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# CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

## BEFORE THE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

## ZOOM VIRTUAL HEARING STATEMENT "IS THERE A DOCTOR IN THE HOUSE? THE ROLE OF IMMIGRANT PHYSICIANS IN THE U.S. HEALTHCARE SYSTEM"

**TUESDAY, FEBRUARY 15, 2022**
**2:00 P.M. (EST)**
**CISCO WEBEX**

- Thank you, Chairwoman Lofgren and Ranking Member McClintock, for convening this hearing on the "Role of Immigrant Physicians in the U.S. Healthcare System."

- Let me welcome our witness:

  Majority Witnesses

  1. David J. Skorton, M.D., *President and CEO*

*Association of American Medical Colleges (AAMC)*

2. Raghuveer Kura, M.D., FASN, FNKF
   *Interventional Nephrologist, Poplar Bluff Regional Medical Center*

3. Kristen Harris, Esq.
   *Harris Immigration Law, LLC*

Minority Witness

4. Kevin Lynn,
   *Co-Founder of Doctors Without Jobs*
   *Executive Director of Progressives for Immigration Reform*

- Thank you for your participation and I look forward to hearing your perspective on the role of immigrant physicians in providing general and specialized health care in the United States and on how our current immigration laws impact recruitment and retention of physicians.

- Madam Chairwoman, on Day One of the Biden Administration, the President released his vision for immigration reform, which unlike the cruel and mean-spirited policies of his predecessor, does call for separating children from their parents or putting babies in cages or diverting money from military families to build a wall to deter imaginary caravans of bad hombres.

- Instead, the President's U.S. Citizenship Act of 2021 includes a path to citizenship for the 11 million undocumented individuals in the United States, reforms to the family- and employment-based immigration systems, and provisions to facilitate immigrant integration, protect workers from exploitation and to improve border technology and infrastructure.

- Ensuring a path to earned citizenship is a non-negotiable principle for me and the *sine qua non* of meaningful immigration reform legislation.

- Indeed, providing a path to earned access to citizenship has been a central feature of every comprehensive immigration reform bill I

have co-sponsored or sponsored in the Congress since 2007 when I served as Ranking Member of this Subcommittee on Immigration and introduced the *"Save America Comprehensive Immigration Reform Act, (H.R. 1525),"* which I reintroduced in each succeeding Congress.

- Passing comprehensive and humane immigration reform is long overdue and would have a positive, life-changing impact on the nation's healthcare system.

- Communities in the United States have long struggled to access high quality healthcare as a result of a lack of available physicians.

- According to the U.S. Department of Health and Human Services, there are 7,613 Primary Health Professional Shortage Areas (HPSAs) in the United States, comprising a population of over 86,000,000 people – roughly 26 percent of the United States population.

- This physician shortage has had a disproportionate impact on rural and medically underserved areas.

- This physician shortage would be markedly worse were it not for immigrants having long comprised a large percentage of the physician workforce.

- Foreign nationals make up approximately 25 percent of the population of those who have obtained graduate medical education in the United States, meaning that there are approximately 200,000 foreign medical graduates currently working as physicians in the United States.

- Because of our antiquated immigration laws, the demand of the healthcare system for more physicians far outstrips the available supply, harming all consumers and patients but especially those residing in rural or economically disadvantaged areas.

- The United States has struggled to recruit physicians to rural and medically underserved areas for many years, as the number of

medical students from rural areas has declined and the cost of medical school has increased.

- The Association of American Medical Colleges (AAMC) predicts that by 2034, the number of individuals in the United States who are over age 65 will grow by over 40 percent, while the current shortage of physicians could increase by as much as 625 percent.

- The coronavirus pandemic worsened such projections, as a myriad of physicians died from the virus, changed careers, or retired due to exhaustion and burn out.

- International medical graduates have been on the front lines—while they comprise 25 percent of practicing physicians in the United States, as of November 2020, they accounted for 45 percent of physician deaths due to COVID-19.

- Safety net hospitals—those hospitals that provide medical care regardless of the patient's ability to pay—in both rural and urban areas have been hit particularly hard by the pandemic, with financial problems leading to the closure of hospitals and the creation of health care deserts in some of the most medically underserved parts of the country.

- Congress created numerous provisions specifically dealing with immigration pathways for physicians, from nonimmigrant (temporary) training to permanent residency but has not updated the basic structure of these laws since the 1990's.

- The primary temporary visa pathways for physicians are the J-1 visa and the H-1B visa.

- Approximately 80 percent of foreign medical graduates undergo their residency and/or fellowship training in J-1 status, which is a nonimmigrant status that allows foreign nationals who demonstrate nonimmigrant intent to temporarily come to the United States for training or other purposes.

- Under current law, J-1 medical trainees must return to their home country for a minimum of two years following the completion of

their training program.

- Physicians may obtain a waiver of the J-1 requirement to return home for two years (a "J-1 waiver") under certain conditions designed to encourage such physicians to work in rural and medically underserved areas.

- Physicians can pursue this type of J-1 waiver through either an Interested Government Agency ("IGA"), or through a state department of health participating in the Conrad State 30 waiver program ("Conrad Waiver"), which Congress enacted in 1994 with the Conrad State Waiver program, allowing each state or territory to seek up to 20 physicians to work in underserved areas; this number was increased to 30 in 2003.

- The other type of non-immigrant visa is the H-1B visa, which entities seeking to hire physicians to work in the United States temporarily generally use to petition for such workers.

- The H-1B visa is available to foreign nationals who will work in a "specialty occupation," a position that requires the "theoretical and practical application of a body of highly specialized knowledge" and the attainment of at least a bachelor's degree, or the equivalent, in the specific specialty.

- There are 65,000 H-1B visas available each year, with an additional 20,000 available to individuals who obtained a master's degree or higher from a U.S. institution of higher education.

- The number of available visa is dwarfed by the number of requests to sponsor H-1B workers (308,613 in 2021) received by U.S. Citizenship and Immigration Services requests from 37,000 prospective employers.

- Entities seeking to hire physicians to remain permanently in the United States may sponsor them for lawful permanent resident (LPR) status, also known as an "immigrant visa" or a "green card."

- While there is a dedicated program solely for physicians, it is limited to physicians working in shortage areas and veteran's facilities.

- As such, physicians often attempt to utilize the standard green card pathways available to high skilled immigrants.

- Each fiscal year, a maximum of 140,000 immigrant visas may be issued to employment-based (EB) immigrants.

- In addition, INA § 202(a) limits the number of visas that can be made available each fiscal year to natives of any single foreign state or dependent area to 7 percent and 2 percent, respectively.

- Employment-based visas are allocated in accordance with the following "preference categories":

    1. EB-1—Priority Workers: 40,040
        - Extraordinary Ability Aliens
        - Outstanding Professors and Researchers
        - Multinational Executives and Managers

    2. EB-2—Advanced Degree Professionals, Exceptional Ability Aliens: 40,040
    3. EB-3—Skilled Workers, Professionals, Other Workers: 40,040
    4. EB-4—Special Immigrants: 9,940
    5. EB-5—Employment Creation: 9,940

- While physicians are eligible for a variety of visa categories available to only the highest skilled and most valuable individuals, the two most common paths to permanent residency for physicians are through the PERM Labor Certification process ("PERM") or the Physician National Interest Waiver petition (PNIW), both of which fall within the EB-2 category.

- The PERM process starts with the employer filing an application for permanent labor certification through the Department of Labor's PERM system.

- During the labor certification process, the employer tests the labor market by recruiting for the position that the foreign national would otherwise fill.

- If the employer cannot identify a U.S. worker who is qualified, willing, and able to fill the position, the labor certification can be certified and the employer can proceed to the next step—filing a Form I-140 immigrant visa petition (green card application) with USCIS.23

- As another incentive to encourage physicians to work in medically underserved areas, Congress created the PNIW in 1999.

- The PNIW waives the labor certification requirement and allows physicians to self-sponsor for permanent residency.

- With a PNIW, the physician must agree to work for a minimum of 40 hours per week in a medically underserved area for a total of five years, inclusive of the three year J-1 waiver commitment (if applicable).

- To obtain a PNIW, the IGA or state health agency that oversees the state in which the physician will work must agree that the physician's work is in the national interest.

- Madam Chair, an estimated 1 million foreign workers and their family members have an approved employment-based petition and are waiting for a numerically limited immigrant visa.

- About 16,000 of those waiting are physicians.

- As a result of the per-country limitations, this backlog disproportionately impacts countries with higher populations and thus, higher demand for immigrant visas—particularly India and China.

- Without changes, the EB-2 backlog will more than double in size by FY 2031.

- The population of the United States is aging – increasing demand for high quality medical care.

- Presently, 34 percent of the demand for physicians comes from

patients 65 and up, but by 2034, that population will demand 42 percent of physicians.

- Madam Chairwoman, the population of the United States is aging – increasing demand for high quality medical care.

- Presently, 34 percent of the demand for physicians comes from patients 65 and up, but by 2034, that population will demand 42 percent of physicians.

- With foreign physicians serving as the majority of geriatric physicians in this country, recruitment and retention of such physicians is now more important than ever.

- This is particularly true in rural areas, which have higher rates of death, disability, and chronic disease, in part due to a lack of access to physicians.

- If people living in rural and medically underserved areas sought medical care at the same rate of those who do not have barriers to their ability to access healthcare, those areas would need an additional 102,400 to 180,400 physicians to meet demand.

- Additionally, a large number of physicians are nearing retirement age – over two of every five physicians in the United States will be 65 or older within the next ten years.

- Finally, the ongoing COVID-19 pandemic is likely to accelerate physicians' retirement timelines, exacerbating this problem, as the prevalence of long-COVID as well as the after-effects of delayed medical procedures and check-ins may have an outsized impact on the future demand for health care in the United States.

- I look forward to discussing these important issues with our witnesses.

- Thank you. I yield back my time.