



COLLEGE of AMERICAN
PATHOLOGISTS

September 23, 2026

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

Re: Fee for Certain H-1B Petitions [U.S. Citizenship and Immigration Services and the DHS Docket No. USCIS-2026-0298] RIN 1615-AD20

Dear Secretary Mullin,

The College of American Pathologists (CAP) appreciates the opportunity to submit comments on the notice of proposed rulemaking *Fee for Certain H-1B Petitions [DHS Docket No. USCIS-2026-0298]*. As the world's largest organization of board-certified pathologists and leading provider of laboratory accreditation and proficiency testing programs, the CAP serves patients, pathologists, healthcare providers, and the public by fostering and advocating excellence in the practice of pathology and laboratory medicine worldwide. As physicians specializing in the diagnosis of disease through laboratory methods, pathologists deliver high quality diagnostic services to patients and other physicians. The pathologist's diagnosis and value are recognized throughout the care continuum and many patient encounters.

In the notice of proposed rulemaking, the Department of Homeland Security (DHS) proposed establishing a \$103,265 fee for all cap-subject H-1B petitions, including petitions eligible for the advanced degree exemption. As the Department of Homeland Security stated, the proposed fee would be imposed in addition to all other applicable fees or payments, including the separate \$100,000 payment which became effective September 21, 2025, and is currently being challenged in court. The CAP is extremely concerned that either fee, much less a potential combined amount of \$203,265, would create a substantial recruitment barrier for pathologists and medical and public health laboratory professionals, exacerbate existing workforce shortages, and reduce patient access to timely diagnostic and laboratory services.

The CAP requests that DHS establish a national interest exemption (NIE) from the proposed \$103,265 fee for pathologists and medical and public health laboratory professionals who will serve the public by the application of their specialized training and knowledge in clinical and public health laboratories for the benefit of the United States. The CAP and other leading laboratory organizations previously requested that DHS exempt pathologists and laboratory professionals from the 2025 H-1B fee increase, which as previously stated, is in addition to the \$103,265 H-1B fee that DHS is now proposing.¹ Our nation faces a critical shortage of pathologists and medical and public health laboratory professionals. International medical graduates (IMGs) play an essential role in helping to meet workforce needs and maintain access to care.

The CAP surveys our pathologist leaders every two years to, among other things, keep track of hiring trends. For several years, the CAP's surveys have indicated that the supply of newly trained pathologists

¹ College of American Pathologists. *National Interest Exemption Request for Physicians and Laboratory Personnel From Increased H-1B Visa Fee*. <https://www.cap.org/wp-content/uploads/documents/MPHLWC-H-1B-Fee-NIE-Request-vFinal.pdf>

is not keeping pace with hiring demand.² Clinical laboratories and pathology practices already face significant recruitment challenges. In addition to the \$100,000 H-1B fee, the added \$103,265 fee would likely worsen laboratory professional shortages. Of the positions that pathology practices (which include clinical laboratories) sought to fill in 2025, 29 percent were vacancies from prior years that remained unfilled. In addition, 39 percent of hiring pathologist leaders did not expect to fill all their open positions in 2025, and 68 percent expected to hire at least one pathologist between 2026 and 2028.³

Meeting this documented hiring demand will require preserving access to all available sources of qualified pathologists, including IMGs. IMGs are an indispensable part of the current pathology workforce, comprising approximately 36 percent of actively practicing pathologists, compared with approximately 25.6 percent of all actively practicing physicians.⁴ IMGs are also critical to the future pathology workforce; non-U.S. IMGs fill a substantial share of pathology residency positions. Pathology fills virtually all available Post-Graduate Year 1 (PGY-1) residency positions allocated for the specialty each year; the number of available residency positions effectively constrains the specialty's ability to grow the pathology workforce.⁵ In 2026, non-U.S. IMGs filled 27 percent of PGY-1 pathology residency positions. From 2022 through 2026, they filled an average of approximately 29 percent of those positions. Many of these physicians will require an immigration pathway to remain in the U.S. and practice after completing their medical training.

Given the pathology workforce's reliance on IMGs, H-1B visas provide an important pathway for qualified international physicians to continue serving patients in the U. S. Without an NIE, hospitals, independent clinical laboratories, forensic laboratories, and public health laboratories could face additional obstacles in recruiting pathologists and other professionals needed to maintain essential services. This concern is particularly significant for medically underserved communities, including rural communities. Eighty percent of visa-holding pathologists, most of whom are non-U.S. IMGs, reported that their first pathology position was in a medically underserved area, compared with 15 percent of permanent residents.⁶ These staffing barriers could adversely affect access to the diagnostic and laboratory services on which patients, clinicians, and public health authorities depend.

The proposed fee would also compound the economic pressures already facing clinical laboratories. Specifically, over the last 10 years, Medicare payments to pathologists have decreased by over 9 percent, while physician practice costs (medical supplies, lab personnel costs, professional liability insurance) have increased by over 24 percent.⁷ These operational burdens are particularly acute for hospital outreach laboratories and independent laboratories serving rural and underserved communities, where margins are narrower. Against this backdrop, an additional H-1B fee of \$103,265 would place a

² Gross DJ, Robboy SJ, Cohen MB, et al. Strong Job Market for Pathologists: Results From the 2021 College of American Pathologists Practice Leader Survey. *Archives of Pathology & Laboratory Medicine*. 2023 Mar;147(4):434–441. doi:10.5858/arpa.2022-0023-CP.

³ College of American Pathologists. 2025 Practice Leader Survey Report. College of American Pathologists. Published April 2026. <https://www.cap.org/wp-content/uploads/2026/08/2025-Practice-Leader-Survey-Report.pdf>; College of American Pathologists. Practice Surveys. <https://www.cap.org/advocacy/updates-and-data/practice-surveys/>.

⁴ Association of American Medical Colleges. U.S. Physician Workforce Data Dashboard. <https://www.aamc.org/data-reports/report/us-physician-workforce-data-dashboard>.

⁵ National Resident Matching Program. MATCH Data Topic: Results and Data Report. https://www.nrmp.org/data-topic/results-and-data/?post_type=match-data

⁶ Metter DM, Delisle A, Robboy SJ, et al. Pathologist workforce update: findings from the College of American Pathologists practice leader surveys and workforce analyses. *Arch Pathol Lab Med*. Published online 2026. doi:10.5858/arpa.2025-0619-CP.

⁷ Based on the Medicare Physician Fee Schedule final rules and accompanying utilization data files published by the Centers for Medicare & Medicaid Services. Medicare Physician Fee Schedule Federal Regulation Notices. <https://www.cms.gov/medicare/payment/fee-schedules/physician/federal-regulation-notice>.

significant financial burden on clinical laboratories seeking to recruit pathologists and laboratory professionals needed to maintain patient access to essential diagnostic services.

Finally, the CAP appreciates that DHS does not intend to apply the proposed fee to cap-exempt H-1B petitions, including petitions involving employment at institutions of higher education or affiliated nonprofit entities, nonprofit research organizations, and governmental research organizations. The proposed treatment of cap-exempt petitions may shield some pathologists and laboratory professionals employed by qualifying academic and research institutions from the additional fee. Pathologists and laboratory professionals performing the same essential functions for other hospitals and laboratories, however, would remain subject to the fee solely because of their employer's cap status. Patient care needs and pathology workforce shortages extend across employment settings, regardless of whether the laboratory employer qualifies for the cap exemption. The CAP therefore urges DHS to establish an NIE for pathologists and medical and public health laboratory professionals regardless of employer type.

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The CAP appreciates the opportunity to comment. We urge DHS to establish an NIE for pathologists (including physicians, medical residents, fellows, and researchers) and medical and public health laboratory professionals from the proposed added H-1B fee. Please contact Suanna Bruinooge, CAP Director of Scientific Regulatory and HIT Policy, at sbruino@cap.org if you have any questions on these comments.