

October 26, 2020

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
Washington, DC 20528
RE: 85 FR 60526

Dear Acting Secretary Wolf:

On behalf of the American Thoracic Society (ATS), I am writing to express my grave concern about the proposed U.S. Immigration and Customs Enforcement (ICE) rule that 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." The ATS is a multi-disciplinary society of 17,000 pulmonary, critical care, and sleep specialists who are on the frontlines of the COVID pandemic, researching, diagnosing, treating, and preventing respiratory illnesses including COVID-19 and COPD, critical illnesses such as sepsis and pneumonia and sleep disorders such as obstructive sleep apnea. If implemented, the rule as currently proposed would have an immediate and devastating impact on the U.S. health system and our patients during one of the worst pandemics in US history. The ATS firmly believes that the proposed duration of status rule treats all international students in a discriminatory manner and we urge ICE to withdraw it.

Current National Shortage of Physicians

The U.S. health care system is under extraordinary strain due to the COVID-19 pandemic. In addition, there are already national physician shortages, including across pulmonary, critical care, and sleep medicine. A recent model indicated that due to the increased need for critical care physicians during the COVID pandemic, there may be a shortage of as many as 7,900 critical care physicians in the U.S.ⁱ Notably, some of the states with the worst shortages of critical care physicians, including New York, Texas and Florida, are also those with the highest numbers of J-1 physicians, which means that these states would be heavily negatively affected by this rule.

In its 2016 projection of supply and demand of medical specialties, the Health Resources and Services Administration (HRSA) estimated that by 2025 there will be a deficit of 1,400 pulmonologists in the U.S. Physicians in training provide a significant proportion of patient care at U.S. teaching hospitals. By forcing delays in completion of training for many international medical graduates (IMG) physician trainees, the proposed rule will exacerbate the U.S.'s current physician shortage, leading to more hospital shortages of intensive care unit specialists.

JUAN C. CELEDÓN, MD, DrPH, ATSF
President

LYNN M. SCHNAPP, MD, ATSF
President-Elect

JAMES M. BECK, MD, ATSF
Immediate Past President

GREGORY P. DOWNEY, MD, ATSF
Vice President

M. PATRICIA RIVERA, MD, ATSF
Secretary-Treasurer

KAREN J. COLLISHAW, MPP, CAE
Executive Director



We help the world breathe®
PULMONARY • CRITICAL CARE • SLEEP

1150 18th Street, N.W., Suite 300
Washington, D.C. 20036 U.S.
T. 202-296-9770 F. 202-296-9776 | thoracic.org

 **ATS 2020** | VIRTUAL
Available on demand through Nov. 10.

IMGs Are a Critical Part of Pulmonary, Critical Care and Sleep Workforce

IMG pulmonary and critical care specialists and trainees are on the frontlines of the COVID-19 pandemic providing life-saving care and conducting vital scientific research to improve our understanding of COVID-19 and develop diagnostics, treatments, and prevention interventions for this respiratory disease. IMGs make up a substantial part of our nation's pulmonary, critical care, and sleep physician workforce, which is in rising demand due to the aging U.S. population and increases in respiratory diseases including COVID-19 and COPD. IMGs are also a critical pipeline of health care in underserved communities around the country, including in small rural hospitals and communities of color disproportionately impacted by COVID. Many IMGs continue to serve underserved communities through the Conrad 30 waiver program, a critical pipeline of healthcare for these communities in need around the country. The National Resident Matching Program reported that in 2020, IMGs made up 25.5% of filled pulmonary and critical care fellowship training positions and 23.0% of sleep physician specialists. In addition, IMGs composed 14.3% of pediatric pulmonary and 14.9% of pediatric critical care trainee positions. ⁱⁱ For pediatric pulmonary trainees, the program application deadline is December 1 each year.

Impact of Rule on Physician Training and Pipeline

If implemented, the proposed rule would disrupt the training of an estimated 12,000 J-1 medical trainees that provide care at over 750 teaching hospitals across the U.S., exacerbating current physician shortages which will have a disproportionately negative effect on the availability of care in underserved communities. Specifically, if this rule is implemented, 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, thousands of J-1 physicians would very likely be unable to continue their pulmonary, critical care or sleep training programs on time each year.

The current average processing time for a stay extension application across all categories of the J-1 visa ranges from five to 19 months. This would be in addition to the average review and processing time for ECFMG's annual review and extension of visa sponsorship, currently six weeks. The combined processing time for a J-1 physician to apply to ECFMG for an extension of sponsorship and subsequently and separately apply for and obtain an extension of the authorized period of stay based on current timelines is likely to be six months or more. In addition, USCIS processing time would most likely increase if the duration of the status rule is implemented. With the majority of residency/fellowship contracts issued only three to five months in advance of the July 1 start of each new academic year, the proposed change would create an impossible timeline, and do so on a recurring, annual basis.

JUAN C. CELEDÓN, MD, DrPH, ATSF
President

LYNN M. SCHNAPP, MD, ATSF
President-Elect

JAMES M. BECK, MD, ATSF
Immediate Past President

GREGORY P. DOWNEY, MD, ATSF
Vice President

M. PATRICIA RIVERA, MD, ATSF
Secretary-Treasurer

KAREN J. COLLISHAW, MPP, CAE
Executive Director



We help the world breathe®
PULMONARY • CRITICAL CARE • SLEEP

1150 18th Street, N.W., Suite 300
Washington, D.C. 20036 U.S.
T. 202-296-9770 F. 202-296-9776 | thoracic.org

 **ATS 2020** | VIRTUAL
Available on demand through Nov. 10.

The rule change would affect current trainees, future trainee applicants and impose enormous disruption on academic medical training programs around the country, leaving them struggling to make substantial changes to their operations within a short timeframe. As a result, thousands of J-1 physicians, including urgently needed pulmonary, critical care, and sleep specialists, would be unable to continue in their training programs on December 1 and July 1 each year.

The resulting disruption to physician training would be devastating to patient care. In addition to the disruption of the training of the J-1 physicians, there would be an increased burden placed on non-IMG trainees, negatively affecting their educational experience. Training disruptions would heavily impact states where high numbers of J-1 physicians train such as New York, Florida, and Massachusetts, states that are also among the hardest hit COVID-19.

Recommendation

If the proposed rule is finalized, we urge the Department to exclude J-1 foreign national physicians. This exclusion is necessary 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.

Thank you for the opportunity to comment on this proposed regulation.

Sincerely,



Juan C. Celedón, M.D., Dr.P.H., ATSF
President
American Thoracic Society

ⁱ COVID-19: Projected Critical Care Physician Shortage by State. March 31, 2020. Model by Array Advisors.
<https://array-architects.com/press-release/array-advisors-projects-massive-shortage-of-critical-care-physicians-due-to-covid-19/>

ⁱⁱ National Resident Matching Program, Results and Data: Specialties Matching Service 2020 Appointment Year. National Resident Matching Program, Washington, DC. 2020.