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Immigration and the Health Care Workforce: September 2026 Update

Key Updates

- Four recent federal actions are reshaping the cost, timing and risk of hiring foreign-national clinicians and researchers, with implications across recruitment, training, retention and employment transitions.
- Together, the actions create potential timing and status pressure during training and employment transitions, substantial potential new costs for cap-subject H-1B hiring and continued uncertainty surrounding the separate $100,000 proclamation payment.

Why It Matters

- For health care employers, these developments have the potential to create significant disruptions in hiring and workforce planning, introducing new uncertainty around training continuity, status transitions, sponsorship costs and workforce decisions.

Next Steps

- Health care employers, especially those serving rural and underserved communities, should closely track these developments and review upcoming training completions, employment changes and H-1B hiring plans to identify where these developments could affect immigration timing, status or cost.

Below, we outline the four federal actions and what each could mean for health care employers that rely on foreign-national clinicians and researchers.

1. The "Duration of Status" rule was blocked hours before taking effect

The Department of Homeland Security (DHS) final rule would have ended duration of status for F, J and I nonimmigrants on Sept. 15, replacing open-ended admission with fixed periods of no more than four years at a time and a formal extension-of-stay process through U.S. Citizenship and Immigration Services (USCIS).

Related People

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Related Capabilities

- Public Policy - Health Care
- Public Policy
- Immigration & Global Mobility

On Sept. 14, 2026, Judge F. Dennis Saylor IV of the U.S. District Court for the District of Massachusetts issued a nationwide preliminary injunction barring DHS from implementing the rule, finding that plaintiffs were likely to succeed on their claim that it was adopted in violation of the Administrative Procedure Act. The court did not resolve the underlying dispute, and duration of status remains in place while the case proceeds. The government may appeal.

Health care impact: J-1 is the primary status for Intealth (formerly ECFMG)-sponsored residents and fellows and for postdoctoral researchers. Roughly one in ten resident physicians trains on a J visa, and about 16,000 J-1 residents and fellows are currently serving patients at nearly 770 teaching hospitals nationwide. If this rule ultimately takes effect, physicians and their training programs would face mid-training extension filings in common situations: training that runs past four years, a move from residency into fellowship or a schedule interruption such as parental or medical leave.

2. The 60-day grace period is proposed for elimination

On Sept. 11, DHS published a proposed rule to strike the discretionary grace period that allows workers in H-1B, L-1, O-1, E and TN status and their dependents up to 60 days after employment ends to find a new sponsor, change status or depart. Under the proposal, status would end the day employment ends. Comments are due Nov. 10, 2026. The grace period remains available until a final rule takes effect.

Health care impact: This is the change with the most immediate operational consequences. Contract terminations and state licensure timelines – as well as, for residents in H-1B status, gaps between residency completion and an attending start date – would become urgent status concerns. This change could also weigh on where physicians in H-1B status are willing to practice. Positions in rural and underserved areas already carry more risk of abrupt separation, and without a grace period, losing a job would mean losing status immediately.

3. A proposed $103,265 H-1B fee

DHS and USCIS published a proposed rule on Aug. 25, 2026, establishing a new $103,265 fee on every cap-subject H-1B petition, payable at filing and on top of existing fees. It would apply to the 65,000 regular cap and the 20,000 advanced-degree pool and, unlike the 2025 proclamation, would reach petitions for beneficiaries already in the U.S. changing status, including F-1 students. Comments on the rule close Sept. 24, 2026.

Health care impact: As we covered in a recent alert, the fee reaches only cap-subject petitions. Academic medical centers and affiliated nonprofits are largely insulated. Community hospitals, private practices, staffing firms and rural clinics filing through the lottery are not, though a hospital with a qualifying affiliation to a medical school may be cap-exempt, which is worth confirming. Workers already counted against the cap generally stay outside it, so recruiting a physician already in H-1B status from another employer would not trigger the fee.

4. The $100,000 proclamation fee is vacated, for now

Proclamation 10973 imposed a $100,000 payment on certain H-1B petitions beginning Sept. 20, 2025. A federal court vacated the implementing policy on June 8, 2026, holding that it functioned as a tax the president lacked authority to impose. On July 24, the First Circuit declined to reinstate it pending appeal. The proclamation expires on Sept. 20, 2026, unless renewed.

Health care impact: Proclamation 10973 carried a national-interest exception, but we are not aware of any health care exceptions having been granted, including for physicians recruited to federally designated shortage areas. A bipartisan group of lawmakers introduced the H-1Bs for Physicians and the Healthcare Workforce Act (H.R. 7961) in March 2026, which would exempt health care workers from the fee and cap future H-1B fees for those workers at existing statutory levels. That language would reach the $103,265 proposal as well. If the administration renews the proclamation and finalizes the $103,265 fee, some employers could face both.

Looking Ahead

These changes affect hiring in different ways. Most are not in effect, but the potential for disruption is high and worth preparing for. Our Public Policy and Immigration & Global Mobility teams are working in tandem to closely monitor these federal actions and evaluate their implications. For more information about these federal actions or questions about the potential impact on your organization, contact Eli Greenspan, Jeffrey Bell or your regular Polsinelli attorney.