



CLINE WILLIAMS

# Healthcare Worker Exodus

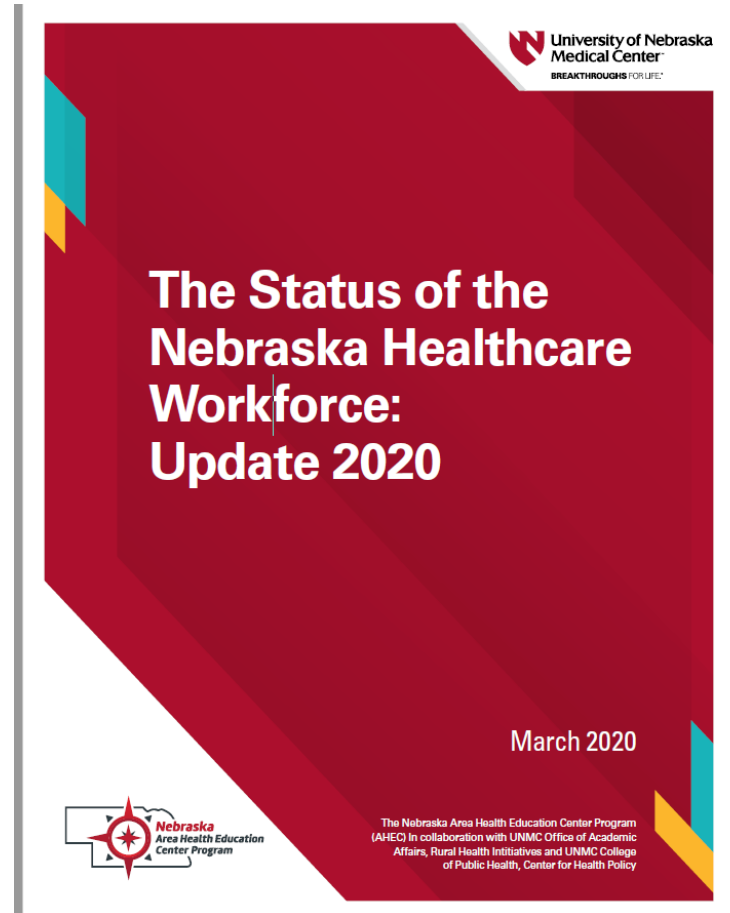
- New Survey Shows That Up To 47% Of U.S. Healthcare Workers Plan To Leave Their Positions By 2025. (Elsevier Health: “Clinician of the Future” Global Report).



# COVID Labor Market



# Nebraska Healthcare Workforce



# Demand for IMGs

- A greater demand for physicians over the past several decades.
- A predicted shortage of 125,000 physicians by 2025.
- 43,000 less primary care physicians by 2030.
- American Academy of Family Physicians most recent data (2017) confirms that among all graduates of American MD schools less than 9% went into family medicine residencies.



Dill MJ, Slasberg ES; Center for Workforce Studies. *The Complexities of Physician Supply and Demand: Projections Through 2025*. Washington, DC; Association of American Medical Colleges; 2008. [http://www.innovationlabs.com/pa\\_future/1/background\\_docs/AAMC%20Complexities%20of%20physician%20demand,%202008.pdf](http://www.innovationlabs.com/pa_future/1/background_docs/AAMC%20Complexities%20of%20physician%20demand,%202008.pdf). Accessed March 9, 2015.

1 in 4 physicians practicing in the U.S. are trained at a foreign medical school.

About ECFMG: overview. Educational Commission for Foreign Medical Graduates website. <http://www.ecfm.org/about/index.html>. Accessed February 8, 2015.

# International Medical Graduates

- Distinguish between IMGs who are U.S. Citizens and those who are not.
- International Medical Graduates (IMGs) play a vital role in the US health care system.
- There are more than 247,000 doctors with medical degrees from foreign countries practicing in the United States.
- They represent 26% of physicians in practice.
- 24% of residents in specialty programs.
- All IMGs go through United States Medical Licensing Examination (USMLE) and credentialing verification to receive certification from the Educational Commission for Foreign Medical Graduates to become eligible to enter the U.S. graduate medical education (GME) process.
- Compared with US graduates, IMGs tend to practice in primary care specialties and in underserved and rural areas.

# Credentialing of IMGs

- IMGs must take USMLE in order to obtain state licensure.
- To take the USMLE, IMGs must register with Educational Commission on Foreign Medical Graduates (ECFMG).
- ECFMG is an independent non-profit credentialing body.
- Once registered with ECFMG, IMGs have up to 7 years to take and pass the USMLEs. IMGs receive ECFMG certification once ECFMG certifies their credentials and they have passed Steps 1 & 2 of the USMLE.
- In order to apply to a Residency/Fellowship Program, IMGs must be certified by ECFMG.
- ECFMG serves as the sponsor of J-1 Physicians so they can apply to GME programs and receive training in J-1 Status.

# ECFMG Certificate

## Educational Commission for Foreign Medical Graduates



The ECFMG® certifies that



has successfully passed the required examinations, satisfied all the requirements of the Commission, and has been awarded this Certificate.

<b>Certificate Number</b>	0-696-758-2
<b>Medical Science</b>	
USMLE Step 1	June 27, 2006
USMLE Step 2 CK	December 26, 2006
<b>Clinical Skills</b>	
USMLE Step 2 CS	March 20, 2007

  
Chair, Board of Trustees

  
President & Chief Executive Officer

Date Issued      May 1, 2007



# BACKGROUND ON THE J-1 VISA (CLINICAL)

- Foreign medical graduates who complete graduate medical education in the United States in J-1 status are obliged to return to their home countries for two years unless they can obtain a waiver.
- Section 212(e) of the Immigration and Nationality Act:
  - No person admitted under section 101(a)(15)(J) [J-1 Visa Status] can change to another status or apply to adjust their status to permanent residency (green card) until they have either returned to their home nation for a period of not less than 2 years or have been granted a waiver of this 2-year foreign residency requirement.



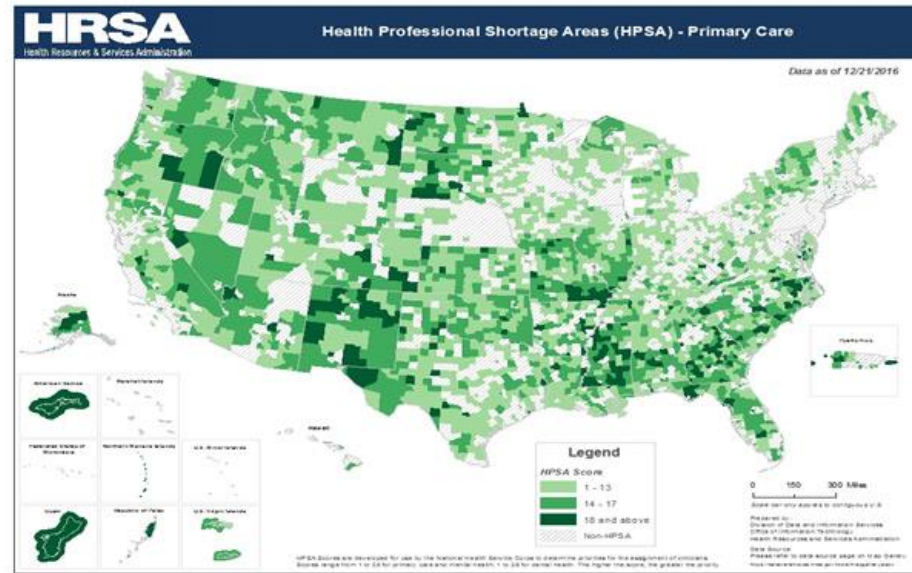
# Conrad 30 program

- Foreign medical graduates who complete graduate medical education in the United States in J-1 status are obliged to return to their home countries for two years unless they can obtain a waiver.
- The Conrad State 30 Program allows state departments of health to recommend up to 30 so-called J-1 waivers per year-and thus attract doctors to areas with shortages of medical care or medically underserved populations. Under the program, the doctors must serve for at least three years.
- Must be a designated MUA or HPSA.
- They receive H-1B status and remain in that status while fulfilling the 3-year service waiver.



# NE RuRAL Health MUA /HPSA

## U.S. Dept. of Health and Human Services



# OTHER WAIVER Options



- **PHYSICIAN NATIONAL INTEREST WAIVER (PNIW)**
- Waiver of the Labor Certification (not a waiver of 212(e)).
- The PNIW presents the opportunity for IMGs to serve a period of 5 years in a MUA, HPSA or with an interested government agency e.g. VA Hospital. The IMG receives if eligible, permanent residency after the service period.
- The PNIW is open to all medical specialties. The recent 2016 case *Matter of HVP* confirms all medical specialties can avail themselves to the PNIW and benefit from that service waiver period.

# Other Visa Options H-1B /O-1

- More and more GME programs are only accepting IMG residents and fellows in J-1 Status. Some programs will sponsor IMGs on H-1Bs.
- After the IMG receives residency/fellowship training, in H-1B status employers MAY BE able to also sponsor the IMG for employment in H-1B status provided they have completed all of the training and hold the necessary license.
- H-1B regulations permit the issuance of the visa for a total of 6 years initially.
- No waiver is needed because the IMG was never in J-1 Status and not subject to 212(e).
- O-1 Extraordinary Ability or Achievement. O-1 as in lieu of H-1B when J-1 waiver is required (subject to 212(e)).



# Visa Options for Nurses

- **H-1B Visa For Certain Nurses**

H-1B visas are available for BSNs where the employer can demonstrate that a bachelor's degree (at least) is necessary to perform the essential functions of the position. As such, general staff Registered Nurses do not qualify for the H-1B status. However, numerous other subspecialties requiring more education and/or training may qualify. These include: Advanced Practical Registered Nurses (APRNs) or Licensed Nurse Practitioners (LNPs) in the fields of acute care, adult care, hospice and palliative care, neonatology, pediatric care, psychiatric and mental health workers. Also qualified are Certified Registered Nurse-Anesthetists (CRNAs) and Certified Nurse-Midwives (CNMs).

Nurses in managerial, supervisory, or research positions beyond direct patient care may qualify for the H-1B visa status so long as the employer can demonstrate that it requires at least a bachelor's degree or its equivalent for all applicants and employees in that position. The employer is required to provide substantial documentation of the degree requirement internally and industry-wide.

# H-1B Visa for Nurses

- The specifics of the H-1B Visa are outside the scope of our presentation today, but here are the highlights:
- 1) Cap-Subject/Cap Exempt Employer
- 2) Valid for 6 years (3 years at a time)
- 3) Specific to the sponsoring employer
- 4) Can seek permanent residency while on the H-1B



# Visa Options for Nurses

- **F-1 Student Visa/CPT and/or OPT**
- Nurses who attend school in the U.S. as part of a nursing program or post-graduate program may be authorized to work as practical training. Curriculum Practical Training (CPT) is authorized by schools and permits students to work a part-time schedule with an affiliated employer while attending school. Optional Practical Training (OPT) is issued upon graduated and permits employment for the one year immediately following graduation.



# Visa Options for Nurses

- **TN Visa for Canadian and Mexican Citizens**
- Under NAFTA, health care workers that are citizens of Canada or Mexico may qualify for the TN visa status. TN visas are generally available to registered nurses, physical therapists, occupational therapists, medical technologists and others. Applicants must provide the following: proof of citizenship; Visa Screen from CGFNS or certified statement if applicable, valid U.S. state or Canadian license; diploma or degree, work experience letters, U.S. equivalency evaluation; and a support letter from the US employer. The TN visa is generally not available to LPNs or CNAs.

# RNs, LPNs and CNAs

- RNs, LPNs and CNAs ordinarily do not qualify for the H-1B visa status. However, they may seek permanent residency through the PERM labor certification process and seek permanent residency under the EB-3 category once their priority date becomes current. However, they must remain in valid non-immigrant status until then.



# FOREIGN LABOR CERTIFICATION (PERM)

- Sponsorship of a Foreign National Employee for Employment Based **Permanent** Residency in the United States
- Not talking about Temporary Employment Visas (H-1B, H-2A, H-2B, TN, L-1, O-1, etc.)
- Three Step Process
  1. PERM
    - a) PWD
    - b) Audit
  2. Immigrant Petition
  3. Adjustment of Status / Visa Consular Processing



Test of the U.S. Labor Market to Obtain a Certification from DOL

# PERM

- U.S. Department of Labor process of certifying that the employer “tested” the labor market and could not find a minimally qualified U.S. citizen or permanent resident worker.
- DOL regulations where, how and how long employers need to advertise for the sponsored position.
- Is prospective (can be for future employees not yet employed).
- Prevailing Wage Determination (taking 6 months).
- Electronically filed and adjudicated but can be selected for audit.
- Decision on the PERM Application will take 6 months.
- Start with job title, job duties, minimum education and experience requirements.

# PERM Process:

- Identify the Position: Certified Nursing Assistant (CNA)
- Job Duties: Assist Medical Professionals with Patient Care
- Minimum Educational and Experience requirements:
- Other requirements:
- Certification/Licensure:
- Prevailing Wage:
- Recruitment:
- Waiting Period:
- File PERM Application

# PERM Schedule “A” Occupations

- DOL, however, has predetermined that there are not sufficient U.S. workers who are able, willing, qualified, and available for certain occupations. For this reason, DOL has pre-certified certain occupations such that employers seeking to classify aliens in these occupations file both the labor certification application and petition with USCIS. These are known as Schedule A occupations.
- Currently, DOL has designated two groups of occupations under Schedule A: **registered nurses and physical therapists** (Group I) and aliens of exceptional ability (Group II). Officers adjudicating Schedule A cases apply DOL regulations when determining whether Schedule A designation is appropriate, and DHS regulations when adjudicating all other aspects of the petition.

# I-140 Immigrant Petition

OMB No. 1615-0015

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**Form I-140, Immigrant  
Petition for Alien Worker**

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**START HERE - Type or print in black ink**

**Part 1. Information About the Person or Organization Filing This Petition** If an individual is filing, use the top name line. Organizations use the second line.

Family Name (Last Name)	Given Name (First Name)	Full Middle Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Company or Organization Name		
<input type="text"/>		
Address: (Street Number and Name)		Suite No.
<input type="text"/>		<input type="text"/>
Attn:		
<input type="text"/>		
City	State/Province	
<input type="text"/>	<input type="text"/>	
Country	Zip/Postal Code	
<input type="text"/>	<input type="text"/>	
IRS Tax No.	U.S. Social Security No. (if any)	E-Mail Address (if any)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Part 2. Petition Type**

This petition is being filed for: (Check only one box)

- An alien of extraordinary ability
- An outstanding professor or researcher
- A multinational executive or manager
- A member of the professions holding an advanced degree or an alien of exceptional ability (who is NOT seeking a National Interest Waiver)
- A professional (at a minimum, possessing a bachelor's degree or a foreign degree equivalent to a U.S. bachelor's degree)
- A skilled worker (requiring at least two years of specialized training or experience)
- Any other worker (requiring less than two years of training or experience)
- (Reserved)
- An alien applying for a National Interest Waiver (who IS a member of the professions holding an advanced degree or an alien of exceptional ability)

Check below if this petition is being filed:

- To amend a previously filed petition. Previous petition receipt number:
- For the Schedule A, Group I or II designation

**Part 3. Information About the Person for Whom You Are Filing**

**For USCIS Use Only**

Receipt

<b>Classification:</b>	
<input type="checkbox"/> 203(b)(1)(A) Alien of Extraordinary Ability <input type="checkbox"/> 203(b)(1)(B) Outstanding Professor or Researcher <input type="checkbox"/> 203(b)(1)(C) Multinational Executive or Manager <input type="checkbox"/> 203(b)(2) Member of Professions with Advanced Degree or Exceptional Ability <input type="checkbox"/> 203(b)(3)(A)(i) Skilled Worker <input type="checkbox"/> 203(b)(3)(A)(ii) Professional <input type="checkbox"/> 203(b)(3)(A)(iii) Other Worker	
<b>Certification:</b>	
<input type="checkbox"/> National Interest Waiver (NIW) <input type="checkbox"/> Schedule A, Group I <input type="checkbox"/> Schedule A, Group II	
<b>Priority Date</b>	<b>Consulate</b>
<b>Remarks</b>	
<input type="text"/>	
<b>Action Block</b>	
<input type="text"/>	

- BASED IN THE PERM LABOR CERTIFICATION
- SECURES A PRIORITY DATE FOR THE EMPLOYEE IF APPLICABLE
- PERMITS THE FILING OF AN APPLICATION FOR ADJUSTMENT OF STATUS OR IMMIGRANT VISA CONSULAR PROCESSING

**A. FINAL ACTION DATES FOR EMPLOYMENT-BASED PREFERENCE CASES**

On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are authorized for issuance to all qualified applicants; and "U" means unauthorized, i.e., numbers are not authorized for issuance. (NOTE: Numbers are authorized for issuance only for applicants whose priority date is **earlier** than the final action date listed below.)

<b>Employment-based</b>	<b>All Chargeability Areas Except Those Listed</b>	<b>CHINA-mainland born</b>	<b>EL SALVADOR GUATEMALA HONDURAS</b>	<b>INDIA</b>	<b>MEXICO</b>	<b>PHILIPPINES</b>
1st	C	C	C	C	C	C
2nd	C	01MAR19	C	01SEP14	C	C
3rd	C	22MAR18	C	15JAN12	C	C
Other Workers	08MAY19	01JUN12	08MAY19	15JAN12	08MAY19	08MAY19
4th	C	C	01MAY17	C	01APR20	C
Certain Religious Workers	C	C	01MAY17	C	01APR20	C
5th Unreserved (including C5, T5, I5, R5)	C	22NOV15	C	C	C	C
5th Set Aside: Rural (20%)	C	C	C	C	C	C
5th Set Aside: High Unemployment (10%)	C	C	C	C	C	C
5th Set Aside: Infrastructure (2%)	C	C	C	C	C	C





