The information provided here is general in nature and should not be relied upon for specific situations.


Consult with an experienced immigration attorney to get the right diagnosis for your candidate's specific situation.

Join our Recruiter Advantage Program

- Answers to your immigration questions without charge – no more wasted time on placements that won't work because of immigration issues
- Priority appointments for your employers and candidates - fast service for faster placements
- Monthly updates on immigration news affecting physicians, including current availability of Conrad State 30 waiver program slots
- Free educational seminars for you, your employers, and your candidates
- A complimentary copy of *The Immigration Prescription* for your candidates and employers
- Free announcements of your jobs to our database of physicians
- Exchange of website links

Email recruiterhelp@badmuslaw.com to join the Badmus Law Firm Recruiter Advantage Program



Thank You!



Badmus Law Firm

12700 Park Central Drive

Suite 1910

Dallas, Texas 75251

469-916-7900 Telephone

469-916-7901 Facsimile

www.physicianimmigration.com

recruiterhelp@badmuslaw.com