

UPMC Medical Education

Policies and Procedures

Approved by:

GME Committee: 05/11/2022

Department: Graduate Medical Education

Title: **Resident/Fellow Visa Policy**

Purpose: To assure that all UPMC Medical Education (ME) programs, their chairs and program directors continue to compete for top domestic and international talent available from an increasingly competitive applicant pool. This is to be accomplished with full compliance with immigration laws and institutional policy and procedures.

Scope: This policy is designed to define the standards, responsibilities and resources in place for all applying for professional graduate medical education (GME) programs of UPMC ME. It is intended to eliminate any potential competition between or among programs for candidates from the same pool while: forging a central commitment that ensures fairness; protecting the member institutions from any legal and resource risks inherent in any changes in a federal program; and ensuring UPMC ME ability to successfully demonstrate full compliance with applicable authority and requirements for immigration and visa issues

Executive Authority: Designated Institutional Official; Vice President, UPMC Medical Education

Procedure:

Residents and fellows in UPMC ME-sponsored programs who are not United States Citizens, United States Permanent Residents or otherwise have unrestricted work authorization must be qualified for an employer sponsored visa in order to participate in graduate medical education training. UPMC ME training programs are not required to offer but may voluntarily elect to offer candidate immigration sponsorship such as the J-1 visa via ECFMG and/or the H-1B employment-based visa. Note that a training program can offer either the J-1 visa option or the H-1B visa option or both the J-1 visa option and the H-1B visa option. In any event, an eligible candidate must have valid work-authorization for the duration of the training program. UPMC ME, in conjunction with the training program leadership, may restrict the type of visa options based on the duration of the training program, candidate eligibility requirements, and/or potential delays in the application process. While UPMC ME and training program leadership may take into consideration the trainee's visa status preference, the final decision as to which visa status to pursue is at the discretion of UPMC ME and training program leadership. Questions should be referred to the UPMC ME Office.

All International Medical Graduates (IMGs) of non-LCME medical schools must obtain ECFMG Certification prior to entry into any UPMC ME residency/fellowship program. ECFMG Certification provides assurance to residency programs and to the people of the United States that the IMG has met minimum standards of eligibility required to enter graduate medical education training programs.

IMG candidates to UPMC ME programs who are not United States Citizens, Permanent Residents or otherwise work authorized may be eligible for a number of non-immigrant visa classifications that allow them to participate in medical residency training in the Commonwealth (subject to change based on Federal laws). The two most common visa classifications used for this purpose are:

- J-1 Exchange Visitor Visa sponsored through ECFMG

The J-1 visa classification allows a beneficiary to participate in a specifically identified clinical training program. The J-1 visa is limited to the length of a normal training program in the specialty for which the physician is being trained, as recognized by the ACGME. The overall time limit for a J-1 physician is seven years. Applicants may not be accepted into a program that would extend them past the maximum time allowed for J-1 visa. In order to be eligible for J-1 status a candidate must have completed USMLE I, II CK and CS. For foreign medical graduates ECFMG certification is required excluding graduates of US and Canadian medical schools. Consistent with ECFMG guidance:

- A J-1 Exchange Visitor Physician may only receive compensation for activities that are a part of the designated training program.
- “Clinical skills enhancement” voluntary assignments within the designated training program for additional compensation are prohibited.
- Any work outside of the sponsored program, including “moonlighting” is prohibited.
- Any supplemental payment for work received in addition to original contracted salary is prohibited.

- H-1B Specialty Occupation Visa sponsored by the Employing Institution

The H-1B visa classification enables an employer to sponsor an employee in a specialty occupation, such as medical residency or fellowship, for work authorization. An individual may be in the U.S. in H-1B status for a maximum of six years. As part of the H-1B petition, the employer must make a number of attestations (See Appendix A). In order to be eligible for H-1B status an individual must have passed USMLE I, II CK & CS and III and have received ECFMG certification (unless otherwise exempt).

The administrative and financial costs and time associated with the H-1B visa may be significantly greater than for the J-1 visa, and the decision to support any visa other than the J-1 is within the purview and responsibility of the program and institution. Further, the trainee must be eligible for H-1B status as of the date of the match in order for UPMC ME and the program to consider H-1B sponsorship. Eligibility includes but is not limited to having passed USMLE I, II and III, waiver of a J-1 two-year home requirement or other. (See Appendix A for the list of specific employer responsibilities for each visa type.)

Departments/Divisions/Programs that choose to offer the H-1B visa option must provide the UPMC ME office with the following:

1. Criteria used by the program to determine selection/appointment of the candidates.
2. Substantiation that all UPMC ME requirements related to the particular visa application have been met.
3. Department Declaration Form* signed by the Program Director and Department Chair (Applicable to H-1B visa only).

Once the UPMC ME office confirms the candidate's eligibility for the H-1B visa, the program must:

1. Provide a written job description, if required for the visa application
2. Provide a written list of all work site locations and report any change to these locations as soon as possible
3. Post the required Labor Condition Application
4. Pay all employer required application processing fees
5. Pay the higher of the actual and prevailing wages
6. Agree to provide the cost of return transportation abroad if the resident or fellow is terminated prior to the expiration of his authorized stay.

The UPMC ME office will electronically issue a contract to the resident or fellow through the MedHub system.

To ensure a successful process, it is imperative that the program works closely with the UPMC ME office and UPMC Legal Department.



Gregory M. Bump, MD
Designated Institutional Official
UPMC Medical Education

5-11-2022
Date



Samantha Cascone, MPA
Vice President
UPMC Medical Education

5/11/2022
Date

Appendix A

Specific Employer Responsibilities when sponsoring an H-1B visa petition

1. Demonstrate a need for someone in a specialty occupation
2. Determine the Actual Wage
3. Locate Prevailing Wage information
4. Pay the required wage
5. Post notice of Labor Condition Application (LCA) for 10 days
6. File LCA with the U.S. Department of Labor attesting to certain wage and working conditions
7. Pay required costs and expenses on behalf of the H-1B employee
8. Report any change to work site locations as soon as possible to Lisa Claypool Stevenson, Sr. Associate Counsel
9. Make available for inspection certain documentation about the LCA in a Public Access File, which files are kept by UPMC Legal
10. Maintain a Public Access File for one year beyond the end of the period of employment specified on the LCA to include:
 - a copy of each completed LCA filed (form ETA 9035)
 - the wage paid the H-1B worker/s
 - the system used to set the actual wage for the occupation
 - a copy of the documents used to establish the prevailing wage of the H-1B occupation
 - documents showing compliance with the notice requirement
11. Maintain payroll records of all H-1B employees from the time the LCA is filed throughout period of employment
12. Make appropriate deductions from the wage required by law, e.g., income tax, FICA, etc.
13. Pay the required wage during any non-productive states, e.g., training, lack of license, lack of assigned work
14. Agree to pay the cost of return transportation abroad if alien is dismissed before petition period expires

Specific Employer Responsibilities when supporting a J-1

1. Each host institution is required by ECFMG to designate one or more Training Program Liaisons (TPLs) to serve as the official link between ECFMG, the host institution, and J-1 physicians. Currently, only DIO approved individuals in UPMC ME may serve as TPLs.
2. The TPL is responsible for:
 - Submitting initial and continuing sponsorship applications for J1 physicians to ECFMG
 - Monitoring and reporting on the arrival and on-going participation of J1 physicians
 - Receiving and distributing all original Forms DS-2019 to the J1 physician and retaining copies
3. Programs are responsible for:
 - Providing the J-1 physician with the training for which s/he is coming to the United States or for arranging such training
 - Not offering any activity that falls outside the scope of the training program and associated compensation as listed on the physician's Form DS-2019
 - Providing the TPL with a written list of all work site locations and providing updates as necessary

4. Through the TPL, host institutions are responsible for reporting the following to ECFMG:
 - Termination
 - Leave of Absence (e.g., medical, family)
 - Change to work site locations, including any international rotations or rotations with outside institutions
 - Amendment to Contract (e.g., training level, start date)
 - Remediation

Whenever possible, programs should inform TPL/UPMC ME prior to any of the above events.

5. Serious incidents or controversy: J1 regulations require that host institutions report any serious problem or controversy related to a J1 physician that could be expected to generate negative publicity regarding the physician, ECFMG, or the host institution. The TPL must report any such incident to ECFMG no later than the next business day. Reportable incidents include:
 - Death
 - Serious illness or injury
 - Litigation
 - Incidents involving the criminal justice system
 - Incidents involving sexual harassment or abuse
 - Other situations impacting the safety of a J1 physician (e.g., natural disaster, violence)
6. Site visits: At times, representatives of ECFMG and/or the Department of State may request to visit host institutions. UPMC ME will work with programs to accommodate such visits.