

USCIS Eases H-1B Requirements for Physicians With J-1 Waivers in Response to COVID-19

Article By:

Steven Williams

Lee Gibbs Depret-Bixio

On May 11, 2020, U.S. Citizenship and Immigration Services (USCIS) issued a [policy update](#) in response to the COVID-19 pandemic that provides H-1B physicians holding J-1 foreign medical graduate waivers some limited flexibility in readjusting their hours and placement sites. This policy does not alter the [employer's H-1B obligations](#) for any changes that occur to the terms and conditions of employment.

The revised policy provides that certain changes to H-1B physicians' contractual obligations will not reimpose the two-year home residence obligation or negatively affect the eligibility of these physicians for future immigration benefits, such as extensions of nonimmigrant status or applications for green cards. The scope of this policy update is limited, and applies only to H-1B physicians who have received J-1 waivers based on their clinical medical practice. In addition, it is temporary, with duration specifically tied to the national emergency declared in response to the COVID-19 crisis.

The revised policy relaxes requirements for this limited class of physicians in two specific areas:

1. Regarding the need to maintain full-time employment, a physician can reduce hours from full-time employment without affecting the fulfillment of contractual requirements if the reason for the reduction is "quarantine, illness, travel restrictions, or other consequences of the pandemic." Any reduction in hours occurring under the above conditions is allowed dating back to January 27, 2020, without prejudice to the physician.
2. Telehealth services are specifically permitted, even if the practice worksite might have changed from what was in the physician's contract, as of May 11, 2020. These services are permitted under the following conditions:
 - Services are performed through the H-1B sponsor, not on an independent basis
 - Services are provided only to patients living within the same state as the employer
 - The employer offers U.S. physicians equal opportunity to telework from a different worksite location

As it currently stands, the revised policy "does not affect a petitioning employer's responsibilities under the statutes and regulations relating to H-1B nonimmigrants." This includes obligations related

to wages, notice, and the filing of amended petitions in specific circumstances when changes are made to the terms and conditions of an H-1B nonimmigrant's employment. At this stage, compliance obligations are still in effect as they would be for any other H-1B employee.

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