

Chancellor's Memorandum

CM-20 – Employment or Education of Foreign Medical Graduates on Non-Immigrant Visas

To: Vice Chancellors, Deans, Administrative Staff, Department Heads, and Students.

From: LSU Health Sciences Center New Orleans Chancellor

February 25, 1988

The LSUHSC must adhere to certain regulations as required by various regulatory agencies in the employment or education of foreign medical graduates (FMGs) on non-immigrant visas. First, I want to emphasize that these restrictions apply only to non-immigrants, that is, those FMGs who are not Permanent Residents or nationalized U.S. citizens.

Two visa types are available to FMGs, the H-1, which is a "Temporary Worker" visa and the J-1, which is restricted to Exchange Visitor Programs. The H-1 visa is under the jurisdiction of the Immigration and Naturalization Service (INS) and the J-1 is under the United States Information Agency (USIA).

H-1 Visa:

Alien physicians educated outside the United States (a Foreign Medical Graduate or FMG) can be documented as an H-1 temporary worker only if the following criteria can be met. The petitioner (LSUHSC) seeking H-1 status for a physician must (1) provide evidence that it is the intention of the petitioner to employ the beneficiary for only a temporary period, (2) that the beneficiary has a full and unrestricted license in a foreign state and (3) establish that the beneficiary is coming to the United States primarily to teach or conduct research, or both.

Documents must be submitted to establish that any patient care activities are incidental to the physician's teaching and research. The physician is not allowed to see patients on a consult basis or in any manner which may be construed that the FMG is a fully qualified, permanent employee of LSUHSC. Examples of what is not allowed: (1) entering into contracts for patient consults, (2) Receiving payment for treatment of patients, etc.

It is possible for a FMG on an H-1 visa to obtain a license to practice medicine in the State of Louisiana. The license to practice medicine is a Legal requirement for patient treatment and consults. Even though an FMG obtains this license, it is a violation of the INS regulations for the FMG to have patient care responsibility. Violations of these regulations may subject the LSUHSC to suspension or revocation of the H-1 program. It is the administrative responsibility of the applicable Dean to monitor FMGs on H-1 Visas to ensure that activities prohibited by INS regulations do not occur.

J-1 Visa:

Exchange Visitor status is used to bring to the U.S., for a variety of educational purposes, students, trainees, teachers, professors, research scholars, international visitors, or medical trainees under the sponsorship of an agency or organization which has been designated as an Exchange Visitor Sponsor by the U.S. Information Agency. The J-1 is an educational exchange visa and NOT an employment visa. The J-1 may not be used for staffing purposes.

As part of the Health Professions Assistance Act of 1976, special regulations and procedures have been developed relative to designation of Exchange-Visitor Programs approved for providing graduate medical education and training to foreign medical graduates. Thus, the Educational Commission for Foreign Medical Graduates (ECFMG), and not the medical institution providing the education and training, is authorized by the United States Information Agency (USIA) to sponsor alien physicians as exchange visitors in graduate medical education programs affiliated with accredited medical schools in the United States. Therefore, any alien physician participating in a program of graduate medical education or training seeking admission, certification, transfer, or extension of stay must be documented by the ECFMG with a Certificate of Eligibility for Exchange Visitor Status (IAP-66).

LSUMC may issue form IAP-66 to alien physicians only when the Exchange Visitor program does not involve direct patient care.

If the LSUMC is found negligent in proper supervision of the foreign medical graduates in this program, the penalty is suspension or revocation of the entire Exchange Visitor Program.

Thus, when making decisions involved in the hiring or training of FMGs, it is important that the Dean and Heads of Department be fully aware of the regulations and implement procedures to ensure that FMGs' activities are not violation of these regulations.

Signed: Perry G. Rigby, M.D., Chancellor