

Congress of the United States
Washington, DC 20515

August 4, 2020

The Honorable Michael R. Pompeo
Secretary of State
Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Chad F. Wolf
Acting Secretary of Homeland Security
Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

The Honorable Eugene Scalia
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Re: Health Workforce Implications of Proclamation 10052

Dear Secretary Pompeo, Acting Secretary Wolf, and Secretary Scalia:

We are writing to express our urgent concern about Proclamation 10052, which President Trump signed on June 22, 2020. As you are aware, in addition to extending the President's suspension on the admission of most immigrants announced in Proclamation 10014, Proclamation 10052 suspends the admission of certain temporary workers, including many H-1B health workers. Each year since at least Fiscal Year 2015, U.S. Citizenship and Immigration Services (USCIS) has granted more than 10,000 H-1B petitions to physicians and other health care workers who play a critical role in our health care workforce.¹ Although Proclamation 10052 exempts individuals providing medical care to COVID-19 patients and conducting COVID-19 research, this Proclamation is overly restrictive and harmful in the midst of this pandemic. Without broader exemptions for health care workers and researchers, the Administration's actions put all Americans at risk.

Critical to controlling any pandemic is the ability to rapidly deploy the health workforce to care for patients, mitigate spread, and advance health research agendas that offer rapid solutions. Without an adequate health and research workforce, we risk the unnecessary loss of

¹ U.S. Citizenship and Immigration Services, H-1B Approvals for Healthcare-Related Occupations (Fiscal Years 2015-2020 (YTD)), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Employment-based/I129_H1B_A_Healthcare_FY15-20.pdf.

more lives and impose further obstacles to our economic recovery. As noted by the American Association of Medical Colleges (AAMC), “[r]estricting these gifted international researchers and physicians from entering the U.S. will not help our economy, but rather will hamper the ability of our medical schools and teaching hospitals to make scientific progress.”² Ultimately, it will reduce health care access across our nation.

Recently, the Department of State issued guidance further defining the national interest exemptions for H-1B health workers.³ According to that guidance, an exemption to the Proclamation for H-1B nonimmigrants is available to public health or health care professionals or researchers “to alleviate the effects of the COVID-19 pandemic, or to conduct ongoing medical research in an area with a substantial public health benefit (e.g. cancer or communicable disease research).”⁴ The guidance states that this includes H-1B nonimmigrants whose work will “alleviate effects of the COVID-19 pandemic that may be a secondary effect of the pandemic.”⁵ While this is a welcome interpretation of the Proclamation, it is unclear how it will be applied by consular and Customs and Border Protection (CBP) officers, and is still overly restrictive. The United States needs the strongest possible health care and research workforce now more than ever. Importantly, this includes individuals who provide care or conduct research in areas other than COVID-19. Health workers and researchers working on issues unrelated to COVID-19 free up others to focus on COVID-19, while continuing to provide essential care and conduct critical research that cannot stop because of the pandemic.

Further, as our nation surpasses 4.6 million cases of COVID-19 and over 154,000 deaths, it is important to consider infections and deaths of health workers and researchers when projecting workforce needs. Researchers project that, in the first year of the pandemic, millions of health care workers will test positive for COVID-19 and thousands will die from it.⁶ As such, visa programs are more important than ever to ensure that the health workforce is resilient and prepared both for the current wave of COVID-19 as well as the subsequent waves predicted to hit the country in the near future.

In July 2019, in recognition of the importance of ensuring all Americans have access to quality health care, the Committee on Ways and Means created the bipartisan Rural and Underserved Communities Health Task Force to address issues of health equity in rural and underserved communities across the country.⁷ Many of the physicians who serve our

² <https://www.aamc.org/news-insights/press-releases/aamc-statement-presidential-proclamation-limiting-non-immigrant-visas>.

³ Dep’t of State, National Interest Exceptions to Presidential Proclamations (10014 & 10052) Suspending the Entry of Immigrants and Nonimmigrants Presenting a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak (Jul. 22, 2020), <https://travel.state.gov/content/travel/en/News/visas-news/exceptions-to-p-p-10014-10052-suspending-entry-of-immigrants-non-immigrants-presenting-risk-to-us-labor-market-during-economic-recovery.html#:~:text=On%20June%2022%2C%20the%20President,%2C%20through%20December%2031%2C%202020>.

⁴ *Id.*

⁵ *Id.*

⁶ <https://depts.washington.edu/fammed/chws/how-many-health-care-workers-are-at-risk-of-being-sacrificed-to-covid-19-in-the-us/>.

⁷ <https://waysandmeans.house.gov/media-center/press-releases/ways-and-means-committee-launches-rural-and-underserved-communities>.

underserved communities are immigrant physicians who rely on temporary visas. Proclamation 10052 puts underserved communities at even more risk by restricting physician visas.

Section 4 of Proclamation 10052 directs the Secretary of Homeland Security to consult with Secretaries of State and Labor and to recommend to the President any necessary modifications to the Proclamation. As such, we urge you to recommend that the President modify Proclamation 10052 to exempt all health workers and researchers from the suspension on entry because they all serve the national interest. In the meantime, we request answers to the following questions by August 14, 2020:

1. Please provide the number of H-1B visa applications for physicians and other health care workers (as well as applications for H-4 visas for the dependents of such workers) that have been approved, denied, or rejected since June 24, 2020.
2. How will the “substantial public health benefit/secondary effect” exemption in the Department of State guidance be applied in the field? Does this guidance also apply to CBP officers? Please provide any written guidance that has been provided to consular officers or CBP officers in interpreting this exemption.
3. Why was the exemption in Proclamation 10052 limited to health and research workers focused only on hospitalized COVID-19 patients and COVID-19 research considering the interdependence of the health and research workforce?
4. How will the Administration use infection and mortality projections to prospectively and proactively ensure that the health and research workforce is adequate for the current wave as well as future waves of the COVID-19 pandemic? How will you ensure that proper coordination occurs across the Administration in this regard?

Thank you for attention to this important matter. We look forward to working with you to ensure that our front-line health and research workers have our nation’s full support during this crisis. If you have further questions about this letter or the questions raised, please contact Melanie Egorin at melanie.egorin@mail.house.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard E. Neal". The signature is fluid and cursive, with a large initial "R" and "E".

Richard E. Neal
Chairman
Committee on Ways and Means



Jerrold Nadler
Chairman
Committee on the Judiciary



Zoe Lofgren
Chairwoman
Subcommittee on Immigration and Citizenship, Committee on the Judiciary

Cc: The Honorable Alex M. Azar II, Secretary of Health and Human Services