

PROCEDURE GME04

Subject: RESIDENTS WITH VISAS

Effective Date: MARCH 2005

Applies to: THE METHODIST HOSPITAL
PROGRAMS OF GME

Date Revised/Reviewed:
FEBRUARY 2013

Originating Area: GRADUATE MEDICAL
EDUCATION COMMITTEE

Target Review Date: FEBRUARY
2016

I. GENERAL STATEMENT

The appointment to the position of Resident in a TMH-Sponsored Program of Graduate Medical Education is contingent upon: (1) Issuance of an active physician-in-training permit or medical license from the Texas Medical Board (TMB) prior to assuming duties at Methodist, and (2) successful completion of all requirements specified by the particular Program offering the Resident appointment. Every non-citizen Applicant selected for appointment must have permanent resident status, an employment authorization document not tied to a visa requiring Methodist sponsorship, or a J-1 or H-1B visa as a condition of appointment to a Resident position at Methodist. The preferred visa for Methodist sponsorship of physician Residents is the J-1 visa; Programs may request an exception to appoint an Applicant with an H-1B visa. This procedure describes the process for appointing Residents with visas.

II. REQUIREMENTS

- A. According to GME Procedure 03, an international medical graduate (IMG) (i.e., a graduate of a non-LCME medical school) must hold a standard Educational Commission for Foreign Medical Graduates (ECFMG) certificate before entry into residency Programs. The ECFMG certificate provides assurance to Programs, the Sponsoring Institutions, and to the people of the U.S. that IMGs have met minimum standards of eligibility required to enter Programs. Programs accepting foreign national applicants that require a US visa for training must comply with visa specific federal regulations.
- B. Programs may choose to train a foreign national Resident, who must have a US visa status that allows clinical training. The J-1 Alien Physician visa is the primary US visa for GME training. Under exceptional circumstances, a Program may choose to train a Resident who might not be deemed eligible for a J-1 visa. The commonly used alternative visa is the H-1B visa. However, Program obligations and financial costs associated with sponsorship of an H-1B visa are significant. The decision to sponsor a Resident's H-1B visa is at the Program's discretion. The Program or Department must bear all costs associated with the H-1B visa, including application fees and the excess difference between the prevailing wage and the TMH stipend earned by other Residents at the same level of training.
- C. Program Obligations for J-1 and H-1B Visa Sponsorship
 1. J-1 Alien Physicians.
 - a. HR Immigration and the Methodist immigration specialists are the designated Training Program Liaison (TPL) to serve as the official institutional

representative to manage communication with ECFMG—the US government's J-1 Visa Agent.

- b. Program Obligations for Visa Sponsorship. It is the program's obligation to report immediately to HR immigration any change in the Approved Training Plan, including: Remediation, Leave of Absence, licensure delay, proposed off-site rotations, proposed early advancements, resignation, Probation and other Adverse Academic Actions, and Termination.
2. Exception to J-1 Visa Sponsorship.
 - a. If a Program is willing to undertake H-1B sponsorship, the Program Director must submit a written Request for Exception to J-1 Visa Sponsorship to the GME Office. The written request must be signed by the Program Director, the Department Chair, and the Applicant to be appointed. The request must be made at least ninety (90) days before the Resident's proposed date of appointment. The Designated Institutional Official (DIO) will review the written request within ten (10) days of its receipt by the GME Office and will communicate a decision to the Program Director.
 - b. If the DIO does not approve the J-1 exception, the Program Director may appeal the decision to the GME Committee (GMEC) at its next scheduled meeting. The GMEC shall be the final ruling body. Approval of a J-1 exception waiver will be for the length of the proposed Program only. The Program Director must await approval of the request before making a commitment to the Applicant.
 3. Process for Request of Exception to J-1 Visa Sponsorship
 - a. The Applicant to be appointed must meet all customary GME requirements. The Applicant to be appointed must have been interviewed and found to be qualified for the Program and must have passed a security background check and other requirements for Appointment, etc.
 - b. The DIO will forward the approved exception waiver to HR Immigration.
 - c. The Program will submit to HR Immigration all preliminary documentation including the Prevailing Wage Questionnaire and H1-B Employer Conditions and Worksite Attestations. HR Immigration will review to process the prevailing wage request according to the US Department of Labor requirements.
 - d. The GME Office will prepare an Agreement of Appointment that contains all the required elements of the Resident Agreement of Appointment.
 4. Program Obligations for H-1B Visa Sponsorship
 - a. The Program that sponsors an H-1B Resident will comply with all H-1B federal regulations outlined in the Methodist HR Immigration H-1B Employer Conditions and Worksite attestations, including Institution posting and sponsorship notification requirements for all worksites.
 - b. The Program will pay all employer required filing fees for application for the duration of the Resident's Appointment to the Program. To ensure an Applicant's on-time start, Programs may choose to pay the premium processing fee to fast track the application for foreign nationals requiring initial H-1B sponsorship.
 - c. The Program will pay the prevailing wage, which, in some cases, may be higher than the salary earned by other Residents at the same level of training. If the prevailing wage is higher, the Program will pay the excess difference to The Methodist Hospital Physicians Organization.

- d. The Program will agree to provide cost of return transportation abroad (and potentially other costs as well), if the Resident is Dismissed or Terminated from the Program before the petition expires.
- D. Because immigration policy changes often, Sponsoring Programs and foreign national residents must maintain communication with Methodist HR Immigration, which is solely designated to provide administrative support for visa sponsorship. If a non-citizen Resident loses his/her visa status through violation or expiration and must be terminated (briefly or indefinitely) from employment, HR immigration must be notified immediately. If a non-citizen Resident may be Terminated from his/her Program, HR Immigration must be notified immediately.
- E. Outside attorneys may not be engaged to process Methodist immigration petitions. All sponsoring applications will be processed through Methodist HR Immigration.

III. COMMITTEE REVIEWING OR APPROVING POLICY

- 1. Graduate Medical Education Committee [11 November 2004] [11 December 2008] [14 February 2013]

AUTHORITATIVE REFERENCES

Accreditation Council for Graduate Medical Education, Institutional Requirements II.D., III.B., and IV.A
Educational Commission for Foreign Medical Graduates, <http://www.ecfm.org>