



April 1, 2019

L. Francis Cissna
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

Dear Director Cissna:

On behalf of the American College of Physicians (ACP), I am writing to express concern about the significant H-1B visa backlog for highly skilled employees, including international medical graduates (IMGs), foreign trained physicians who are actively practicing in the U.S., due to the per-country numerical limitation for employment-based immigrants under the Immigration and Nationality Act. We urge the U.S. Citizenship and Immigration Services to clear the backlog for conversion from H1-B visas to permanent resident status for physicians.

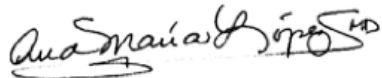
The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

ACP is concerned about the impact of the green card backlog on IMGs. Many of these physicians have come to the United States on H-1B visas, and find themselves stuck in a decades-long backlog waiting for employment-based green cards due to the per-country cap. These physicians serve an integral role in the delivery of health care in the United States. They contribute essential care to underserved populations in the United States. In addition, many patients express greater comfort and higher levels of patient satisfaction which improves adherence to care with care from physicians “who look like them”. This element of diversity to the physician workforce is helpful and necessary to the health care for an increasingly diverse patient population. IMGs provide health care for underserved populations in the United States and are often more willing than their U.S. medical graduate (USMG) counterparts to practice in remote, rural areas.

A January 2018 report estimated that approximately 20.8 million Americans live in areas where at least half of the physicians, and nearly 70 percent of the primary care physicians, are foreign-

trained. Several projections indicate a shortfall of physicians in both primary and specialty care in the United States over the next decade. According to the Health Resources and Services Administration (HRSA), shortages already exist across the country. There are currently 7,026 designated primary care health professional shortage areas, and HRSA estimates that it would take approximately 14,900 additional primary care physicians to eliminate them. The U.S. has depended on IMGs to fill gaps in care in underserved areas since the 1970s and will likely continue to do so for some time. It is critical that the significant H-1B visa backlog is cleared for IMGs who are actively practicing in the U.S. so that they can continue to make vital contributions to the delivery of health care in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana María López MD". The signature is fluid and cursive, with a horizontal line underneath the name.

Ana María López, MD, MPH, MACP
President



U.S. Citizenship
and Immigration
Services

May 2, 2019

Dr. Ana Maria Lopez
President
American College of Physicians
25 Massachusetts Avenue, Suite 700
Washington, DC 20001

Dear Dr. Lopez:

Thank you for your April 1, 2019 letter describing your belief that the statutory annual limit on the issuance of employment-based immigrant visas, including the per-country limitation, had an impact on International Medical Graduates (IMG), particularly those who are currently employed in the United States as nonimmigrants.

Nonimmigrants in the United States, including IMGs in lawful H-1B nonimmigrant status, may be eligible for adjustment of status to become lawful permanent residents (LPR) once they have an approved immigrant visa (which is petitioned for on Form I-140). IMGs in the United States with H-1B nonimmigrant status may work on a temporary basis while obtaining LPR status that would permit the IMGs to live and work in the U.S. permanently. While there are many bases for adjustment to LPR status, your letter focuses on adjustment of status on the basis of employment. One of the eligibility requirements for adjustment of status is that an immigrant petition be approved and then an immigrant visa be immediately available to the applicant. The Department of State (DOS) must allocate an immigrant visa before U.S. Citizenship and Immigration Services (USCIS) may approve an application for adjustment of status.

Congress has mandated an annual limit of 140,000 employment-based immigrant visas that DOS may issue. This total allotment is further divided by statute between five employment-based preference categories. Congress has also placed a limit of seven percent of the worldwide limit on the number of immigrant visas that may be issued to natives of any single foreign state during a fiscal year. This so-called "per country cap" was enacted by Congress to promote diversity in the immigrant pool and prevent any single country from capturing most or all of the available visas. By statute, DOS allocates immigrant visa numbers to reported applicants in the order in which an immigrant petition on their behalf is received by USCIS (or for those immigrant visa categories requiring a labor certification, a labor certification application properly filed with the Department of Labor).

Whenever the pending demand in an immigrant visa category exceeds the supply of numbers available for allotment, the category is considered to be "oversubscribed" and DOS establishes a waiting list of applicants for future allotments of immigrant visas. As of April

Dr. Ana Maria Lopez

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2019, there is a short waiting list for applicants in the employment-based first preference immigrant visa category and, for all countries except India and China, no wait for immigrant visa availability in the second employment-based preference category. These are the immigrant visa categories most likely to be used by IMGs applying for adjustment of status. The allocation of immigrant visa numbers is subject to the congressionally-mandated limits and USCIS has no authority to modify those limits in order to “clear the backlog” as you urge in your letter. For further information about DOS’s management of the numerical control system for immigrant visas, please visit <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin.html>.

In your letter you also mention immigrant physicians, particularly those who deliver health care in underserved areas in the United States. USCIS adjudicates applications and petitions associated with the Physician National Interest Waiver (PNIW) program. This program was established by Congress as a specialized pathway to LPR status in the employment-based second preference category for physicians who work full-time for five years in clinical practice in an area with a shortage of health care professionals or with the Department of Veterans Affairs.

USCIS has approximately 231 currently pending applications for adjustment of status (Form I-485) filed prior to March 6, 2017 by physicians participating in the PNIW program: 128 pending with the Nebraska Service Center and another 103 pending at Texas Service Center. Those physicians who filed the pending adjustment applications have yet to notify USCIS that they have completed their five-year service requirement. USCIS will finalize the adjudication of a pending PNIW application for adjustment of status when the applicant notifies USCIS that he or she has completed the agreement to work in a medically underserved area or for the Department of Veterans Affairs on a full-time basis for five years. USCIS will request a visa from DOS, and DOS will allocate a visa if available, before the adjudication is finalized.

Thank you again for your letter and interest in this important issue. Should you wish to discuss this matter further, please do not hesitate to contact me.

Respectfully,



L. Francis Cissna
Director