IMMIGRATION OPTIONS FOR INTERNATIONAL PHYSICIANS

1) H-1B Physicians - An H-1B allows an international physician to come to the United States to work for up to 6 years. Persons subject to the 212(e) two-year residence requirement of the J visa are not eligible for an H-1B until the two-year requirement is met or a waiver of the requirement is obtained.

- Wage Requirements - OHSU must pay an H-1B employee the actual wage rate or the prevailing wage rate, whichever is higher.
  - Actual Wage Rate - is the wage rate paid by OHSU to all employees with similar experience and qualifications in the same position as the H-1B.
  - Prevailing Wage Rate - is obtained from the Department of Labor and is the wage paid to individuals in similar positions in the Portland Metropolitan area.

- Labor Condition Application (LCA) - the LCA is a requirement of the Department of Labor (DOL) and OHSU must file and obtain a certified LCA before filing an H-1B petition with USCIS. The purpose of the LCA requirements is to protect U.S. workers. The LCA contains several attestations that OHSU is required to make before DOL will certify it. The attestations are as follows:
  - OHSU will pay the required wage rate to the H-1B worker (the actual wage rate or the prevailing wage rate, whichever is higher).
  - OHSU will offer the same benefits package on the same basis to similarly employed U.S. workers and H-1B workers.
  - The employment of H-1B workers will not adversely affect the working conditions of workers similarly employed in the area of intended employment.
  - At the time of filing the LCA, there is no strike, lockout, or work stoppage in the course of a labor dispute in the occupational classification at the place of employment. If a strike or lockout
occurs after the LCA is submitted, OHSU will notify the DOL within three days of its occurrence.

- A copy of the LCA has been, or will be, provided to each H-1B worker employed pursuant to the LCA, and the employer has also provided notice of filing the LCA to the bargaining representative of the employer’s employees in the occupational classification, or if there is no bargaining representative, OHSU has physically posted notice of the filing of the LCA on the employer's premises.

### Special Requirements

- A current ECFMG certificate. There is an exception for a physician who has graduated from a Canadian medical school.
- Confirmation of passing grades for all three steps of the USMLE.
- A valid Oregon Medical License.

### H-1B Physicians of International or National Renown-

With this type of H-1B, it is not necessary for the physician to have the ECFMG Certificate or all three steps of the USMLE, however, the Oregon Medical License is still required. To qualify for this category OHSU must prove that the physician truly is a physician of international or national renown, by providing at least three of the following criteria:

- Reference letters from other medical professionals of national or international renown, stating that the physician has national or international renown for his or her abilities as a physician or contributions to the medical profession.
- Awards (including reputation of the awarding organization and the criteria used for selection).
- Articles or presentations published by the physician in medical journals or presented at national or international medical conferences.
- Media publicity or journal articles describing or making reference to the physician or his or her work.
- Evidence of the physician working in prominent positions for renowned academic or medical institutions.
- Evidence of the physician serving as a speaker or panelist at medical conferences.
Evidence of the physician acting as a peer reviewer of the work of others presented at conferences or published in journals.

Any other evidence of significant contributions or abilities in the medical field.

### Additional Information

If OHSU terminates the H-1B employee prior to the end date of the H-1B petition validity period, for any reason, the sponsoring department is required by federal law to pay reasonable costs of return transportation to the H-1B employee’s last place of residence abroad. In addition, if the H-1B petition is not officially withdrawn, the department can be held liable for the employee’s salary for the duration of the H-1B approval notice per Department of Labor regulations.

In most cases, the H-1B approval notice must be received by OHSU prior to the physician beginning employment in H-1B status. However, pursuant to portability provisions, a person currently in H-1B status with another employer in the U.S may transfer to OHSU and begin work before the H-1B application is approved by USCIS. Under portability the employee may begin work once OHSU receives the official receipt notice from USCIS and the H-1B employee meets the following requirements: 1) is in lawful H-1B status; 2) has only engaged in lawful employment, and 3) OHSU has submitted a non-frivolous petition before the expiration of the H-1B’s current period of authorized stay.

### 2) O-1 Worker of Extraordinary Ability

An O-1 is for a worker of extraordinary ability. As with the H-1B for a physician of international or national renown, the ECFMG Certificate and the USMLE, Steps 1, 2 and 3 do not have to be obtained prior to application. Unlike the H-1B, a prevailing wage determination does not have to be done. However, OHSU must prove that the physician is one of extraordinary ability. Pursuant to regulations, an alien would have to provide at least three of the following forms of documentation to prove extraordinary ability:

- Documentation of the physician’s receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

- Documentation of the physician’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or
international experts in their disciplines or fields.

- Published material in professional or major trade publications or major media about the physician, relating to the physician’s work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation.

- Evidence of the physician’s participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization for which classification is sought.

- Evidence of the physician’s original scientific, scholarly, or business-related contributions of major significance in the field.

- Evidence of the physician’s authorship of scholarly articles in the field, in professional journals, or other major media.

- Evidence that the physician has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

- Evidence that the physician has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

- **Application Procedure** (Contact the Department of Immigration Services to begin the application process).

4) **E-3 (Australian citizens only)** - The E-3 is an employment-based status for Australian citizens, which may be requested for an initial period of up to 2 years for a designated employer. It may be renewed for additional 2 year intervals indefinitely provided the employee in E-3 status is able to demonstrate that he/she does not intend to remain or work in the U.S. permanently.

- **Wage Requirements** - OHSU must pay an E-3 employee the actual wage rate or the prevailing wage rate, whichever is higher.
  
  - **Actual Wage Rate** - is the wage rate paid by OHSU to all employees with similar experience and qualifications in the same position as the E-3.
  
  - **Prevailing Wage Rate** - is obtained from the Department of Labor and is the wage paid to individuals in similar positions in the Portland Metropolitan area.
• **Labor Condition Application (LCA)** - the LCA is a requirement of the DOL and OHSU must file and obtain a certified LCA before filing an E-3 petition with a U.S. Consulate or USCIS. The purpose of the LCA requirements is to protect U.S. workers. The LCA contains several attestations that OHSU is required to make before DOL will certify it. The attestations are as follows:

  ➢ OHSU will pay the required wage rate to the E-3 worker (the actual wage rate or the prevailing wage rate, whichever is higher).

  ➢ OHSU will offer the same benefits package on the same basis to similarly employed U.S. workers and E-3 workers.

  ➢ The employment of E-3 workers will not adversely affect the working conditions of workers similarly employed in the area of intended employment.

  ➢ At the time of filing the LCA, there is no strike, lockout, or work stoppage in the course of a labor dispute in the occupational classification at the place of employment. If a strike or lockout occurs after the LCA is submitted, OHSU will notify the DOL within three days of its occurrence.

  ➢ A copy of the LCA has been, or will be, provided to each E-3 worker employed pursuant to the LCA, and the employer has also provided notice of filing the LCA to the bargaining representative of the employer's employees in the occupational classification, or if there is no bargaining representative, OHSU has physically posted notice of the filing of the LCA on the employer's premises.

• **Special Requirements**

  ➢ A current ECFMG certificate (see above section on ECFMG certificates). There is an exception for a physician who has graduated from a Canadian medical school.

  ➢ Confirmation of passing grades for all three steps of the USMLE.

  ➢ A valid Oregon Medical License.

**Other Options**

1) **F-1 Optional Practical Training** - allows students in F-1 status to work for up to 12 months in an occupation in their field of study during or after completing their degree. A student applies for an employment authorization document with USCIS through their school’s international...
office. An employment authorization document for optional practical training takes about 3 to 4 months to receive.

2) **Employment Authorization Card** – A J-2 dependent, E-3 spouse, pending permanent resident, etc. can obtain an employment authorization card which will allow them to work in the U.S.