

INTRODUCTION

The U.S. immigration system has needed massive reform on a variety of fronts—from the challenges facing those in the country without documentation, to the need for fairer asylum laws, to often-inefficient processing of employment-based immigration benefits—and is crying out for common-sense solutions. Sadly, Congress has not been able to pass immigration reform legislation in many years, and it is unlikely that 2025 will bring any significant positive actions.

The past several years posed unprecedented challenges for U.S. immigrants and immigration attorneys. The tumult of the first Trump administration and COVID-19 caused a dire need for flexibility and modernization from a system that is inflexible and mired in outdated rules and technology. A second Trump administration promises to bring more chaos and frequent change in policy. By the time this edition is published, it is likely that several “day one” presidential executive orders will have had immediate effect on multiple aspects of the U.S. immigration system. It is likely that many of these changes will make life in the United States more challenging for international physicians and, by extension, for their employers and patients.

Although the Biden administration reversed, relaxed, and modernized policies and processes, much more work was needed to make the U.S. immigration system work fairly and efficiently for its diverse stakeholders. For example, the quotas that plague the U.S. immigration system need to be rethought and rescinded. Limits on issuing H-1B visas cause U.S. employers to be unable to hire the best people for the job, regardless of citizenship. Limits on green card issuance cause thousands of hardworking people in the United States to live as a perennial second class without any idea of when they will be able to formally set down roots in this country. Green card limits also prevent U.S. employers from filling occupations facing massive shortages, such as in nursing, with qualified immigrants.

A few positive changes that the Biden administration implemented shortly before leaving office are the revisions to the J-1 Skills List that took place on December 9, 2024, and the publication of a new H-1B regulation that took effect on January 17, 2025. Both developments are discussed in this edition. One important aspect of the

H-1B regulation is the codification of the policy of U.S. Citizenship and Immigration Services (USCIS) that gives deference to approval of past petitions. The first Trump administration rescinded USCIS's deference policy within the first month of taking office, which caused chaos by allowing USCIS officers to re-adjudicate H-1B and other extensions, even where the same person had held that status with the same employer for many years. By including the policy in the new regulation, the Biden administration prevented the second Trump administration from repeating this act. This is good news for international physicians and their employers, who will benefit from knowing that extension petitions with the same parties and facts should be approved in most cases.

Both the U.S. Department of Labor and the U.S. Department of State continue to struggle with some operational aspects of their immigration responsibilities. The Department of Labor's Program Electronic Review Management (PERM) labor certification processing times are more than one year at the time of publication.

On a positive note, after several years of delays and disruption, the Department of State's consular operations and waiver review divisions are showing signs of more reasonable processing times. The agency's pilot program for stateside visa renewal in 2024 was successful, and the agency has plans to implement it on a broader and more permanent basis in 2025.

Looking ahead to 2025, it is likely that the most common immigration processes undertaken for physicians will continue to be available—J-1 waivers, H-1B and O-1 visas, and all kinds of green cards. Unfortunately, planned changes by the second Trump administration would make those processes more difficult and slower to achieve. As with the first Trump administration, increases in requests for evidence and denials of petitions that are otherwise approvable can be expected. These next four years promise to be challenging on a number of fronts as immigration takes center stage.