

June 1, 2021

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Information on Data Sources and Methods for Determining Prevailing Wage Levels for the Temporary and Permanent Employment of Certain Immigrants and Non-Immigrants in the United States

Dear Secretary Walsh:

As organizations that together represent over 590,000 frontline physicians, the American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American College of Physicians, the American Osteopathic Association, and the American Psychiatric Association write to provide input on the request for information (RFI) regarding prevailing wage levels for the employment of immigrants.

Our organizations [opposed](#) the interim final rule *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* due to the negative impact it would have on physicians with H-1B visas and patients' timely access to comprehensive care. While changes were made in the final rule, we continue to believe that, if implemented, it will disrupt the pipeline of physicians in training and exacerbate physician shortages in rural and underserved communities. **We are pleased that the Department of Labor (DOL) has delayed the implementation of the rule and is seeking public comment on how to revise the prevailing wage methodology. Our organizations recommend that DOL modify the final rule to encourage the continued employment of H-1B physicians or exempt H-1B physicians from these regulatory changes.**

More than 10,000 physicians are employed each year through the H-1B program to provide essential patient care across the nation.¹ Health systems rely on H-1B physicians to fully staff hospitals and outpatient clinics, particularly in rural and other underserved communities. H-1B physicians have played an essential role in caring for patients with COVID-19, as well as ensuring ongoing access to comprehensive primary, specialty, and mental health services amid the pandemic. International medical graduates, including H-1B physicians, are more likely to practice in underserved areas and become primary care physicians, making them critical to addressing worsening physician shortages.^{2,3}

By 2033 the United States will face a shortage of between 54,000 and 139,000 physicians across specialties.⁴ This gap in the physician workforce cannot be filled without H-1B physicians and therefore, the H-1B program is not negatively impacting employment opportunities for physicians born in the U.S. On the contrary, our communities depend on H-1B physicians to maintain access to primary, specialty, and mental health care services. We recommend that federal policies be designed to encourage physicians born outside of the U.S. to become H-1B visa holders and practice here.

What sources of data and methods are available that can be used alone, or in conjunction with other sources and methods, to approximate the wage level within an occupational wage distribution based on

the OES wage survey and takes into account education, experience, and level of supervision for U.S. workers similarly employed across industries for specific occupation(s) and geographic area(s)?

Our organizations urge DOL to continue to approve and annually accept the wage data from the Association of American Medical Colleges (AAMC) Survey of Resident/Fellow Stipends and Benefits Report (AAMC Survey) for foreign medical residents. The survey provides average wage data for each year of residency on both national and regional levels. The AAMC survey is commonly used by residency programs to establish H-1B prevailing wages.

Currently, H-1B physicians in training can petition for their salaries to be determined based on a collective bargaining agreement or other acceptable survey, such as the AAMC Survey. However, DOL can choose to accept or reject these types of surveys once a year, even when they are commonly used to determine the prevailing wage for H-1B residents.

Under the final rule, if DOL rejects the AAMC or other survey, H-1B residents will have to be paid approximately 20 percent more than their domestic counterparts. These higher salaries will be unaffordable for most outpatient clinics and other training programs, particularly those that are smaller or located in rural and medically underserved areas, and make it extremely challenging for H-1B physicians to find employment. It is highly unlikely that each of these resident training opportunities will then be filled by non-H-1B physicians, exacerbating barriers to accessing comprehensive health care for at-risk patients. DOL should accept the AAMC Survey for H-1B physicians in training in order to facilitate equitable access to high-quality care and strengthen the physician pipeline.

However, accepting the AAMC Survey will not mitigate all of our concerns with the final rule. Many H-1B physicians who have completed their training and are not employed as faculty cannot benefit from this survey. They will also not have access to a program or other organization that can fund an acceptable survey on their behalf. The final rule will then cause many H-1B physicians to be priced out of the employment market, as most institutions will not be able to hire them, ultimately shrinking the physician workforce.

In order to strengthen our nation's ability to respond to current and future public health emergencies, as well as ensure continuous access to primary, specialty, and mental health care, DOL should accept the AAMC Survey data on an annual basis and ensure the final rule, when implemented, protects and strengthens employment opportunities for H-1B physicians.

Thank you for your attention to this important issue. Should you have any questions, please contact Meredith Yinger, Senior Regulatory Strategist at the American Academy of Family Physicians, at myinger@aafp.org or 202-235-5126.

Sincerely,

American Academy of Family Physicians
American Academy of Pediatrics
American College of Obstetricians and Gynecologists
American College of Physicians
American Osteopathic Association
American Psychiatric Association

¹¹ Kahn PA, Gardin TM. Distribution of Physicians With H-1B Visas By State and Sponsoring Employer. JAMA. 2017;317(21):2235-2237. doi:10.1001/jama.2017.4877

² Thompson MJ, Hagopian A, Fordyce M, Hart LG. Do international medical graduates (IMGs) "fill the gap" in rural primary care in the United States? A national study. J Rural Health. 2009 Spring;25(2):124-34. doi: 10.1111/j.1748-0361.2009.00208.x. PMID: 19785577.

³ 3 The National Resident Matching Program. Results and Data: 2020 Main Residency Match. 2020. Available at: https://mk0nrmp3oyqui6wqfm.kinstacdn.com/wp-content/uploads/2020/06/MM_Results_and-Data_2020-1.pdf

⁴ AAMC. The complexities of physician supply and demand: projections from 2018 to 2023. June 2020. Available at: <https://www.aamc.org/system/files/2020-06/stratcomm-aamc-physician-workforce-projections-june-2020.pdf>