

FINDING YOUR MVPS:

TIPS FOR
BUILDING YOUR
WINNING TEAM
OF VISA
DOCTORS



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VISA DOCTOR ALPHABET SOUP

The physician immigration world abounds with acronyms.

We've named a few to guide you through.





J-1 PHYSICIAN

A graduate of a foreign medical school who enters the U.S. for graduate medical training with J-1 visa status. They are obliged to return to their home country for 2 years before being able to work in most cases, unless a waiver is granted.

H-1B PHYSICIAN

A graduate of a foreign medical school, or foreign national who graduates from a U.S. medical school, who enters the U.S. for graduate medical training with H-1B visa status. No home residence requirement. Can work almost anywhere. Has limit of 6 years in H-1B status and usually must have cap-exempt employer. Can waive 6 year limit.

» STATE 30 J-1 PHYSICIAN WAIVERS

Each state (including DC, Puerto Rico, Guam, Virgin Islands and Northern Mariana Islands) is authorized to grant J-1 waivers to 30 physicians per year to work in underserved areas or FLEX locations. Each state has different rules for allocating scarce slots.

» FLEX J-1 PHYSICIAN WAIVER SLOTS

Each state may award up to ten of its annual 30 slots to physicians to work in areas which are NOT medically underserved, but who will treat some patients who reside in medically underserved areas.

→ *FLEX 10 is a recruiting plus.*





Appalachian
Regional
Commission

- » **ARC: Appalachian Regional Commission**
A federal agency which can grant an unlimited number of J-1 physician waivers per year in the Appalachian geographic area. www.arc.gov.



NEW! Will sponsor all medical specialties.



- » **DRA: Delta Regional Authority**
A federal agency which can grant an unlimited number of J-1 physician waivers per year in 200 Delta counties. Will sponsor all medical specialties. www.dra.gov.



- » **HHS: Department of Health and Human Services**
Will accept waiver applications for all healthcare facilities with an HPSA shortage score of 7 or greater. Will sponsor only primary care physicians.

- **PRIMARY CARE**

- Pediatrics, internal medicine, family practice, OB-GYN and psychiatrists. Hospitalists not considered primary by some State 30 programs.



- » **HARDSHIP WAIVERS**

Waiver application filed with USCIS and requires Department of State approval. Must show two exceptional hardships:

1. If the U.S. citizen or permanent resident spouse and/or child remain in the U.S. without the J-1; AND
2. If the U.S. citizen or permanent resident spouse and/or child travel to the alien's home country with the J-1 for two years.

- » **PERSECUTION WAIVERS**

Can apply at any time during training. Unless granted, J-1 sponsorship will continue.

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- » **H-1B**: Temporary visa for professionals. Can be granted by USCIS for a total of six years (extendable) in three year increments.
 - » **H-1B Canadian Exception**: Canadian citizens may obtain H-1B status without a J-1 waiver.
 - *This exception is a recruiting plus.*

- » **HPSA**: Health Professional Shortage Area designated by HHS.
List of areas can be found at: hpsafind.hrsa.gov.
- » **MUA**: Medically Underserved Area designated by HHS.
List of areas can be found at: hpsafind.hrsa.gov
- » **MUP**: Medically Underserved Population designated by HHS.
List of Areas can be found at: hpsafind.hrsa.gov

THE CURRENT LANDSCAPE

- » Demand for J-1 waivers has increased dramatically, but the good news is that the supply of J-1 waivers available has exploded.
- » Recruit J-1 Physicians carefully as trade-ins and transfers are expensive and uncertain.
- » Over 80% of entering foreign medical graduates now enter in J-1 status and thus need a J-1 waiver to remain in the U.S. after training.
- » Anecdotal evidence indicates J-1 Physicians stay longer than US physicians in the underserved communities where they work—much longer than the required three years.



Thus, the future supply of MVP physicians is assured.

DRAFTING MVP PHYSICIANS

- » Federal IGA J-1 Physician Waiver Programs can grant an unlimited number of J-1 waivers year round.
- » Spouses of H-1Bs in H-4 status can obtain work permission in H-4 status if conditions met. Many H-4 spouses are also physicians.
- » Canadian citizens can work in H-1B status without a waiver, if no State 30 waiver available.
- » Physicians who completed training in H-1B status do not need J-1 waivers.



THE CURRENT LANDSCAPE

COST OF YOUR MVPS

J-1 Government Filing Fees

- » Best practice for employer to pay. In some areas, may be legally required.
- » Sample fees include:
Ohio-\$3571, Texas-\$3,000, DRA-\$3000.

H-1Bs

- » Employers are required to pay legal fees and U.S. government filing fees.
- » This can total an initial outlay of up to \$4,960 in USCIS filing fees.

Legal fees – additional expense.

- » *Use your secret weapon* - Partner with an expert hands-on physician immigration attorney early in the process.



THE CURRENT LANDSCAPE

THE TIMELINE

Interested government agency
(State 30, VA, ARC, DRA, HHS)

Processing Time: 1 day – 6 months



Department of State (DOS)

Processing Time: 4 – 14 weeks



U.S. Citizenship & Immigration Services
(USCIS)

Processing Time: 2 – 6 weeks





FEDERAL IGA WAIVERS

Common Requirements—*Only for J-1 waivers. H-1 to H-1 physicians don't have these restrictions.*

- » Employment contract for 40 hours per week of direct patient care for 3 years
- » Non-compete clauses prohibited
- » Primary care and subspecialties permitted
- » Liquidated damage penalty clauses required in ARC contracts and some State 30 programs.

STATE 30 PROGRAM REQUIREMENTS

- » Contract for full-time work for three years including 40 hours of direct patient care
- » Agree to commence employment within 90 days of USCIS approval of waiver and H-1B status
- » Facility located in HPSA/MUA or FLEX slot.
- » FLEX slots are a great tool for recruiters attempting to place physicians in areas which are not medically underserved.
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STATE 30 CONSIDERATIONS

Is the State 30 waiver program in the state user friendly to J-1 physicians?

» States that have burdensome paperwork and/or filing fee requirements:

- Alabama, New Jersey, Ohio (\$3571), Pennsylvania, New Mexico
- Texas--\$2000 and waiver spots filled by early September

» States who are very user friendly and usually have slots all or most of the year:

- Oklahoma, Nevada, Oregon, North Carolina, South Carolina, Maine, Delaware, District of Columbia, Kansas, Louisiana, and Nebraska.

WHICH WAIVER PROGRAM SHOULD BE USED?

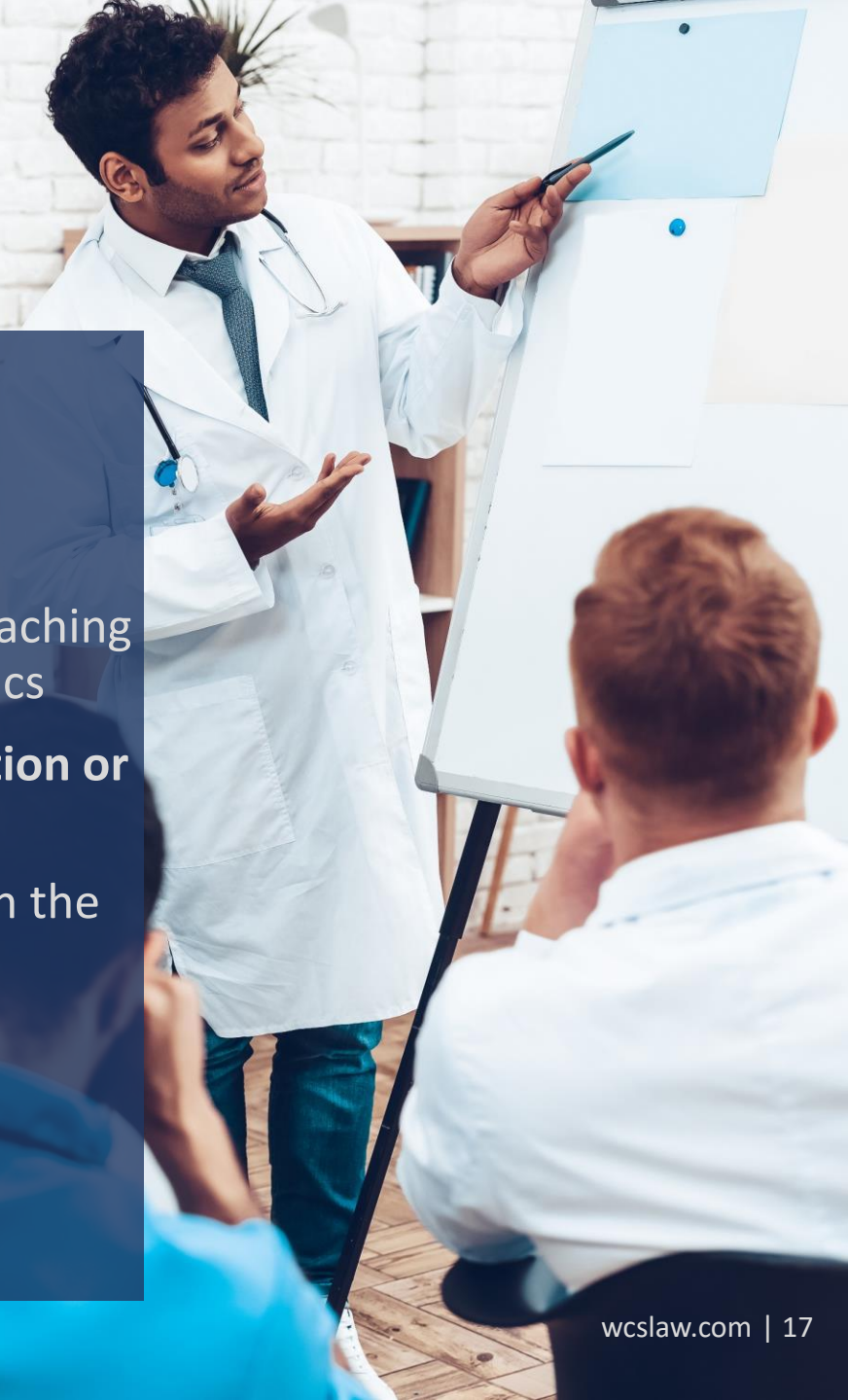
Advantages of State Programs over Federal

- » Employers may want non-compete clause
 - Federal IGAs prohibit these
- » Physicians do not want liquidated damage clauses
- » More flexibility in job locations – HPSA, MUA/MUP and Flex slots.



WHO IS EXEMPT FROM THE H-1B CAP?

- » All J-1 Physicians with IGA waivers
- » Beneficiaries of H-1B petitions filed by institutions of higher education or affiliated non-profit entity (residency programs)
- » Non-profits affiliated with an institution of higher education, including teaching hospitals, many community health centers, and certified rural health clinics
- » **Workers employed BY for-profit entities AT institutions of higher education or related or affiliated non-profit entities. Recruiting plus.**
- » H-1B workers who have already been counted once toward the cap within the preceding six years
- » Beneficiaries of multiple petitions**. **Recruiting plus.**
- » Physicians who undertake residency training on H-1B visa lose their cap exemption if transferring to an employer who is not cap-exempt after graduation.



GREEN CARDS



- » Virtually all physicians want a green card.
- » Most obtain through employer sponsorship or a physician national interest petition.
- » Offering to commence green card before employment starts is a great recruiting tool. See Website of Apogee. Builds physician commitment and loyalty to employer.
- » For India and China born physicians who are H-1B doctors, it may be essential to start the green card at the earliest possible moment in order to get them to work at all under the H-1B six year limit rule.
- » If physician married to American citizen or permanent resident, no employment sponsorship for green card required.
- » J-1 Physician may obtain other nonimmigrant visas, if otherwise eligible, including J-2 (spouse of J-1), O-1 (alien of extraordinary ability), and F1 (student). Can work in J-2 and O-1 status.
 - May not obtain H, L, or immigrant visa without a waiver unless a CANADIAN CITIZEN



HIRING GAME PLAN

POSSIBLE SNAGS

- » Non-compete clauses
- » Liquidated damages
- » Work locations
- » **WAIVER APPLICATION DEADLINES**
 - Remember:
Federal waivers open year-round!



INITIAL STEPS



- » Team up with an accessible, expert physician immigration lawyer who and make them a part of your team.
 - Interface with lawyer and employer to overcome obstacles in each process.
 - Complete early immigration check-up between lawyer and physician to save disappointment later on.
- » Interview physician as early as possible, and know waiver program application deadlines.
- » File waiver application at the earliest possible moment, consistent with sound hiring practices.



BUILD A RELATIONSHIP

- » Make sure there is a good fit.
- » Ask about family → Children's schooling, a spouse's need for employment.
- » Ensure the site visit is for a few days.

- » Develop a community integration plan.

- Be a "welcome mat" – Introduce the doctors to important community members, share school district information, take them to a local eatery.

- » Remember: The physician is as anxious about a new job and community as the employer is!



FOOTAGE REPLAY

Much like football players learn from watching playbacks, we benefit from analyzing case studies.

Meet Ace, our expert immigration lawyer, as she navigates different recruitment situations.

THE NIW

You call Ace and tell her that your best client has to have a neurosurgeon in a medically underserved area of Connecticut no later than July 1, 2022, the date after Dr. Brain finishes fellowship training.

Ace tells you, the employer and Dr. Brain not to worry as Ace can file a Physician National Interest Petition (PNIW I-140) and green card application for him and have him to work by July 15, 2022. She can file a J-1 waiver for the next year for Dr. Brain. He can work indefinitely on the NIW.

- Do not try this without an expert immigration attorney at the helm.

CAP EXEMPTIONS

Joy, a recruiter for a for-profit hospital staffing company, has just learned she needs to hire three H-1B physicians and two J-1 physicians and needs all of them for work on July 1, 2022.

Joy calls Ace at home at 10 p.m. that night in a panic and tells her she needs five visa doctors by July 1, 2022.

Ace tells Joy to simply hit the hay, as the problem is not a problem at all. The physicians are recruited to work at a non-profit hospital with affiliation agreements with three universities and HHS waivers are available to the J-1 doctors.

THE H4 SPOUSE

One of your favorite clients wants you to find the best cardiologist in the world to work in her small town. They need one immediately as their last two died last week in a boating accident.

You search for a week and find one who will complete cardiology training on June 30, 2022 who is on H-1B, and married to a physician also on H-1B status. There are no colleges within 500 miles; the hospital is a small rural hospital with no university affiliations and the doctor will exhaust his six year limit on June 30, 2022.

Ace tells you not to worry as your cardiologist married up by marrying an H-1B with an approved I-140 petition. This means Ace can obtain a change of status to H-4 and a work permit for her by about August 28 and not worry about exhausting her six years in H-1B status as she will shed the H-1B garb for an H-4, which is not counted against the H-1B cap.

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