

“Foreign Medical Graduate Students Cannot Immigrate” by Adam Edward Rothwell, Esq.

Everyone at some point needs a good doctor. The US needs quality medical care, and yet our immigration system has constraints that limit foreign practitioners. Immigration sponsorship is difficult throughout the medical field, but foreign graduates of US medical schools are especially out of luck.

Foreign students in US medical schools receive J-1 Visas, which are not student visas. F-1 Visas are student visas. Again a foreign student in an American college or graduate school almost always has a F-1 Student Visa. But med students receive J-1 Visas.

For example foreign grad students in Biology Ph.D. Programs hold F-1 Student Visas, and Biology is a medical profession-based field. I live in Baltimore, and Biology Ph.D. students at Johns Hopkins University here are entirely based and perform lab research on the JHU med campus. However, unlike Biology students, foreign med students cannot receive F-1 Visas. They must receive J-1 Visas, and the difference is huge.

The J-1 Visa is an exchange visa, not a student visa. Foreign citizens receiving J-1 Visas in theory are supposed to be acquiring skills or experiences that they may then take home to their foreign countries. Taking this a step further, for certain countries the US Department of State places a 2-year foreign residency requirements on J-1 Visas. This requirement means, after completion of the J-1 Visa exchange program, the foreign citizen must return to his/her home country for two years before being allowed to enter the US (in order for the country to benefit from their citizen's new skills acquired in the US).

A foreign citizen with a J-1 Visa foreign residency requirement has very little chance to beat/waive the residency requirement. Beating the 2-year foreign residency requirement is one of the hardest things in US Immigration law. Many lawyers won't even take these cases. I've done it for clients, but it's a royal pain in the rear, takes many months and, to have a decent chance, usually involves submission of over 100 pages of documents, many of which are case specific. So applying to waive/beat the foreign residency requirement is expensive for foreign citizens as well as subjective.

The J-1 foreign residency requirement exists to ensure countries receive the benefit of the foreign citizen's new skills, which again were theoretically gained in the US. However, citizens of certain countries generally do not receive the foreign residency requirement, because the US acknowledges their citizens' do not need our training to succeed. In other words, the US believes Ireland does not need its citizens to receive US-based training to thrive as a country, so Irish citizens who receive J-1 Visas generally do not get foreign residency requirements. However, all foreign medical graduate students in the US on J-1 Visas automatically receive the foreign residency requirement, regardless of nationality.

That's right- They get it automatically. In other words, foreign medical graduate students in the US, unless they already have a green card before enrolling in medical school, need to leave the US and go home for at least two years after graduating. They may be engaged to a US Citizen. They may have multiple job offers. It does not matter- They have to leave.

Whenever I talk to US Citizens about this, they usually don't believe me or think I'm making this up. It takes five months to schedule an appointment at the dermatologist (who may have gone to medical school in Antigua), and we are forcing citizen graduates of US medical schools to leave. Does Japan really have such a need for US trained doctors that this makes sense?

Adam Edward Rothwell is a US Immigration lawyer based in Baltimore, Maryland. He may be followed on Twitter at: USAImmigration