

Employment Outside of the Approved Training Program ("Moonlighting")

Physicians sponsored by ECFMG for J-1 status are participants in the U.S. Department of State's (DoS') Exchange Visitor Program. The J-1 classification is explicitly reserved for educational and cultural exchange. It is *not* a work visa and, therefore, J-1 physician participants are not permitted to engage in *any* work outside of their approved program of graduate medical education (as reflected on Form DS-2019).

In reviewing this matter, it is important for J-1 physicians and program directors to understand that the central issue is whether or not a proposed *activity* is a curricular requirement of the approved residency or fellowship training program. If the proposed activity falls outside of the normal scope and/or is not a required component of the training program, then it is deemed to be "work outside of the approved training program" and not permitted for J-1 physicians.

Specific DoS and regulatory citations related to J-1 participants' "employment" and compensation can be found below.

U.S. Code of Federal Regulations (22CFR§62.16)

- a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee, such as the host organization, when employment activities are part of the exchange visitor's program.*
- b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.*
- c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.*

DoS Statement of Policy (1999)

...a foreign medical graduate is not authorized to "moonlight" and is without work authorization to do so. A foreign medical graduate may receive compensation from the medical training facility for work activities that are an integral part of his or her residency program. The foreign medical graduate is not authorized to work at other medical facilities or emergency rooms at night or on weekends. Such outside employment is a violation of the foreign medical graduate's program status and would subject the foreign medical graduate to termination of his or her program.

TAKEAWAY

J-1 physicians may engage in and receive compensation for *only* those activities that are part of the training program for which ECFMG sponsorship was approved. Work outside of the approved training program is strictly prohibited.