

ATS Opposes Proposed ICE Rule Affecting International Medical Trainees

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On 9/26/20, the Department of Homeland Security published a proposed rule entitled [*Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media.*](#)

This rule would change the process to extend the period of authorized stay in the U.S. for certain categories of nonimmigrants, including J-1 physician visa holders, by eliminating "duration of status." J-1 physicians are an essential part of the U.S. health care system. More than 12,000 J-1 physicians from 130 countries are currently engaged in residency or fellowship training at approximately 750 teaching hospitals in the United States. The Educational Commission for Foreign Medical Graduates (ECFMG) and the Foundation for the Advancement of International Medical Education and Research (FAIMER) jointly serve as the sole DOS-designated visa sponsor for these physicians. Although most residency and fellowship programs last more than a single year, training contracts are renewed annually to ensure that competencies are met and that a physician is fit to advance in a training program. Annual application for an extension of J-1 sponsorship through ECFMG/FAIMER is required of every J-1 physician. This required annual renewal process is rigorous and provides assurance that J-1 physicians are compliant with J-1 visa requirements and progressing through their training programs as planned. Under duration of status, a physician's J-1 status is extended automatically when ECFMG/FAIMER approves the J-1 sponsorship extension. J-1 physicians are also tracked in the Student and Exchange Visitor Information System (SEVIS), a joint database of DOS and DHS which includes program participation dates and authorized periods.

Non-citizen International medical graduates on J1 visas contribute significantly to adult and pediatric subspecialty training programs. The [*National Resident Matching Program*](#) reported that in 2020, Non-U.S. International medical graduates (J-1 physicians) made up 25.5% of filled pulmonary and critical care fellowship training positions, 14.3% of pediatric pulmonary and 14.9% of pediatric critical care trainee positions.

The proposed rule would replace "duration of status" as an authorized period of stay and replace it with a fixed annual end date. Thus, if this rule is implemented, after and in addition to renewing their sponsorship with ECFMG/FAIMER, J-1 physicians would be required to apply each year for a duration of status extension by filing an Application to Extend/Change Nonimmigrant Status, either through a U.S. Citizenship and Immigration Services (USCIS) Service Center or through a consulate outside of the U.S. Based on current USCIS processing times (5-19 months), thousands of J-1 physicians would almost certainly be unable to continue their pulmonary, critical care or sleep training programs on time each year. In addition to the impact this interruption of training will have on J-1 physicians education, the burden of caring for patients at the approximately 750 teaching hospitals employing J-1 trainees will be distributed to remaining residents/fellows at these facilities, seriously compromising their education and training. And undoubtedly patient care will suffer as well. In short, elimination of duration of status will create an untenable situation for J-1 physicians, teaching hospitals, and the patients they serve.

The states with the [*highest concentration of J1 trainees*](#), including New York, Texas and Florida, overlap significantly with areas projected to have significant [*shortages of critical care physicians due to COVID-*](#)

19. The implementation of this rule could significantly exacerbate critical care physician shortages in the midst of the COVID-19 pandemic:



Moreover, many non-citizen J-1 physicians continue to provide health care services to underserved communities after their training through the [Conrad 30 waiver program](#), a critical pipeline of healthcare for these communities in need around the country. By potentially interrupting this source of physicians, the impact of this rule has the potential to go beyond academic institutions to impact the neediest communities.

The ATS Health Policy Committee helped draft a detailed letter [to ICE from ATS President Juan C. Celedon](#) describing these concerns and urging the Department to withdraw the rule, which was submitted to ICE on 10/26/2020. In the letter, the ATS urged the Department to exclude J-1 foreign national physicians from this rule in order to prevent more shortages in the nation's healthcare workforce that will limit access to care for millions of Americans, including those with chronic health conditions in underserved communities.

It is important to note that at time of publication, the duration of status rule remains a proposal. We expect that the new Biden administration will take action to withdraw the rule in 2021, but until President-elect Biden's inauguration on January 20, it will remain a proposal.