

# United States Senate

WASHINGTON, DC 20510

April 14, 2020

Kenneth Cuccinelli  
Senior Official Performing the Duties of Director  
U.S. Citizenship and Immigration Services  
20 Massachusetts Avenue NW  
Washington, DC 20529

Dear Mr. Cuccinelli:

We write to express our concern that regulations for the H-1B and J-1 visa programs are standing in the way of our nation's having the strongest possible medical response to COVID-19. Medical professionals holding these visas are generally not permitted to provide medical care at locations or in specialties other than those specifically approved for their immigration status. We urge you to waive such restrictions during the public health emergency to increase the number of physicians available to respond to COVID-19.

As you know, H-1B visas are available to workers in "specialty occupations," which includes licensed physicians. Hospitals and health care providers across the nation, and particularly those in rural regions, rely on this visa program to fill critical vacancies at their facilities. As part of the visa approval process, providers must submit to U.S. Citizenship and Immigration Services (USCIS) Form I-129, which requires employers to identify where and for how long the visa holder will work for the duration of their status. Any changes require a new I-129 per guidance issued by USCIS in 2015.<sup>1</sup> Similarly, physician residents and fellows on J-1 visas are assigned to a specific employer, location, and specialty, and changes are practically impossible during an approved program year.

While these policies are well intended, the current public health crisis requires a robust and timely medical response that begins with getting physicians to the front lines. Health care workers on H-1B and J-1 visas—including physicians in the Conrad State 30 program, which helps retain U.S.-trained physicians who work in underserved areas—are a key resource in this process. State and local governments as well as health care providers have found that the site-specificity for work authorization has prevented physicians holding an H-1B or J-1 status from transferring to hospitals and facilities that are overwhelmed with COVID-19 patients or are experiencing staff shortages due to quarantine requirements. Even telemedicine programs, which can provide needed surge capacity to underserved and rural areas, often cannot employ these physicians to serve patients. Moreover, there are concerns among providers that H-1B and J-1 visa holders may not even be permitted to provide services outside the medical specialty, even if they are otherwise qualified to do so.

We therefore urge you to grant health care providers relief as soon as possible so that our nation's critical resources can be effectively deployed. USCIS should immediately waive the requirements of the

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<sup>1</sup> [https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-0721\\_Simeio\\_Solutions\\_Transition\\_Guidance\\_Memo\\_Format\\_7\\_21\\_15.pdf](https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-0721_Simeio_Solutions_Transition_Guidance_Memo_Format_7_21_15.pdf)

2015 *Simeio* guidance for health care providers seeking changes in previously approved employment or new concurrent employment during the current public health emergency. Such a decision would give our nation's health care providers the flexibility that is needed to mount an adequate response during this emergency. Doctors need to be able to act now to use their knowledge and training to save lives without fear of the loss of their immigration status.

Thank for your attention to this important matter. We look forward to your prompt response.

Sincerely,



Amy Klobuchar  
UNITED STATES SENATOR



Tom Cole  
MEMBER OF CONGRESS



Abby Finkenauer  
MEMBER OF CONGRESS



Brad Schneider  
MEMBER OF CONGRESS



Richard J. Durbin  
UNITED STATES SENATOR



Charles E. Schumer  
UNITED STATES SENATOR



Angus S. King, Jr.  
UNITED STATES SENATOR



Christopher A. Coons  
UNITED STATES SENATOR



Kamala D. Harris  
UNITED STATES SENATOR



Dianne Feinstein  
UNITED STATES SENATOR

/s/ Kevin Cramer

Kevin Cramer  
UNITED STATES SENATOR



Richard Blumenthal  
UNITED STATES SENATOR

/s/ Chris Van Hollen

Chris Van Hollen  
UNITED STATES SENATOR



Edward J. Markey  
UNITED STATES SENATOR



Mazie K. Hirono  
UNITED STATES SENATOR



Robert Menendez  
UNITED STATES SENATOR



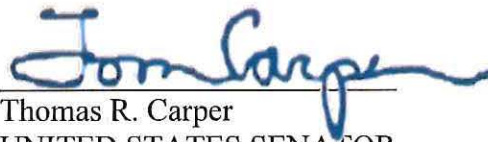
Tina Smith  
UNITED STATES SENATOR



Jacky Rosen  
UNITED STATES SENATOR



Elizabeth Warren  
UNITED STATES SENATOR



Thomas R. Carper  
UNITED STATES SENATOR



Tammy Duckworth  
UNITED STATES SENATOR



Kendra Horn  
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Bobby L. Rush  
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Mike Gallagher  
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Ron Kind  
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John Katko  
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Tony Cárdenas  
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Raja Krishnamoorthi  
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Terri A. Sewell  
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Lisa Blunt Rochester  
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Xochitl Torres Small  
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Anthony Gonzalez  
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Bill Foster  
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Frank D. Lucas  
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David Trone  
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Cindy Axne  
MEMBER OF CONGRESS



Albio Sires  
MEMBER OF CONGRESS



Darren Soto  
MEMBER OF CONGRESS



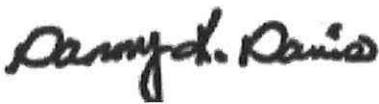
Ken Calvert  
MEMBER OF CONGRESS



Adam Kinzinger  
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Joseph P. Kennedy, III  
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Danny K. Davis  
MEMBER OF CONGRESS



David E. Price  
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John B. Larson  
MEMBER OF CONGRESS



**U.S. Citizenship  
and Immigration  
Services**

May 13, 2020

The Honorable Amy Klobuchar  
United States Senate  
Washington, DC 20510

Dear Senator Klobuchar:

Thank you for your April 14, 2020 letter regarding the H-1B and J-1 programs. Mr. Cuccinelli asked that I respond on his behalf.

The Department of Homeland Security (DHS) has no greater responsibility than ensuring the safety and security of our country. Responding to the pandemic requires everyone to work within rapidly changing, complex circumstances that create a variety of situations and conditions unique to individuals and communities.

We recognize that there are immigration-related challenges that individuals, employers, and others face as a direct result of the national emergency. We carefully analyze these issues and leverage our resources to effectively address these challenges within our existing authorities. DHS continues to act to protect the American people and our communities and is considering a number of policies and procedures to improve the employment opportunities of U.S. workers during this pandemic.

It is important for us to emphasize that U.S. Citizenship and Immigration Services (USCIS) continues to accept and process petitions and applications for immigration benefits. Our primary goal is to ensure the safety of the public and our employees as the situation evolves. Therefore, we have temporarily suspended routine in-person services at our offices. Importantly, however, our workforce continues to perform mission-essential duties that do not involve face-to-face contact with the public, and we provide emergency services for certain situations.

Our website and outreach efforts provide guidance, resources, and information to the public on the actions and policies we are implementing through these uncertain times. On May 11, 2020, we issued a policy memorandum on temporary policy changes for certain H-1B foreign medical graduates. In addition, as we announced in our public-facing website, several options are available to nonimmigrants to extend or change their status. For policy updates, operational changes, and COVID-19 information, please visit [uscis.gov/coronavirus](https://uscis.gov/coronavirus).

While Congress has granted DHS extensive statutory authority, it has also prescribed specific statutory limitations regarding many nonimmigrant visa programs, including in relation to extensions of status. I should note that when similar concerns arose in the aftermath of the

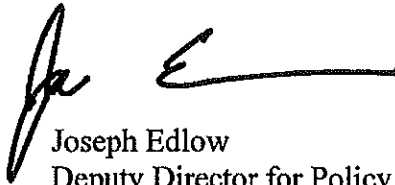
The Honorable Amy Klobuchar

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9/11 terrorist attacks, Congress passed legislation providing relief to impacted legal aliens. Section 422 of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001," Pub. L. No. 107-56, provided automatic extensions of status, but only to those nonimmigrants lawfully present in the United States on September 1, 2001 who had been disabled as a result of the terrorist attacks (and family members). Such aliens could "remain lawfully in the United States in the same nonimmigrant status until the later of . . . the date such . . . status otherwise would have terminated . . . or 1 year after . . . the onset of disability . . . ." For those lawfully present nonimmigrants who had not been disabled, Congress provided only that "if the alien was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified terrorist activity, the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due." The House of Representatives passed similar legislation on a bipartisan basis by voice vote in the aftermath of Hurricane Katrina. See H.R. 3827, the "Immigration Relief for Hurricane Katrina Victims Act of 2005."

Thank you again for your letter and interest in this important matter. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ja' followed by a long horizontal stroke.

Joseph Edlow  
Deputy Director for Policy

cc:

The Honorable Tom Cole  
Member of Congress

The Honorable Abby Finkenauer  
Member of Congress

The Honorable Brad Schneider  
Member of Congress

The Honorable Richard J. Durbin  
United States Senator

The Honorable Charles E. Schumer  
United States Senator



The Honorable Amy Klobuchar  
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The Honorable Angus S. King, Jr.  
United States Senator

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United States Senator

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The Honorable Kevin Cramer  
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The Honorable Mazie Hirono  
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The Honorable Robert Menendez  
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The Honorable Jacky Rosen  
United States Senator

The Honorable Elizabeth Warren  
United States Senator

The Honorable Thomas R. Carper  
United States Senator

The Honorable Tammy Duckworth  
United States Senator



The Honorable Amy Klobuchar  
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The Honorable Kendra Horn  
Member of Congress

The Honorable Bobby L. Rush  
Member of Congress

The Honorable Mike Gallagher  
Member of Congress

The Honorable Donna Shalala  
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The Honorable Eliot L. Engel  
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The Honorable Ron Kind  
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