

§ 62.27

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visitor program at the location(s) listed on his or her Form DS-2019.

(i) *Duration of participation.* The specialist shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 62.27 Alien physicians.

(a) *Purpose.* Pursuant to the Mutual Educational and Cultural Exchange Act, as amended by the Health Care Professions Act, Public Law 94-484, the Department of State facilitates exchanges for foreign medical graduates seeking to pursue graduate medical education or training at accredited schools of medicine or scientific institutions. The Department of State also facilitates exchanges of foreign medical graduates seeking to pursue programs involving observation, consultation, teaching, or research activities.

(b) *Clinical exchange programs.* The Educational Commission for Foreign Medical Graduates must sponsor alien physicians who wish to pursue programs of graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions. Such Foreign Medical Graduates shall:

(1) Have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States;

(2) Be able to adapt to the educational and cultural environment in which they will be receiving their education or training;

(3) Have the background, needs, and experiences suitable to the program as required in § 62.10(a)(1);

(4) Have competency in oral and written English;

(5) Have passed either Parts I and II of the National Board of Medical Examiners Examination, the Foreign Medical Graduate Examination in the Medical Sciences, the United States Medical Licensing Examination, Step I and Step II, or the Visa Qualifying Examination (VQE) prepared by the National Board of Medical Examiners, administered by the Educational Commission for Foreign Medical Graduates. [NB—Graduates of a school of medicine accredited by the Liaison Committee

on Medical Education are exempted by law from the requirement of passing either Parts I and II of the National Board of Medical Examiners Examination or the Visa Qualifying Examination (VQE)]; and

(6) Provide a statement of need from the government of the country of their nationality or last legal permanent residence. Such statement must provide written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien physician seeks to acquire and shall be submitted to the Educational Commission for Foreign Medical Graduates by the participant's government. The statement of need must bear the seal of the concerned government and be signed by a duly designated official of the government. The text of such statement of need shall read as follows:

Name of applicant for Visa: _____. There currently exists in (Country) a need for qualified medical practitioners in the speciality of _____. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought. Stamp (or Seal and signature) of issuing official of named country.

Dated: _____

Official of Named Country.

(7) Submit an agreement or contract from a U.S. accredited medical school, an affiliated hospital, or a scientific institution to provide the accredited graduate medical education. The agreement or contract must be signed by both the alien physician and the official responsible for the training.

(c) *Non-clinical exchange programs.* (1) A United States university or academic medical center which has been designated an exchange visitor program by the Secretary of State of the Department of State is authorized to issue Form DS-2019 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching, or research if:

(i) The responsible officer or duly designated alternate of the exchange visitor program involved signs and

appends to the Form DS-2019 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching, or research and that no element of patient care is involved" or

(ii) The dean of the involved accredited United States medical school or his or her designee certifies to the following five points and such certification is appended to the Form DS-2019 issued to the perspective exchange visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of _____.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professionals in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(2) The Educational Commission for Foreign Medical Graduates may also issue Form DS-2019 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in this paragraph is appended to the Form DS-2019.

(d) *Public health and preventive medicine programs.* A United States university, academic medical center, school of public health, or other public health institution which has been designated as an exchange visitor program sponsor by the Secretary of State of the Department of State is authorized to issue Forms DS-2019 to alien physicians to enable them to come to the United States for the purpose of entering into those programs which do not include any clinical activities involv-

ing direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (b) and (c) of this section need not be met. The responsible officer or alternate responsible officer of the exchange visitor program involved shall append a certification to the Form DS-2019 which states.

This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care.

(e) *Duration of participation.* (1) The duration of an alien physician's participation in a program of graduate medical education or training as described in paragraph (b) of this section is limited to the time typically required to complete such program. Duration shall be determined by the Secretary of State of the Department of State at the time of the alien physician's entry into the United States. Such determination shall be based on criteria established in coordination with the Secretary of Health and Human Services and which take into consideration the requirements of the various medical specialty boards as evidenced in the Director of Medical Specialties published by Marquis Who's Who for the American Board of Medical Specialties.

(2) Duration of participation is limited to seven years unless the alien physician has demonstrated to the satisfaction of the Secretary of State that the country to which the alien physician will return at the end of additional specialty education or training has an exceptional need for an individual with such additional qualification.

(3) Subject to the limitations set forth above, duration of participation may, for good cause shown, be extended beyond the period of actual training or education to include the time necessary to take an examination required for certification by a specialty board.

(4) The Secretary of State may include within the duration of participation a period of supervised medical practice in the United States if such practice is an eligibility requirement for certification by a specialty board.

(i) Alien physicians shall be permitted to undertake graduate medical

education or training in a specialty or subspecialty program whose board requirements are not published in the Director of Medical Specialists if the Board requirements are certified to the Secretary of State and to the Educational Commission for Foreign Medical Graduates by the Executive Secretary of the cognizant component board of the American Board of Medical Specialties.

(ii) The Secretary of State may, for good cause shown, grant an extension of the program to permit an alien physician to repeat one year of clinical medical training.

(5) The alien physician must furnish the Attorney General each year with an affidavit (Form I-644) that attests the alien physician:

(i) Is in good standing in the program of graduate medical education or training in which the alien physician is participating; and

(ii) Will return to the country of his nationality or last legal permanent resident upon completion of the education or training for which he came to the United States.

(f) *Change of program.* The alien physician may, once and not later than two years after the date the alien physician enters the United States as an exchange visitor or acquires exchange visitor status, change his designated program of graduate medical education or training if the Secretary of State approves the change and if the requirements of paragraphs (b) and (e) of this section are met for the newly designated specialty.

(g) *Applicability of section 212(e) of the Immigration and Nationality Act.* (1) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for section 212(e) waivers on the basis of “No Objection” statements issued by their governments.

(2) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or re-

search are not automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, but may be subject to this requirement if they are governmentally financed or pursuing a field of study set forth on their countries’ Exchange Visitor Skills List. Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of “No Objection” statements submitted by their governments in their behalf through diplomatic channels to the Secretary of State of the Department of State.

[58 FR 15196, Mar. 19, 1993; 58 FR 48448, Sept. 16, 1993. Redesignated at 64 FR 54539, Oct. 7, 1999]

§ 62.28 International visitors.

(a) *Purpose.* The international visitor category is for the exclusive use of the Department of State. Programs under this section are for foreign nationals who are recognized or potential leaders and are selected by the Department of State to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These programs are designed to enable the international visitors to better understand American culture and society and contribute to enhanced American knowledge of foreign cultures. The category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

(b) *Selection.* The Department of State and third parties assisting the Department of State shall adequately screen and select prospective international visitors to determine compliance with § 62.10(a) and the visitor eligibility requirements set forth below.

(c) *Visitor eligibility.* An individual participating in an exchange visitor program as an international visitor shall be:

(1) Selected by the Department of State;

(2) Engaged in consultation, observation, research, training, or demonstration of special skills; and