

# The EB-1 Visa for Foreign-National Physicians

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Many foreign-national physicians are currently practicing medicine in the United States on the basis of an EB-2 immigrant visa, either because they have secured a National Interest Waiver for their work or because their employer has completed the PERM process on their behalf. For many physicians, an EB-2 will allow them to apply immediately for lawful permanent residence (a “green card”). Physicians from China or India, however, will have to wait years before becoming eligible to apply for their green cards. As of May 2017, Chinese physicians must wait almost four years and Indian physicians must wait more than nine years.

Some of these physicians may wish to expedite their green card process by applying for an EB-1 immigrant visa. EB-1 visas are awarded to foreign nationals with “extraordinary ability” who plan to continue their work in that area and will “substantially benefit prospectively” the United States.<sup>[1]</sup> The shorthand way to think about individuals who qualify for this category is that they must be part of the “small percentage who have risen to the very top of the field of endeavor.”<sup>[2]</sup>

Physicians interested in an EB-1 should begin thinking far in advance about who they would ask to write letters on their behalf. USCIS prefers “objective” letters from peers in the field who know the work of the physician, but do not personally know the physician. Physicians should also consider applying for competitive awards or organizational memberships and seeking other ways to promote their work in the field. The publication of scholarly articles and service as a peer reviewer are two very straightforward ways to build a case for an EB-1.

The regulatory criteria are written in a way that prioritizes academic research over the practice of medicine. If a practicing clinical physician wishes to obtain an EB-1, he or she will need to thoroughly document their relative skill and prestige within the field.

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[1] INA 203(b)(1)(A), 8 U.S.C. 1153(b)(1)(A)

[2] 8 C.F.R. 204.5(h)(2)

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National Law Review, Volume VII, Number 129

Source URL: <https://natlawreview.com/article/eb-1-visa-foreign-national-physicians>