DETAILED CONTENTS

	-	r 1: Qualifying for Graduate Medical Training in the United s	1
What i	s an	ECFMG certificate and why do I need it?	1
What e	else	does ECFMG do that is important for IMGs?	2
What i	s the	e United States Medical Licensing Examination (USMLE)?	2
What a	are t	he educational requirements for ECFMG certification?	5
What t	ype	s of graduate medical training programs are available in the United States?	5
What i	s the	e Electronic Residency Application Service?	6
What i	s "tl	ne Match"?	7
Do phy	ysici	ans training in residency and fellowship programs need medical licenses?	9
	-	r 2: The J-1 and the H-1B Visas: Which Is the Best Choice for uate Medical Training?	11
What a	are t	he requirements for and restrictions on the J-1 visa?	12
What i	s ree	quired for physicians to obtain H-1B sponsorship?	13
What a	are t	he advantages and disadvantages of the J-1 and H-1B visas?	14
	1.	Training Periods	14
	2.	Exam Requirements	14
	3.	H-1B Quotas	14
	4.	Costs	14
:	5.	For-profit Training Programs	15
	6.	Ease of Administration	15
,	7.	J-1 Waiver Headaches	15
:	8.	Spouses and Children	15
9	9.	Timing of J-1/H-1B Processing and Green Card Eligibility	16
	10.	Dual Intent	17

11. Contracts	.17
12. Employment Flexibility	.17
Conclusion	.18
Chapter 3: Seeking a Visitor Visa to Pursue Graduate Medical Training	
in the United States	
Who needs a visitor visa?	. 19
What are legitimate reasons for entering the United States in visitor status?	.21
How long does it take to get a visitor visa?	.22
How does a physician apply for a B-1 visa?	.22
What documents should the physician present at a U.S. consulate or port of entry?	.23
What should the physician expect at the visitor visa interview?	.24
What happens after the interview?	.25
Is there a different process for Chinese Nationals?	.26
What should the physician expect at the port of entry?	.26
Can physicians extend their stays as visitors?	.27
Can physicians change status from visitor to another status inside the United States?	.27
Chapter 4: J-1 Visas for Graduate Medical Training	.29
What qualifications does a physician need in order to pursue graduate medical training on an ECFMG-sponsored J-1 visa?	.29
What is the Statement of Need?	.30
How does a physician apply for ECFMG J-1 sponsorship?	.30
What documentation does ECFMG expect from a physician applying for J-1 sponsorship?	.31
How does a J-1 physician include a spouse and minor children?	.32
What is a DS-2019?	.32
What does the physician need to do with the issued Form DS-2019?	.33
How long may a physician pursuing graduate medical training stay in J-1 status?	.33
Can spouses and children enter with the J-1 exchange visitor?	.33
Do J-1 and J-2 applicants need to show they intend to return home to get a J-1 or J-2 visa?	.33
Can a physician coming to the United States for a research position obtain a J-1?	.34
How long can a J-1 researcher physician remain in J-1 status?	.34
Can a physician in a J-1 research scholar position change to a graduate medical training J-1?	. 34
Can a physician in a J-1 graduate medical training program change to a research scholar J-1?	. 34
Can a physician change specialties after arriving as a J-1?	. 34
Can a physician repeat graduate medical training?	. 34
What insurance requirements are imposed on J-1 physicians?	.35

Is "moonlighting" permitted for J-1 physicians?	35
How does a physician obtain J-1 status?	35
What do J-1s and J-2s need for travel in and out of the United States?	36
How does the I-94 work for J-1 and J-2 visa holders?	38
What must a J-1 or J-2 possess to be considered having maintained his or her status in the United States?	38
What is the "grace period" at the end of the J-1 or J-2's stay?	38
Can a J-1 physician in training seek an extension to sit for a specialty board examination?.	39
Chapter 5: Introduction to the J-1 Home Residence Requirement	41
What is the two-year home residence requirement?	41
Are all physicians subject to INA §212(e)?	43
What is the Skills List?	43
How does government funding subject a person to §212(e)?	44
Are J-2 family members also subject to INA §212(e)?	45
Can J-2 dependents seek their own waiver of §212(e)?	45
What if a J-2 spouse or child previously held a J-1?	46
What are the restrictions for physicians who fail to either meet the home residence requirement or have the requirement waived?	46
Can a J-1 leave the United States and re-enter in a nonimmigrant category other than H or L?	46
Where must the home residence requirement be satisfied?	47
Can the two-year requirement be met if the applicant is working for the home country in a place other than the home country?	
When must the return requirement be satisfied?	47
Does one get credit for time spent in the home country during the J-1 program?	48
How do you prove compliance with the home residence requirement?	48
Can the requirement be satisfied if one is commuting to work in the United States?	48
What if the physician has acquired another citizenship since coming to the United States as a J-1?	49
Is substantial compliance enough?	49
What if it is unclear whether the home residence requirement applies?	49
What are the steps for applying for a waiver of the home residence requirement?	50
How does a physician obtain a Department of State J-1 waiver case number?	51
What should an applicant do if his or her DS-2019 or IAP-66 form cannot be found?	52
How long does the waiver application process take?	53
Can waiver denials be appealed?	53
Can a J-1 obtain an extension of stay after a waiver application is filed?	53
Can a change of status to a work visa be filed before the J-1 waiver is approved?	54

	tion to adjust status to lawful permanent residence be filed before the J-1 is approved?	54
	r 6: Conrad 30 Waivers for Working in Medically Underserved s	55
	he common requirements for Conrad 30 state health agency J-1 waivers?	
	HHS-designated shortage area?	
What are s	some of the differences between the various state health agency J-1 programs?	58
1.	Timing	59
2.	Types of physicians accepted	59
3.	Subspecialty training	60
4.	Flex slots	60
5.	Types of facilities and locations that may apply for waivers	61
6.	Fees	61
7.	Letters of Support	61
8.	Contract provisions	62
9.	Indigent and elderly patients	62
10.	Wages	63
11.	Languages	63
12.	Recruitment	63
13.	States with federal programs	63
14.	Limits on the number of applications	64
15.	Credentials and Résumé	64
	sician be sponsored by a third-party employer, like a hospitalist, radiology or ney medicine management or staffing company?	65
Can a phy	sician self-petition for a State 30 waiver?	65
Does it ma	atter if a physician's home country funded his or her waiver application?	65
Is the H-1	B cap an issue in Conrad 30–based waivers?	66
Can a teler	medicine position qualify for a shortage-area waiver?	66
Can more	than one waiver be submitted at a time?	66
Is a state n	nedical license required to obtain a Conrad 30-based waiver?	67
Which star	tes typically run out of waiver numbers?	67
-	r 7: 'Public Interest' Waivers Under the Federal J-1 Waiver rams	69
	he common rules governing federal interested government agency (IGA)	69
	he differences between the rules governing federal IGA waivers and Conrad 30 alth agency waivers?	70
What item	s must be included in all federal IGA waiver applications?	70

Before 2020, what types of facilities can file HHS clinical waivers for J-1 physicians?	72
How did HHS's program change in 2020?	72
What physician specialties will be considered for HHS clinical waivers?	72
Will HHS support a waiver for a physician with a one-year fellowship?	73
Can an employer use HHS's National Health Service Corps (NHSC) program at the same time it pursues an HHS J-1 waiver?	73
What items must a physician provide HHS as part of the waiver application?	73
What items must an employer provide with an HHS clinical waiver application?	74
What recruiting documentation must an employer provide HHS?	74
What are the HHS requirements for the physician's employment agreement?	75
What are the processing times for HHS clinical waivers?	75
What are the main requirements to qualify for an HHS researcher waiver?	75
How do you demonstrate that being denied a waiver will seriously impact a research program?	76
Does qualifying for an O-1 visa mean the J-1 waiver applicant is likely to qualify for an HHS waiver?	76
What documentation must be included to support an HHS researcher waiver application?	77
What should be left out of the application?	78
Who needs to write the letters of recommendation and what do they need to include?	78
Who needs to sign the HHS Form 426?	78
What happens after the application is submitted?	79
Is clinical research eligible for an HHS researcher waiver?	79
What if NIH or HHS grant-funding does not support the research?	79
Can a researcher waiver application be appealed?	79
What is the expected processing time for an HHS research waiver?	80
What is the ARC?	80
What states, counties, and independent cities comprise the ARC?	80
What types of doctors are eligible for J-1 waiver sponsorship by the ARC?	82
What evidence is needed to show that a specialist is needed to qualify for an ARC waiver?	82
What role does a state governor play in the process?	83
How many hours must a physician work per week?	83
What locations qualify for ARC waivers?	83
What recruiting requirements apply to ARC waiver cases?	84
What rules apply to the employment contract with the physician?	84
What does the ARC require employers to post concerning charges for health care services?	86
Will the ARC sponsor waivers for physicians who have been out of status?	87
How does a J-1 physician apply to the ARC program?	87
Does the ARC charge a fee for its program?	87

What counties are in the DRA?	87
What types of physicians may apply for DRA waivers?	88
In what types of locations can DRA physicians work?	89
What are the contract requirements for a DRA waiver application?	89
What are the DRA's recruiting requirements?	90
What is the DRA filing fee for a J-1 waiver application?	91
What items must be included in a DRA application?	91
What is the typical timeline for DRA waiver adjudication?	92
What states and counties are included in the SCRC's jurisdiction?	92
What types of physicians are eligible for the program?	94
What types of locations will qualify for an SCRC J-1 waiver recommendation?	94
What kind of recruitment is needed to demonstrate an employer cannot fill the position with a U.S. doctor?	94
How long does a doctor need to work in the qualifying location?	95
Does a facility have to agree to take certain types of patients to qualify?	95
How long will the application process with the SCRC take?	95
Are there restrictions on what can and cannot be in a physician contract for a doctor seeking an SCRC waiver?	95
Is there an application fee?	95
What states and counties are included in the NBRC's jurisdiction?	96
What types of doctors are eligible for J-1 waiver sponsorship by the NBRC?	96
What role does a state's Conrad 30 office play in the process?	96
How many hours must a physician work per week?	96
What locations qualify for NBRC waivers?	97
What recruiting requirements apply to NBRC waiver cases?	97
What rules apply to the employment contract with the physician?	97
What does the NBRC require employers to post concerning charges for health care services?	99
Will the NBRC sponsor waivers for physicians who have been out of status?	99
How does a J-1 physician apply to the NBRC program?	99
Does the ARC charge a fee for its program?	100
When may a VA hospital initiate a J-1 waiver request?	100
Must the VA meet the same Department of State requirements as other federal shortage area-based waivers?	100
What are the VA's recruiting requirements?	101
Can VA J-1 waiver physicians work at other facilities?	102
What percentage of the physician's time must be devoted to patient care?	102
Can a J-1 physician being considered for a waiver have an immigration violation, such as an "overstay"?	102

When must the physician be available to begin work?	102
When is the earliest a waiver application will be accepted for a J-1 waiver position?	102
Can two VA facilities file at the same time for a J-1 waiver?	103
Will the VA sponsor J-1 waivers for physicians currently on O-1 visas for other employers?	103
What items must be included in a VA waiver application?	103
What are the steps to procuring a VA J-1 waiver?	105
What is the role of an outside immigration lawyer in the VA J-1 waiver process?	105
What is the VA's policy regarding physicians that fail to fulfill their obligations?	106
When is the VA required to re-recruit for the position?	106
Are there other federal agencies that can grant waiver recommendations to physicians?	107

Chapter 8: Hardship and Persecution Waivers of the Home Residence

Requirement	09
What are the steps in a J-1 hardship or persecution waiver?	109
What does "exceptional hardship" mean?	110
What if the hardship is to the J-1 and not a family member?	110
What are examples of hardship factors?1	
1. The composition of the family1	110
2. Economic hardships1	111
3. Medical hardships1	111
4. Political and security-related hardships1	112
5. Psychological hardships1	112
6. Sociocultural hardships1	112
7. Source of funds1	112
8. Public policy1	112
Isn't being separated for two years itself a hardship?1	113
To seek a waiver based on persecution, what does one need to prove?1	113
What is the difference between "persecution" and the asylum process? Why choose one over the other?	113
What happens to the J-1 home residence requirement if asylum is granted? 1	114
Can one apply for both a persecution waiver and asylum?1	115
What is one's status after being granted a J-1 hardship or persecution waiver?1	115
Is a J-1 exempt from the H-1B cap if he or she gets a hardship or persecution waiver?1	115
Does a J-1 who gets a hardship or persecution waiver need to wait three years before seeking permanent residence?	115
Can a hardship or persecution waiver denial be appealed?	
What is the processing time for a J-1 hardship or persecution waiver?1	

Chapter 9: J-2 Status for Family Members of a J-1 Exchange Visitor	.117
Who can be a J-2 nonimmigrant visa holder?	117
How much time does a J-2 nonimmigrant spouse or child of a J-1 physician get to stay on each visit to the United States?	117
What if a family member who is not a spouse or a minor child is in the J-1's household?	117
Does a family member have to enter as a J-2?	118
How does a spouse or child apply for J-2 nonimmigrant status?	118
Is a J-2 spouse subject to the INA §212(e) home residence requirement?	119
Can a J-2 spouse get a waiver on his or her own?	119
If a J-2 spouse wants to fulfill the home residence requirement, in which country must it be completed?	120
If the J-1 complies with the home residence requirement, but the J-2 does not do so personally, is the J-2 still subject to the home residence requirement?	120
Can a J-1 switch to J-2 status?	120
Can a J-2 switch to H-1B status after the J-1's shortage-area waiver is approved?	121
Can a J-2 spouse change to J-1 nonimmigrant status?	121
Can J-2 spouses work?	121
Are there any restrictions on the type of work a J-2 may seek?	122
Can a J-2 receive a Social Security number?	122
Can a J-2 receive a driver's license?	122
Can a J-2 enroll in school?	122
Do J-2s need to independently seek extension of their J-2 status?	123
What does the J-2 need for travel in and out of the United States?	123
Can the J-2 remain in the United States while the J-1 travels outside the country?	123
Chapter 10: The H-1B Visa Process	.125
What are the most important factors a physician must consider when seeking employment on an H-1B visa?	
1. Is the employer and/or physician subject to the H-1B cap?	125
2. How does the H-1B cap work?	126
3. Does the employer need an H-1B cap strategy?	128
4. Does the job pay the prevailing wage?	128
5. Will the employer pay the costs associated with the H-1B petition?	128
6. Must the physician plan out his or her six years of H-1B time?	128
H-1B status is "dual intent." Why is that important?	129
How does one find the prevailing wage?	129
What is the purpose of the LCA and what are an employer's obligations related to the LCA?	131
After the LCA, what are the major requirements for qualifying for an H-1B?	132

1. The nature of the position	132
2. The physician's qualifications	132
Can a physician still apply for H-1B status without having passed all three steps of USMLE2	
USMLE?	
Does a copy of a physician's license need to be included in the H-1B petition?	
How long can an individual be in H-1B status? For whom can an H-1B nonimmigrant work?	
Do any special rules apply to third-party employers?	
How does an H-1B nonimmigrant change or add an employer?	
What is H-1B portability?	
Does portability apply when the new position is subject to the H-1B cap and the p	
petition is not?	
How does the H-1B cap affect a physician who requests a change of employer?	138
What if a physician changes employers and then decides to go back to the first en	ployer?138
What is the effect of changes in employment with the petitioning employer?	139
Must an H-1B physician work at all times?	140
Must an H-1B physician be paid at all times while employed?	140
Can an H-1B employee travel outside the United States?	141
What are the filing fees associated with an H-1B petition?	141
Chapter 11: Cap-Exemption Strategies for the H-1B Visa Category	143
Are some employers exempt from the H-1B cap?	143
Can filing a concurrent H-1B petition help a physician avoid the H-1B cap?	145
What are the E-3 and H-1B1 visas?	146
What is the TN visa?	146
What is the E-2 treaty investor visa?	146
What is O-1 status?	147
Is it possible to switch to J-1 status if a physician enters on an H-1B visa?	148
What is Temporary Protected Status? What is asylum?	148
Can a physician simply apply for a green card instead?	149
Chapter 12: Benefits for H-4 Family Members	151
What is an H-4?	
Do H-4s count against the H-1B cap?	151
Are H-4s "dual intent"?	
How long can one hold H-4 status?	
Can H-4s study?	
Can one remain in H-4 status if the H-1B is traveling outside the United States?	

Do H-4s need to file anything when the H-1B changes employers?	152
Does H-4 time count against time available in H-1B status? Does prior time in H-1B status limit time available in H-4 status?	152
How does one obtain an H-4?	152
How do H-4s extend their status?	154
If an H-4 seeks to change to H-1B status, can the H-4 claim cap exemption because the H-1B is cap exempt or has previously been counted against the H-1B cap?	154
Are all H-4s eligible for employment authorization under the new rule?	154
What is AC21?	155
What needs to be included with the H-4 EAD application?	155
How does one prove that there is a "spousal relationship"?	155
How long will it take to receive the EAD after filing the application?	155
What should an H-4 present to an employer to meet I-9 requirements?	156
If an H-1B has to be far along in the green-card process for the H-4 to qualify for work authorization, should the H-4 wait on the green card?	156
Are H-4s with pending adjustment applications permitted to file for H-4 employment authorization?	156
Are H-4 spouses of other types of H visa holders (H-1B1, H-2, and H-3s) eligible for employment authorization?	156
Is an H-4's employment authorization automatically extended if an I-765 application to extend employment authorization is submitted before the EAD expires?	156
Chapter 13: Consular Processing of Nonimmigrant Visas	157
How do you start the nonimmigrant visa application process?	158
What information is needed to complete the Form DS-160 application?	150
	138
Will the DS-160 ask about my social media presence?	
Will the DS-160 ask about my social media presence? Can questions on the Form DS-160 be left blank?	159
	159 159
Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later	159 159 159
Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time?	159 159 159 160
Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications?	159 159 159 160 160
 Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications? What happens after the Form DS-160 is filed electronically? Can a person process an application at a U.S. consulate different from the one indicated 	159 159 159 160 160 160
Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications? What happens after the Form DS-160 is filed electronically? Can a person process an application at a U.S. consulate different from the one indicated on the DS-160 form?	159 159 160 160 160 160
Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications? What happens after the Form DS-160 is filed electronically? Can a person process an application at a U.S. consulate different from the one indicated on the DS-160 form? How does the photo requirement work for nonimmigrant applications? How are family members processed?	159 159 159 160 160 160 161
 Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications? What happens after the Form DS-160 is filed electronically? Can a person process an application at a U.S. consulate different from the one indicated on the DS-160 form? How does the photo requirement work for nonimmigrant applications? 	159 159 160 160 160 160 161 162
 Can questions on the Form DS-160 be left blank? Can a Form DS-160 be saved in the middle of the application and completed at a later time? Can information on a DS-160 be accessed for later applications? What happens after the Form DS-160 is filed electronically? Can a person process an application at a U.S. consulate different from the one indicated on the DS-160 form? How does the photo requirement work for nonimmigrant applications? How are family members processed? 	159 159 160 160 160 161 161 162 162

What additional information should be provided for the types of nonimmigrant visas outlined in this book?	65
B-1 visitor visas1	
E-2 visas and Form DS-156E1	
J-1 visas1	67
H-1B and O-1 visas	67
H-1B1 and E-3 visas10	67
Chapter 14: Introduction to Lawful Permanent Residence (the 'Green Card')10	69
What is lawful permanent residence?	69
What is the difference between having a green card and having citizenship?1	70
What are the categories of permanent residence?1	70
What are the family green card categories?1	71
How does immigration law define "spouse," "parent," and "child"?1	71
What quotas apply to family cases?	72
What are the employment-based green card categories?1	73
What are the per-country limits?	74
How do I know how long the wait is for a green card number?1	74
What are the stages of the green card process?1	75
What are the differences between consular processing an immigrant visa and filing for adjustment of status?	76
Do I have to submit a medical exam with my adjustment of status application?	77
Can an individual work based on a pending adjustment application?1	77
Can an individual travel outside the United States based on a pending adjustment application?	78
What are the reasons a green card can be denied?1	78
How long does it take to get permanent residence once the application process starts?1	78
Do physicians need a state medical license to qualify for a green card?1	79
Do physicians need to pass credentialing examinations to qualify for an employment-based green card?	79
Chapter 15: Obtaining Permanent Residence Through PERM Labor Certification	81
What are the steps in the PERM process?	82
What needs to be included in any advertisements?	85
Where does the notice need to be posted? Who needs to be notified and what does the notice need to say?	86
Does the salary need to be included in the advertising?	86
What are the wage requirements in a PERM petition?1	86

What must an employer attest to on the PERM application?	188
What are valid reasons for rejecting a U.S. candidate?	189
Who can participate in the interview and review of job applicants?	189
When do applicants need to be contacted and interviewed?	189
Can the interview be conducted by telephone?	190
What if the applicant cannot be reached?	190
Can an employer add requirements beyond simply possessing a medical degree and license?	190
Who are the "U.S. workers" protected in the PERM process?	190
Can PERM applications be filed for residents and fellows?	191
Is it proper to require a candidate to be able to speak a foreign language?	
Are physicians in academic positions treated differently?	191
Does the position need to be full-time?	192
What if the physician hasn't completed training and a post-training employer starts the PERM process?	192
What if there is more than one worksite?	192
Does it matter if a medical degree in the physician's home country is a combined degree (<i>e.g.</i> , MBBS) rather than a post-undergraduate medical degree (<i>e.g.</i> , M.D.)?	192
Can a self-employed physician file a PERM petition?	193
What if the employer moves in the middle of the PERM process?	193
What if a qualified candidate applies and the employer is willing to hire that person AND the immigrant?	
Is the PERM invalidated if the physician changes employers?	193
What is a PERM audit?	193
How long does PERM adjudication typically take?	193
Can a PERM denial be reviewed or appealed?	194
How long is the PERM approval valid?	194
Chapter 16: National Interest Waivers for Physicians	195
What is the PNIW?	195
What types of shortage areas qualify for the PNIW?	195
Does the position need to be full-time?	196
Does the work need to be clinical or will other types of physician positions qualify?	196
Are there "flex" slots in the PNIW category?	196
Are there limits on the number of PNIWs a state can file each year?	196
What types of government agencies can sponsor a physician for a PNIW?	196
When does the five-year service requirement start?	197
Can a physician get credit for work done in a shortage area before the application is filed?	?197
Does the five years of service need to be continuous?	197

YYV	1	1
~~ *	1	I.

Can a physician file for adjustment of status before the five-year service requirement is completed?	198
Can a physician change employers during the five-year period?	198
Can physicians satisfying a three-year J-1 waiver service requirement file adjustment applications in PNIW cases?	198
Can specialists file for PNIWs?	199
What does an employment contract need to contain in order to satisfy PNIW requirements?	199
Can a physician self-petition in the PNIW category?	200
Can a physician be self-employed in the PNIW category?	200
Can a physician use the same government agency letter for both the J-1 waiver and a PNIW?	200
What does the letter from the government agency need to say?	200
Can a state impose restrictions in addition to the federal PNIW requirements?	200
Can an I-140 PNIW petition be premium processed?	201
How does the physician notify USCIS that he or she has completed the service requirement and is eligible to adjust status?	201
What are the advantages and disadvantages of applying for a PNIW versus a PERM petition?	201
Chapter 17: Other Paths to Achieving Permanent Residence: Extraordina	rv
Ability, International Recognition, Non-Physician National Interest Waivers, and Immigrant Investors	•
	203
Waivers, and Immigrant Investors	203
Waivers, and Immigrant Investors	203 203 204
Waivers, and Immigrant Investors	203 203 204 204
Waivers, and Immigrant Investors	203 203 204 204 204
Waivers, and Immigrant Investors	203 203 204 204 204 204 205
Waivers, and Immigrant Investors	203 203 204 204 204 205 205
Waivers, and Immigrant Investors	203 203 204 204 204 205 205 206
Waivers, and Immigrant Investors	203 203 204 204 204 205 205 206 206
Waivers, and Immigrant Investors	203 203 204 204 204 205 205 206 206 207
Waivers, and Immigrant Investors	203 203 204 204 204 205 205 206 206 207 207
Waivers, and Immigrant Investors	203 204 204 204 204 205 205 206 207 207 207
Waivers, and Immigrant Investors	203 203 204 204 204 205 205 206 207 207 207 207 208
Waivers, and Immigrant Investors Who is included in the EB-1 immigrant visa category? What must be proven to qualify for the EB-1A extraordinary ability category? Is an employment offer required? What evidence must be provided to demonstrate "extraordinary ability"? Does having an O-1 visa mean you automatically qualify for an EB-1A? How tough is it to meet the standards of evidence? Are scholarly articles or publications vital to an EB-1A petition? How much experience is required to qualify in the EB-1B category? What types of academic fields qualify in the EB-1B category? What type of evidence must be presented to show that a person is recognized as outstanding in his or her academic field? Does an employer need to sponsor an EB-1B petition? Is the EB-1B outstanding professor or researcher position open only to university	203 204 204 204 204 205 205 206 206 207 207 207 208

vv	\/1	1	1	
~~	¥ I	I		

How does an individual file an EB-1B petition?	209
Who is the petitioner of a regular NIW?	209
Is an approved labor certification required to be submitted with a regular NIW?	209
What evidence must be included with a regular NIW petition?	210
Prong 1 - "Substantial merit and national importance"	211
Prong 2 - "Well positioned to advance the proposed endeavor"	211
Prong 3 - "On balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification"	211
Can regular NIW petitions be moved to a new employer?	212
How does one file an EB-2 regular NIW petition?	212
What is the application process for the EB-5 visa?	213
What are the basic requirements for the EB-5 visa?	213
How does the EB-5 investor meet the requirement for a qualifying business?	213
What types of investments meet the requirements for the EB-5 investor?	214
How much investment is required to become an EB-5 investor?	214
How might the EB-5 investor invest in a qualifying new enterprise?	214
What evidence is required for an application for the EB-5 investor investing in a new enterprise?	214
How many full-time jobs must be created by the EB-5 qualifying investment?	215
Can a commercial enterprise involving multiple investors be used as a basis for classification as an EB-5 investor?	215
Must the EB-5 investor be involved in the management of the qualifying enterprise?	215
Chapter 18: Obtaining U.S. Citizenship2	17
Why become a U.S. citizen?	
Why would one not become a U.S. citizen?	
What is the age requirement for naturalization?	
Must an applicant live in the United States before naturalizing?	
What is meant by "residence" in the naturalization requirements?	
What are the physical requirements for naturalization?	
Is an applicant required to physically reside in the United States when applying for	220
naturalization?	220
Is there a residence requirement after the applicant has submitted an application for citizenship?	220
Will an applicant be denied naturalization if absent for six months to a year from the United States during the five-year period prior to the application?	220
Will an applicant be denied naturalization if absent for more than one year from the United States during the five-year period prior to the application?	220
In which cases are the residence requirements waived?	221

Which residence requirements apply when a spouse of a U.S. citizen applies for	
citizenship?	.222
If the U.S. citizen spouse of a permanent resident applying for U.S. citizenship is	
employed abroad, are residence requirements still applicable?	
What additional requirements must be met to naturalize?	
What types of issues can prevent a finding of good moral character?	
Are there any exceptions to the requirements?	
What is the naturalization application process?	
Do children have to apply separately?	.223
Chapter 19: The Impact of Employment Termination on a Physician's	
Immigration Status	225
What are the immigration-related consequences of terminations on employees in nonimmigrant status?	.226
What should a nonimmigrant employee do if he or she falls out of legal status?	.228
Is there a grace period allowing time for a worker to find a new position without being considered out of status?	.229
What are the immigration-related consequences of layoffs and job changes on physicians with pending green card applications?	.230
How does adjustment portability work?	.230
What happens to a doctor's priority date when they change jobs?	.231
What are the immigration-related consequences of layoffs on physicians who already are permanent residents?	
What are the H-1B and other immigration-related consequences of layoffs on employers employing foreign nationals?	.232
What are the immigration consequences of a furlough?	.234
What are some proactive strategies for preventing negative immigration consequences for employers and employees during downsizing?	.235
Chapter 20: The Impact of Mergers and Acquisitions on Physician	
	237
What issues need to be considered to determine if a deal impacts an immigrant physician?.	.237
What are the types of deals that can affect a physician's immigration status?	.238
How does the timing of the closing affect a physician's immigration status?	.238
How are H-1B visa holders potentially affected by a transaction?	.238
What does the corporate reorganization memorandum for the employee's public access file need to say?	.240
How are physicians on J-1 visas affected by major corporate transactions?	.241
How are green card applications affected by mergers and acquisitions?	.241
What immigration issues does an employer need to consider in a major corporate transaction?	
What immigration-related documents should be requested in a due-diligence checklist?	

What language should be included in the corporate transaction documents to ensure immigration issues are addressed?	245
Chapter 21: Immigration and the Locum Tenens	247
Can physicians satisfy their J-1 waiver requirements in a locum tenens position?	247
Employee versus independent contractor	248
Prevailing wage guarantee	248
What does a physician who trained on an H-1B visa need to consider before pursuing a locum position?	248
Can a locum company sponsor a physician for immigration status other than H-1B?	249
Can a locum company hire a physician who has an EAD?	249
Chapter 22: The Role of Physician Recruiters When Hiring an International Medical Graduate	251
Acquire a basic familiarity with physician immigration law	251
Get the right questions answered	251
Get immigration counsel involved early in the process	252
Make sure the physician and employer understand that immigration-related contract restrictions can affect their deal	252
Understand the fee rules imposed by government agencies	253
Be familiar with the restrictions on moving before a contract is fulfilled	253
Ensure the physician has reasonable expectations	254
Chapter 23: Special Issues Affecting Canadian Physicians	255
1. Visa stamping	255
2. Working in the United States on an H-1B before a J-1 waiver is granted	255
3. Satisfying the home residence requirement on a J-1 visa while working in the United States	256
4. Licensing	
5. Permanent residence processing	
Chapter 24: Hiring an Immigration Attorney	
Do you need an attorney?	
What about people who call themselves "immigration consultants"?	
What should you look for in an attorney?	
What can I do if I just cannot afford a quality immigration attorney?	
What should I do if my attorney mismanages my case?	265

APPENDICES

Appendix A	Resources and Websites of Interest	267
Appendix B	Physician National Interest Waiver Program by State	271
Appendix C	Immigration Questionnaire for Physician Candidate	303
Appendix D	Immigration Questionnaire for Physician Employer	307
Appendix E	J-1 Basic Interested Government Agency Physician Waiver Flowchart	309
Appendix F	Flowchart for Post-Training Physicians on H-1Bs	311
Appendix G	Conrad 30 State Chart	313
Glossary		349
Subject-Matt	er Index	357