

## **Fox Rothschild Podcast**

### **Physician Recruitment Podcast: Episode 1**

**Featuring Partners Catherine Wadhvani and Bill Maruca**

*We're talking today on FoxCast with Catherine Wadhvani and Bill Maruca in Pittsburgh about the critically important topic of physician recruitment. Catherine recently presented a webinar on the issue and will share some highlights with us today. She co-chairs the firm's national Immigration Group and for more than 20 years has focused exclusively on immigration law. She represents clients in nearly all types of business immigration matters including many health care employers. Bill has been named as one of the leading health care attorneys in Pennsylvania by Chambers USA. He has extensive health care law experience, mainly representing health-related ventures. Bill also is a prolific speaker, teacher and writer on myriad health care topics. Catherine, Bill, good morning.*

**Catherine Wadhvani:** Good morning.

**Bill Maruca:** Glad to be here.

**Question:** *Catherine, you and your colleagues Margaret Davino and Catherine Barbieri recently led a webinar on tips and considerations for hard-to-fill physician positions including use of the immigration process for finding talent.*

**Catherine Wadhvani:** Yes, physician supply and demand continue to be major issues impacting our health care clients. About 7,000 more primary care physicians are needed in shortage areas. This includes 21,000 to 55,000 primary care physicians and up to 65,000 specialists.

**Question:** *How do residency spots factor into physician recruitment?*

**Catherine Wadhvani:** International medical graduates can be an excellent source of talent, especially for health care employers in shortage areas. To make it work, employer sponsorship is required. Often international medical graduates who complete their training in the U.S. are obligated to spend three years working in a shortage area, which can be great in a difficult-to-recruit area.

**Question:** *Bill, are there are advantages to physicians working in rural areas?*

**Bill Maruca:** Practicing in a rural region has many benefits for the right type of candidate. It provides a broader exposure to medical issues and the opportunity to gain more comprehensive experience. Physicians often have more autonomy, higher quality of life, better clinical support and technology, and can receive more unique incentives. This type of environment can be very appealing to physicians from other countries.

**Question:** *You've been helping clients look at the concept of J-1 waived physicians.*

**Catherine Wadhvani:** Yes – the J-1 waiver option can be very helpful to healthcare employers located in underserved areas as well as those who provide care to patients residing in underserved areas. With government waivers, the J-1 Waiver essentially “waives” the requirement of a J-1 Physician to reside in her or his home country for two years in exchange for working in a shortage area for three years. Employer sponsorship is needed for the physician to fulfill the waiver commitment.

**Question:** *Which government agencies can recommend J-1 waivers for physicians?*

**Catherine Wadhvani:** A state health office can recommend a “Conrad/State 30/Flex waiver.” That’s probably the most commonly used program, but also there also are the Appalachian Regional Commission waivers, Health and Human Services, Department of Veterans Affairs and the Delta Regional Authority. Really, any federal government agency can sponsor a waiver if it believes the waiver is in the public interest.

**Question:** *Tell us more about Conrad/State 30.*

**Catherine Wadhvani:** The Conrad waiver program has been around since about 1994. At present, states can approve up to 30 waivers each. It’s a federal law, but states can add their own rules. There are various requirements such as a commitment to three years of work on a full-time basis in a designated area or providing care to patients who reside in a shortage area, agreeing to report for work within 90 days of waiver approval, and a few other requirements as well.

**Question:** *What are some of the requirements of the Appalachian Regional Commission?*

**Catherine Wadhvani:** In addition to the requirements that I just mentioned, which also apply to ARC waivers, the physicians and the practice must accept Medicare and Medicaid and provide care to indigent, uninsured patients, and not charge more than usual and customary rate for services in the particular Health Professional Shortage Area. And they have to offer a sliding fee scale for patients which is at or below 200 percent of the federal poverty income guideline. Also, it’s important to show that the recruitment evidence meets ARC’s requirements because they are very specific, and there’s certain mandatory contract language too, among other things.

**Question:** *And Health and Human Services has its own clinical J-1 waivers.*

**Catherine Wadhvani:** Yes, that’s right. HHS only considers primary care physicians and general psychiatrists under their program and the work location must only be in a health professional shortage area with a score of 7 or higher. Otherwise, the requirements are really somewhat similar to those that I described for the other programs.

**Question:** *What about hardship and persecution waivers?*

**Catherine Wadhvani:** These are typically filed by the physician rather than the employer. For a hardship waiver, the physician has to show exceptional hardship to his or her U.S. citizen or lawful permanent resident spouse or child. The physician must demonstrate exceptional hardship both if the relatives move abroad with the physician for two years or if they stay in the U.S. while the physician is abroad. Status must still be pursued for the physician in order for that

doctor to remain here in the U.S. A candidate is immediately eligible to do this. In a persecution waiver, which is a very high standard, the candidate must furnish evidence that he or she would be persecuted in the home country due to race, religion or political opinion.

**Question:** *Let's loop Bill Maruca back into the discussion. Bill, once a candidate is identified, and the negotiation process begins, what are some of the issues to be considered?*

**Bill Maruca:** Many states still default to consider most employees “employed at will.” Some health care organizations rely on an offer letter rather than employment agreement, either an elaborate or a simple document. Some institutions use physician manuals as a repository of all standard clauses for employment agreements. Some key things to consider are the start date, service issues, limits on outside activities and compensation. Others are productivity compensation, regulatory concerns and professional liability insurance. There are many more.

**Catherine Wadhvani:** I'll just add that the government waiver programs typically require specific contract language. When the new hire is an international medical graduate, I provide input on the contract, for example to Bill, when he's negotiating the contract or helping to negotiate the contract, but I provide input for the immigration purposes.

**Question:** *Can hospitals financially subsidize private medical groups who recruit new physicians?*

**Bill Maruca:** Yes, but there are limitations. A hospital can generally only guarantee an amount up to the incremental cost of recruiting and employing the new physician. This can include recruiters' fees, salary, bonus, benefits and insurance. If any space, personnel or equipment is needed exclusively to support the recruit, those can be included too. The group cannot impose practice restrictions that unreasonably restrict the recruited physician's ability to practice medicine in the geographic area served by the hospital. The recruit must be free to join other hospital staffs and to admit or refer to other facilities. These arrangements are usually structured as forgivable loans to the practice which are conditioned on the new physician staying in the community for a set period, one to two times the length of the guaranty period.

**Narrator:** *Well, unfortunately, we're about out of time for today. There's so much more we could discuss about physician recruitment, including pathways to U.S. permanent residence, recruiting agreements, employment contracts, J-1 waiver contract requirements and much, much more. Catherine, Bill, thank you for your time today. Listeners, to confidentially discuss how your organization might take advantage of immigration opportunities for physician recruitment, please contact Catherine Wadhvani in Pittsburgh at 412-394-5540 or at cwadhvani – that's C-W-A-D-H-W-A-N-I – at foxrothschild.com. Bill Maruca may be reached at 412.394.5575 or at wmaruca – that's W-M-A-R-U-C-A – at foxrothschild.com..*

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