November 2, 2026

The Honorable Markwayne Mullin
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

The Honorable Joseph B. Edlow
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20588

Submitted electronically via regulations.gov

RE: Eliminating the Discretionary 60-Day Grace Period; DHS Docket No. USCIS-2026-0364; RIN 1615-AD22

Dear Secretary Mullin and Director Edlow:

On behalf of the American Academy of Family Physicians (AAFP), representing 124,500 family physicians and medical students across the country, I write in response to the Department of Homeland Security's (the Department) notice of proposed rulemaking, *Eliminating the Discretionary 60-Day Grace Period*. The AAFP recognizes the Department's responsibility to preserve the integrity of the legal immigration system and appreciates its desire to ensure that nonimmigrants comply with the conditions underlying their immigration status. We are deeply concerned, however, that eliminating the 60-day grace period without an exception for physicians would unnecessarily disrupt patient care and further destabilize the nation's health care workforce. Internationally born and trained physicians are an indispensable component of the U.S. health care system, particularly in rural and medically underserved communities, and we urge DHS to consider and prioritize U.S. patients' access to health care as the agency works to finalize this proposal.

If the Department chooses to move forward with this proposal, **the AAFP strongly urges the Department to establish a national interest exemption preserving the existing 60-day grace period for all physicians**. We believe DHS has both the authority and compelling policy reasons to do so, given the current regulation expressly provides that the Department may shorten or eliminate the grace period "as a matter of discretion." Additionally, the Department emphasizes in this rulemaking the Secretary's broad authority under section 214(a) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1184(a) to prescribe the time and conditions of admission for nonimmigrants. Rather than eliminate this important protection for physicians whose continued presence directly serves American patients, DHS should exercise that authority to preserve the 60-day period for physicians as a discrete national interest category.

Internationally Born Physicians are Essential to Patient Access

International medical graduates (IMGs) and non-U.S. born physicians are indispensable to the U.S. physician workforce, with IMGs comprising 24% of licensed physicians in 2025.[i] Family physicians are acutely aware of existing physician shortages and the critical role these physicians play in ensuring access to care, particularly in rural and underserved communities. IMGs are twice as likely as U.S. medical graduates to practice primary care, with 64% practicing in medically underserved areas or Health Professional Shortage Areas.[ii,iii] Primary care itself is especially dependent on IMGs, who comprise nearly one-third of family medicine, pediatrics, and internal medicine residents.[iv]

Maintaining a robust health care workforce in the U.S. that can address the health needs of all U.S. patients is in the best interest of the health of our nation. However, with a projected shortfall of more than 70,000 primary care physicians by 2038, there is a growing need for a larger physician workforce that the U.S. cannot fill on its own, in part because the U.S. does not have enough people in the younger generation to care for our aging country.[v,vi] Accordingly, H-1B physicians play a critical role in filling this void, especially in areas of the U.S. with high-need populations. H-1B physicians are represented at higher rates in safety-net hospitals, rural communities, and states with lower physician density than U.S. medical graduates, with more than 11,000 physicians with H-1B visas practicing medicine in the United States in fiscal year 2024.[vii] The AAFP has repeatedly emphasized that foreign-trained physicians provide vitally needed health care in communities with higher rates of poverty and chronic disease, and that states with higher percentages of H-1B physicians frequently have lower overall physician density.

Internationally born and trained physicians do not merely fill positions on an organizational chart; they provide direct patient care. When a physician must abruptly cease practicing and immediately leave the U.S. because an employment relationship ends, patients lose access to a physician with whom they have an established, trusted relationship. In this situation, other clinicians and practices must absorb that physician's patient panel, and the communities already facing physician shortages are the most likely to lose scarce clinical capacity.

Those consequences are particularly concerning in primary care. Family physicians provide comprehensive and continuous care across the lifespan, including preventive services and chronic disease management. Data shows that a greater primary care supply is associated with better population health and improved patient outcomes, which is especially important for the nearly 21 million Americans who live in communities where foreign-trained physicians account for at least half of the physician workforce.[viii,ix] **Immigration policy should reinforce, rather than weaken, this foundational component of the nation's health care workforce**.

Eliminating the Grace Period would Disrupt Continuity of Care

Under current 8 CFR § 214.1(l)(2), an individual in H-1B status generally is not considered to have failed to maintain nonimmigrant status solely because of cessation of employment for up to 60 consecutive days, or until the end of the authorized validity period, whichever is shorter. During that period, an individual may pursue available avenues for maintaining lawful status, including seeking qualifying employment with another employer. The proposed rule would instead require an affected H-1B worker to depart the U.S. immediately following cessation of the employment on which the individual's status is based, unless otherwise authorized to remain lawfully.

For physicians, this change would have ramifications well beyond the individual visa holder. Health care delivery depends on continuity, workforce planning, credentialing, and reliable coverage of patients. A policy that converts an unexpected cessation of employment into an immediate immigration consequence provides essentially no opportunity for a physician to transition to another qualifying health care employer within the U.S.

This is especially unnecessary for physicians with H-1B status, because Congress has already established an important mechanism to facilitate H-1B job mobility. As DHS recognizes in the proposed rule, eligible H-1B workers may begin new employment upon the filing of a qualifying, non-frivolous H-1B petition rather than waiting for that petition to be approved. The existing grace period complements that portability framework by allowing a limited amount of time for an individual whose employment unexpectedly ends to identify a new employer and pursue an available lawful immigration pathway.

The Department itself acknowledges that the rule could result in some workers departing the U.S. and may cause temporary productivity losses for prospective employers. DHS also recognizes that individuals and their families may have made career and personal plans based on the current framework and may have purchased homes, paid taxes, and otherwise invested in their communities. **For physicians, these impacts extend to the communities, institutions, and patients that rely on their continued clinical presence. We urge the Department to instead establish a national interest exemption that would preserve the existing 60-day grace period for physicians**.

DHS has Authority to Preserve the Grace Period for Physicians in the National Interest

Current regulation provides that DHS "may eliminate or shorten this 60-day period as a matter of discretion" at 8 CFR § 214.1(l)(2). Similarly, the Department explained in this proposed rule that it possesses "broad discretionary authority to regulate the time and conditions of nonimmigrants under section 214(a) of the Act, 8 U.S.C. 1184(a)." In describing implementation of the current rule, DHS explains that decisions regarding whether to shorten or eliminate the grace period require individualized assessments considering the totality of the circumstances, including factors such as status violations, unauthorized employment, fraud, national security concerns, or

criminal convictions. We believe that this individualized discretion supports, rather than undermines, the Department's ability to preserve appropriate flexibility for a defined category of workers when doing so advances the national interest.

The AAFP therefore urges DHS to use this same regulatory authority to preserve the 60-day grace period for physicians, as we do not believe such an exemption would interfere with DHS' ability to enforce the immigration laws or address individualized concerns. Instead, it would preserve DHS' authority to shorten or eliminate the grace period where warranted by fraud, national security, criminal conduct, or other relevant individualized circumstances while simultaneously recognizing that maintaining continuity in the nation's physician workforce serves an overriding public and national interest. Immigration policies should not unnecessarily remove qualified physicians from communities where they are already providing care, and we believe preserving the 60-day grace period for physicians would be consistent with this principle.

A Targeted Physician Exemption would Address DHS' Stated Concerns

The AAFP appreciates DHS' concern that administering the current discretionary grace period requires agency resources. According to the proposed rule, USCIS must determine whether the grace period applies, establish the date employment ceased, and determine whether the grace period should be shortened or eliminated as a matter of discretion. DHS states that these determinations can add complexity to adjudication. However, eliminating the grace period for all affected workers is not the only way to address administrative burden, particularly when doing so carries significant consequences for the health care workforce and patients' access to care.

DHS acknowledges that under the proposed rule, USCIS could devote additional resources to issuing Notices to Appear and initiating removal proceedings. The Department additionally recognizes that the change could marginally increase USCIS referrals to the Executive Office for Immigration Review and workloads for the Department of Justice and Immigration and Customs Enforcement. DHS also considered alternatives to wholesale elimination, including retaining the grace period for only some classifications and shortening the period.

The AAFP urges DHS to consider another, more targeted alternative: retain the full 60-day grace period for physicians based on the national interest in preserving patients' access to health care. This approach would permit DHS to advance its broader objectives while avoiding preventable disruptions to patient care. Consistent with the Department's program integrity concerns, DHS could retain its existing authority to shorten or eliminate the protection based on individualized circumstances. A categorical physician exemption therefore would not create an unconditional entitlement. Rather, it would establish that continuity of clinical care is itself a substantial national interest consideration warranting preservation of the existing period, absent circumstances that could justify a different result.

Related Visa Pathways Underscore the Importance of Regulatory Flexibility

Although this proposed rule does not eliminate the separate periods and protections applicable to F-1 students or J-1 exchange visitors, those immigration pathways are integral parts of the international physician workforce pipeline. International medical students may train or work pursuant to F-1-related authorities before transitioning to other visa or immigration classifications, while physicians participating in graduate medical education commonly rely on J-1 visas. We reiterate that increasing administrative burden and uncertainty for F-1 and J-1 visa holders can destabilize the physician pipeline and interrupt patient care.

The regulatory framework also demonstrates that immigration rules are not required to take an inflexible approach to periods of authorized stay and transitions between statuses. The provisions identified in 8 CFR §§ 214.1 and 214.2 contain distinct transition periods and mechanisms applicable to different nonimmigrant circumstances. That broader regulatory structure supports an approach tailored to the particular circumstances and national interests implicated by a worker's presence in the U.S. **The AAFP strongly believes physicians should have reasonable, predictable pathways to remain lawfully in the U.S. when doing so enables them to continue caring for American patients**.

Conclusion

Thank you for the opportunity to provide written comments on this important topic and its potential impact on primary care access in the U.S. If DHS chooses to proceed with this regulation, the AAFP strongly urges the agency to ensure the final regulation establishes a national interest exemption that preserves the full 60-day grace period for physicians. Current regulations recognize DHS' discretion over application of the grace period, and this proposed rule correctly relies on the Secretary's broad statutory authority over the time and conditions of nonimmigrant admission. Exercising that authority to protect access to clinical care would appropriately balance the Department's immigration objectives with the pressing health care needs of American patients. The AAFP remains committed to working with the Department and other stakeholders to advance immigration policies that strengthen the health care workforce while maintaining the integrity of the legal immigration system. We urge DHS to ensure that its final policy recognizes the national interest in keeping qualified physicians available to care for patients in communities across the country. For more information or questions, please contact Mandi Neff, Senior Strategist, Federal Policy and Regulatory Affairs, at mneff2@aafp.org.

Sincerely,



Sarah C. Nosal, MD, FAAFP
Board Chair
American Academy of Family Physicians

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