

International MD Hiring Process

October 22, 2020

ISO

International
Services Office

University of Rochester

Presenters and topics

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Provider Network Development

Recruitment

Dr. Roger Oskvig, Professor of Clinical Medicine

Licensure

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Immigration/Waivers/Permanent Residence

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In-House Recruitment Services for URMC & Regional Affiliates

Recruitment/Immigration Process

Karol Marciano, AVP Provider Network Development
Emily Whitehouse, Recruitment Specialist

- Work with key stakeholder(s) to identify recruitment needs & develop profile
- Source candidates via digital platforms, social media, professional networks and career fairs
- Initial vetting of candidates includes an Immigration Needs Assessment
- Presentation of vetted “good fit” candidates to stakeholders (Chair, Chief, Practice Adm)
- Engage Immigration Team with “final” candidates.
- In-House Recruitment Team guides (with Department) on -site visits and the process to completion
- On-boarding led by Department & Regional Affiliate – Retention Team (Physician Liaisons)

Physician Licensing in New York

Town Hall

October 22, 2020

Unrestricted New York Medical License

- A minimum of two years of postsecondary education prior to medical school
- Medical school of at least 132 curricular weeks at a school accredited by LCME
- A minimum of one year of postgraduate training in a program accredited by ACGME or AOA
- Passage of all parts of USMLE
- FCVS
- Verified lifetime professional history
- At least 21 years old
- Citizen or lawful immigration status

Preprofessional Education

- Applicants with less than 2 years of postsecondary education prior to medical school are not license eligible
- Any postsecondary education done after matriculation into medical school is not qualifying.
- A transcript is required.

Non-LCME Medical School

- Must be listed by the WHO as a recognized medical school at the time the applicant was a student in the country that charters the medical school
- Curriculum at least 132 weeks
- The curriculum must include basic and medical sciences
- All clinical clerkships outside the country of location of the medical school require primary source verification (form 2CC)
- The License Processing Unit will forward the application file to the Committee on Comparative Education for curricular review
- Although the degree awarded by the medical school / college / university may be recognized as MD equivalent, it is misconduct in New York if MD is used unless that is the actual degree awarded

Postgraduate Education

- Graduates of LCME accredited medical schools
 - At least one year of postgraduate education in a program accredited by ACGME or AOA
 - Accredited postgraduate education will be validated by FCVS
 - At least three years of non-accredited postgraduate education
 - Primary source verification is required
 - Non-accredited postgraduate training is listed by FCVS but not verified
 - The postgraduate training is counted to the month
 - Only clinical education is counted, research is not qualifying
 - A committee of the Board of Medicine will review the verified file for equivalency

Postgraduate Education

- Graduates of medical schools not accredited by LCME
 - At least three years of postgraduate training in program(s) accredited by ACGME, AOA, or RCPSC
 - The training must be finished in good standing
 - The training must be progressive
 - Repeated or duplicate training experiences are not counted
 - Postgraduate education in training programs not accredited by ACGME, AOA, or RCPSC
 - At least 72 months of clinical training
 - The training must be progressive
 - Civil service requirements by a country as a requirement for licensure are not considered postgraduate training
 - All non-accredited training will require primary source verification (form 2PGT)
 - Only clinical training counts, research months do not
 - A committee of the Board of Medicine will review the verified file for equivalence.
 - The Board's recommendation will be summarized by the Executive Secretary of the Board of Medicine
 - The Committee on Professions of the Board of Regents will review the file and recommendation of the the Board of Medicine
 - The recommendation of the Regent's Committee on the Professions will be forwarded to the next meeting of the full Board of Regents for final action

Qualifying Examination

- All 3 part of USMLE
 - If the examination is started, all three parts must be passed to be licensed
- For older physicians, FLEX or National Board Examination is accepted
- For Canadians, MCCEE + MCCQE + LMCC is deemed equivalent
- All other licensure examinations
 - Primary source verification
 - Must be comprehensive, and prepared, administered, and scored by an entity independent from the medical school or its accrediting body
 - Will be reviewed and considered by the Committee on Comparative Education, a committee of the Board of Medicine, the Regent's Committee on the Professions, and the full Board of Regents in turn for consideration of equivalency.

Lifetime Professional History

- Licensure by qualification
- Licensure by endorsement may be faster
 - At least five years of practice in a single location after completion of postgraduate training
 - An unrestricted license to practice medicine in that jurisdiction
 - No disciplinary actions
 - All practice, credentials in all licensed facilities requires primary source verification

Moral Fitness

- New York State will do a criminal background check
- New York State will do an NPDB search
- New York State will receive any adverse information in the Federation of State Medical Boards database
- New York State will receive information of disciplinary actions during college, medical school, or postgraduate training
- New York State will request information of any adverse actions from any licensed facility where the applicant has been credentialed

- If any adverse information is discovered that potentially satisfies a definition of professional misconduct in New York State:
 - The file is forwarded to an investigator
 - The investigator does a thorough collection of original documents, references, applicant statements, etc.
 - The investigation file is referred to a Moral Fitness Committee, three members of the Board of Medicine.
 - If the Moral Fitness Committee believes the incident(s) pose no further risk, the file is returned to the License Processing Unit
 - If the Moral Fitness Committee is uncertain, they refer the file to the Board of Medicine for a full Moral Fitness Hearing. Their findings and recommendations are forwarded to the Regent's Committee on the Professions and to the full Board of Regents in turn for action. The decision of the Board of Regents is final.
 - This process typically takes two years or longer

Age

- At least 21 years old
- Only the Regents can waive the age

Citizenship or Immigration Status

- Article 131 of the Education Law, 6524, 6, states ...” United States citizen or an alien lawfully admitted for permanent residence...”, and in that paragraph has language about practice in an underserved area, a limit of six years for H-1b or O-1 visa, and other conditions. The New York legislature has not amended the law regarding the requirements for licensure since 1981. How the Regents, by their authority on the licensed professions, have by action and precedent determined the current requirements.
- New York requires an address where the applicant is legally residing to issue the license.
- A New York license is not valid to practice in New York unless the applicant has a current legal immigration status. “Grace periods”, allowed in immigration law, are not verifiable.

Summary

- For a United States citizen, graduate of an LCME accredited medical school, no international clinical clerkships outside the United States, at least one year of post-graduate education in an accredited residency, all three parts of USMLE passed, finished FCVS file, the entire file is processed by the License Processing Unit usually in 8 weeks or less
- For all other applicants, the Committee on Comparative Education, the Board of Medicine, the Moral Fitness Committee, the Committee on Professions of the Board of Regents, and the full Board of Regents may each be involved, in turn, before the file is returned to the License Processing Unit. This can take months, many months.
- Only the Education Department Board of Regents can waive / determine equivalency from the statutes as written for the qualifications for licensure.
- The Education Department never denies a license. It will only advise an applicant that they have not yet satisfied the qualifying requirements for an unrestricted New York license.

Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

Immigration Planning for Foreign Medical Graduates



Harter Secrest & Emery LLP Immigration Practice Group



TOPICS

- Two-year foreign residence requirement
- J-1 waiver overview
- Nonimmigrant alphabet soup
- Permanent residence (“green card”) process
- Planning issues along the way

Pipeline – Lifeline Metaphor

- Foreign national's perspective (Lifeline)
 - “Tenure track” – long term uncertainty
 - Expectations – sponsorship and permanent residence
- Employer's perspective (Pipeline)
 - Best and brightest, globalization
 - Expand your talent pool – hard to fill positions in S. Tier
- Quid pro quo
 - Market yourselves
 - FMG may leave at some point

Graduate Medical Education

- Nonimmigrant alphabet soup – J, H, O
- FMG GME normally in J-1
- Planning implications
 - J-1 two-year foreign residence requirement
 - Ineligible for H visa, immigrant visa or adjustment of status, and
 - Ineligible for in-country change from J status to some other status
 - Unless FMG returns home for two years or obtains a waiver



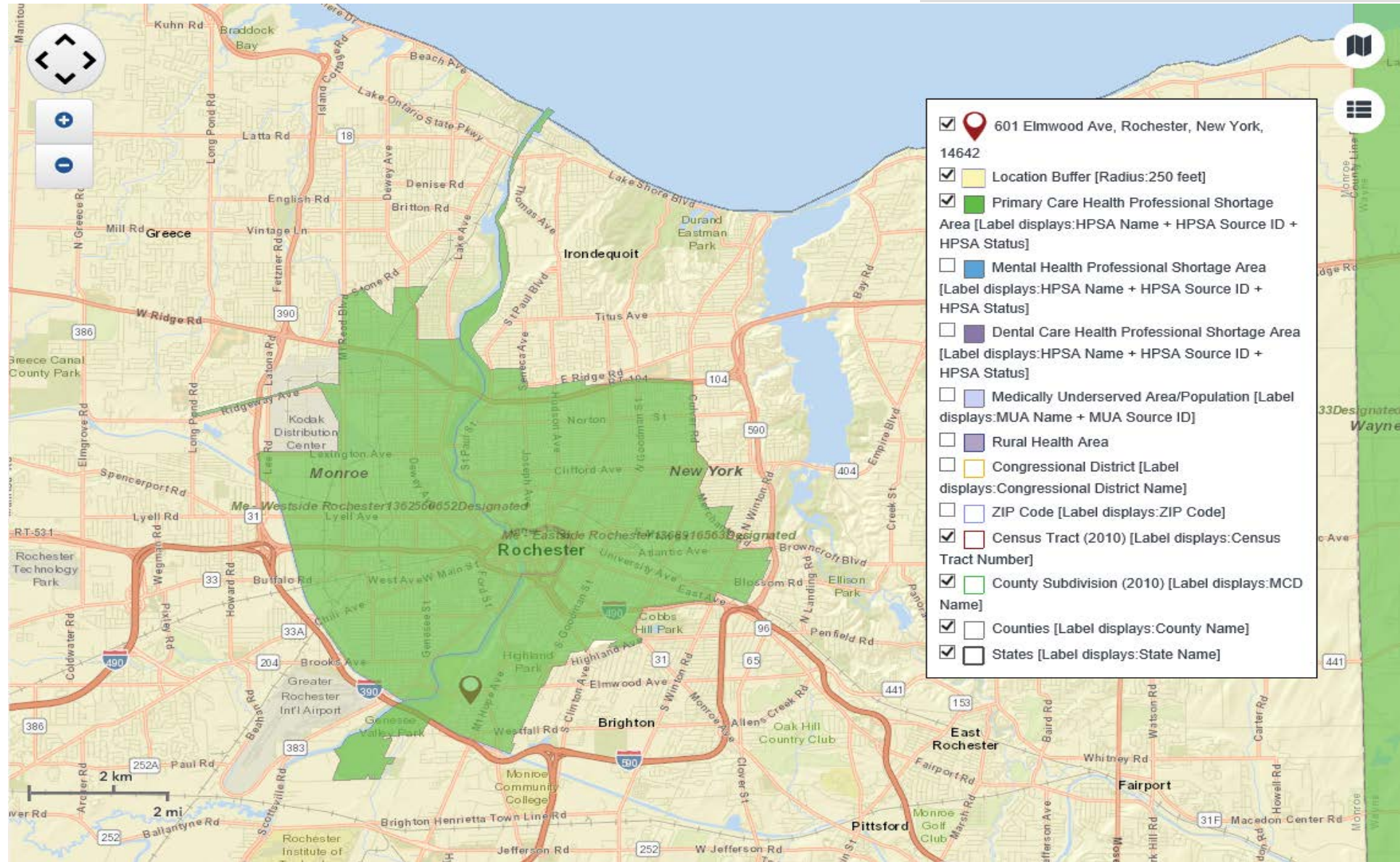
J Waivers

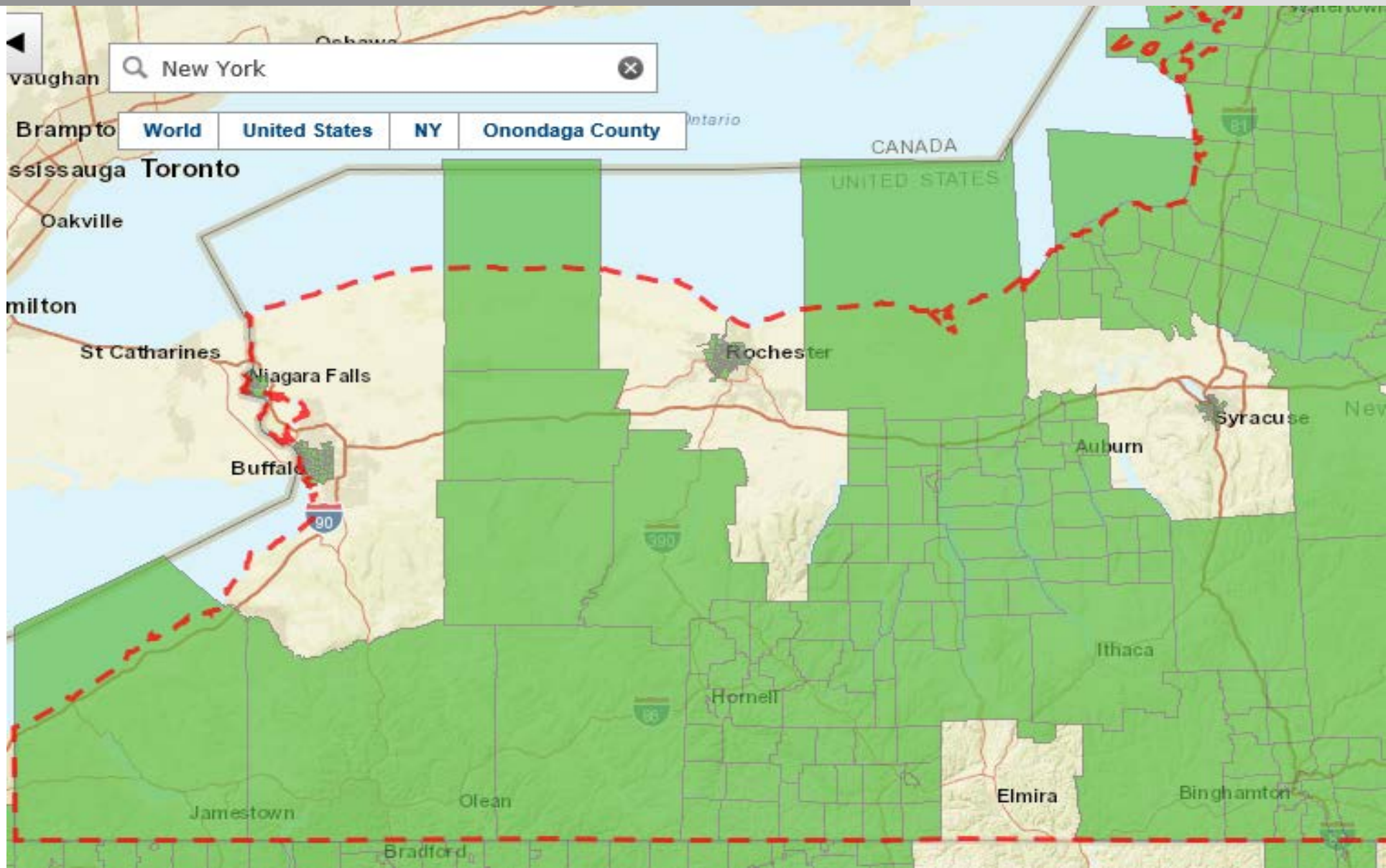
- IGA Waivers – pick your champion (research or clinical)
- Research position – HHS
 - Unable to find U.S. worker
 - Key / critical component of research effort
 - High level of accomplishment
- Clinical Practice – shortage waivers
 - State sponsors – Conrad 30 program
 - Federal sponsors – ARC, HHS, VA, (NBRC?)



- Clinical Practice Shortage Waivers
 - Immigration baseline – 3 years, 40 hours practicing medicine, in a shortage area pursuant to contract in H-1B, change employers for extenuating circumstances only, start within 90 days of waiver, non-discrimination, telemedicine not credited toward 40 hours
 - IGA waiver recommendations are 100% discretionary
- Covid – telemedicine and 40-hour exceptions

HPSA /MUA maps





NYS Conrad 30 Program

- Employment agreement required (J-1 waiver, not H-1B)
 - Three years in H-1B from H effective date in HPSA, MUA/P
 - Full-time, 40 hours, start within 90 days - INA Section 214(I)
 - Non-compete prohibited
 - Non-solicitation permitted
 - Termination with notice allowed
 - Non-discrimination
 - Names, addresses, medical specialty, practice site name



NYS Conrad 30 Program

- 30 slots per year – 50/50 primary / non-primary care
- Around 60 doctors apply per year - URMCC has no guarantee of approval, 1-2 per institution
- Planning always must include backup plan
- Unable to secure waiver from another J-1 waiver sponsor
- License eligible, but issuance not required
- FLEX disfavored
- Evidence of recruiting over last six months
- Support letters from local community leaders



NYS Conrad Program

- Many states don't use all 30 slots – competitive disadvantage
- Deadline, not rolling applications – end of November
- URMC leadership meets July / August to select URMC physician for J-1 waiver sponsorship, job offer must be accepted
- Physician understands URMC may not immediately sponsor for J-1 waiver
- NYS normally decides by March
- Get URMC immigration team involved up front, department rep strongly advised to attend initial consultation
- NYS's concern is medical coverage, not URMC success
- Application requires payor mix data – Medicaid/Medicare

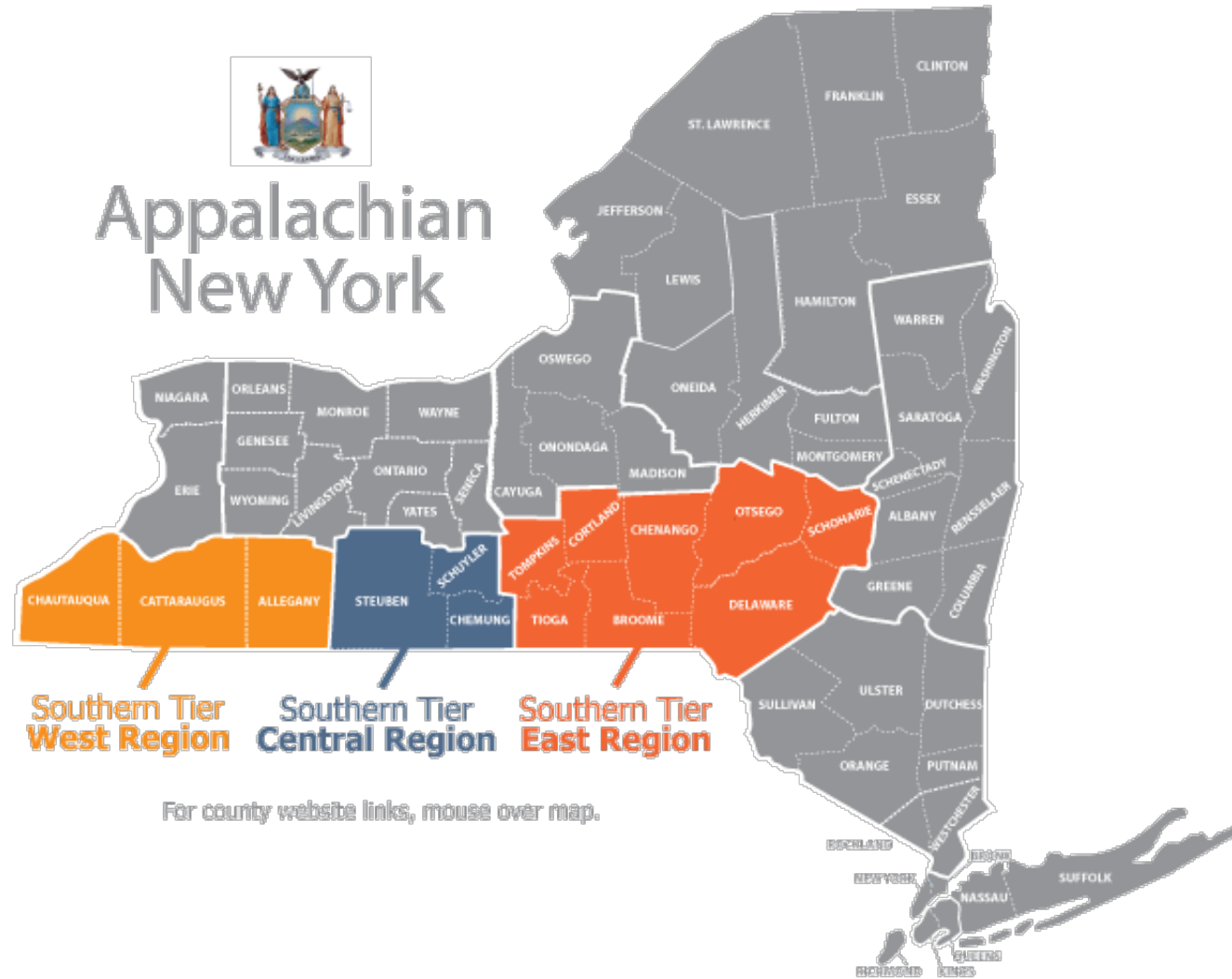


ARC Program

- Employment agreement required (J-1 waiver, not H-1B)
 - Three years in H-1B in ARC / HPSA, not MUA/P
 - Full-time, 40 hours, start within 90 days - INA Section 214(I)
 - Termination for cause only
 - \$250,000 liquidated damages for leaving ARC
 - Non-compete prohibited, non-solicitation permitted
 - Non-discrimination prohibited
 - Wage floor
 - Names, addresses, medical specialty, practice site name
 - Limits - filling the HPSA and 5 per practice site



ARC Program



For county website links, mouse over map.



ARC Program

- Unlimited waivers – self-imposed limits
- Will now sponsor non-primary care
- License eligible, but issuance not required
- Evidence of 6 months recruiting – w/ notice to NYS medical schools
- If population HPSA, show 3 years Medicaid, Medicare, medically indigent coverage
- Sliding fee scale
- Timeline – 3-8 months
- \$3000 filing fee



HHS Program

- Same basics, three years, full-time
- Only in HPSA, score 7 or higher
- Only out-patient primary care
- Must commence employment less than one year after residency completion date
- Major update – no longer limited to FQHC and will cover hospitalists
- Timeline – 2-6 months



VA Program

- Three years, full time
- Allows for as little as 51% clinical practice
- Allows 5/8th split – 3/8 joint appointment
- Recruiting for minimally qualified US worker or less qualified NIV
- VA location need not be in shortage area
- Submit no more than six months in advance of start date
- If in O-1, must work three years first



Employment Visa Options

- H-1B, O-1, etc.
- H-1B – minimum BA/BS level work
 - 6 year limit, granted in 3 year increments, 7th year H
 - Required wage, location / job / employer specific
 - FMG requires USMLEs, license, ECFMG certificate, foreign equivalent M.D. or foreign license,
 - License – best practice to file H only after license approval
 - Timeline for H independent of J waiver – plan, very roughly, at least two months
- Canadian/Australian H-1B/E-3 - not subject to J-1 foreign residence requirement



Employment Visa Options

- O-1 - Extraordinary ability
 - Not subject to J-1 two-year foreign residence requirement
 - No quota issues
 - 3 years with unlimited renewals
 - License, ECFMG, USMLE not required
- Conrad 30 backup planning – Canadian/Australian H-1B and O-1

Transition to Permanent Residence

- Nonimmigrant visas are “temporary”
- Though many are long term, disadvantages abound:
 - Lack of stability
 - Lack of work authorization for spouse/children
 - 21 and out for children
- Practical Considerations of Permanent Residence Timing
 - Savvy employees may leave if employer won't support permanent residence
 - May engender loyalty
 - Need to start early enough to extend H-1B – start by year 4
 - Currently very strong chance of approval

Permanent Resident Process

- Three typical employment-based paths
 - Labor certification
 - Physician national interest waiver
 - Extraordinary / Outstanding
- Can be job, location, employer specific
- Timeline – one to more than 13 (Indian nationals) years

Travel Considerations

- Travel Bans:
 - 14-day ban – Schengen, Iran, China, Brazil, Ireland, UK
 - H-1B / L / J – certain categories – June 24, 2020
 - NIE exceptions
- Administrative processing / visa scrutiny
 - Academia / tech workers
 - Extreme vetting
 - Plan travel accordingly, delay possible

Summary

- Immigration expands your talent pool, w/ quid pro quo
- Immigration is job, location, employer specific
- Immigration is complex
 - Get the team involved up front
- Conrad 30 waivers are rationed, Canadian / Australian Hs and O-1s are backup
- ARC, HHS have unlimited waivers
- The government does not care about your timeline
 - Start sooner rather than later – your only defense





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Thank you!

QUESTIONS?

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