The Role of the Civil Surgeon

Seminar: “Technical Instructions on TB and Immunizations: What Civil Surgeons in Los Angeles Need to Know,” Los Angeles, California
June 15, 2016
About this Presentation

- Author: Roselyn Brown-Frei
- Date of last revision: May 19, 2016
- This presentation is valid only as of the date of the last revision.
- This presentation contains no sensitive Personally Identifiable Information (PII).
- Any references in documents or text, with the exception of case law, relate to fictitious individuals.
Disclaimer

- This presentation is intended to be used for informational purposes only. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefit(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner.

- This training module does not have the force of law, or of a DHS directive.
Dissemination

- This presentation may not be reproduced without the written consent of the USCIS Customer Service and Public Engagement Directorate.

- Please contact the USCIS Customer Service and Public Engagement Directorate at public.engagement@uscis.dhs.gov.
Overview

- U.S. immigration law and the adjustment of status process.
- Health-related grounds of inadmissibility and the medical examination of foreign nationals in the United States.
- Roles of all parties involved.
- **Form I-693, Report of Medical Exam and Vaccination Record.**
- Resources for Civil Surgeons
Objectives: After this training, participants will be able to…

- Understand the immigration process for immigrant (green card) applicants seeking adjustment in the United States.

- Explain the reasons for and purpose of the medical examination of adjustment applicants in the United States.

- Explain the roles of Civil Surgeons, the CDC, USCIS, and the local health departments in the medical clearance process.

- Locate the resources necessary to accurately complete the medical examination and Form I-693, Report of Medical Examination and Vaccination Record.
Immigrants (Green Card Applicants)

- Foreign nationals who seek to and are permitted to permanently reside in the United States as lawful permanent residents because of:
  - Family relationship.
  - Employment.
  - Humanitarian Reasons.
  - Diversity (Lottery).

- The steps to becoming a Green Card holder and the requirements vary depending on:
  - Whether the foreign national is seeking an immigrant visa (consular processing abroad) or adjustment of status (in the United States).
  - The immigrant category (impacts the substantive requirements).
# Acquiring a Green Card

<table>
<thead>
<tr>
<th>Consular Processing</th>
<th>Adjustment of Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant may be living abroad, or ineligible to adjust status in the United States</td>
<td>Getting the green card while in the United States</td>
</tr>
<tr>
<td>Apply with the U.S. Department of State (DOS) using the forms prescribed by DOS;</td>
<td>Apply by filing Form I-485, Application to Register Permanent Residence or to Adjust Status, with USCIS</td>
</tr>
<tr>
<td>get the immigrant visa at a U.S. Embassy or Consulate</td>
<td></td>
</tr>
<tr>
<td>Must be examined abroad by a DOS-designated physician called a Panel Physician.</td>
<td>Generally, must be examined by a USCIS-designated physician called a Civil Surgeon.</td>
</tr>
<tr>
<td>Examination documented on appropriate forms as designated by the DOS (DS Forms)</td>
<td>Examination documented on Form I-693, Report of Medical Examination and Vaccination Record</td>
</tr>
<tr>
<td>2013: 460,751 (about 46.4%)*</td>
<td>2013: 530,802 (about 53.6%)*</td>
</tr>
</tbody>
</table>

*2013 Yearbook of Immigration Statistics, DHS Office of Immigration Statistics
Admissibility

- Generally, all applicants for adjustment of status must be admissible.

- Inadmissibility: Acts, conditions, and conduct specified in INA section 212(a) that bar foreign nationals from obtaining a visa, entering the United States, or obtaining adjustment of status, such as:
  - Health-related grounds.
  - Criminal, security, or terrorist grounds.
  - Public charge grounds.
  - Previous immigration violations.
Health-Related Grounds of Inadmissibility

Immigration and Nationality Act (INA) Section 212(a)(1):

- Communicable disease of public health significance
- Failure to show proof of required vaccinations (for lawful permanent resident applicants only)
- Physical or mental disorder with associated harmful behavior
- Drug abuse or addiction
Health-Related Grounds of Inadmissibility (INA 212(a)(1))

- Protect the health of the U.S. population.

- Immigration Act of 1882 (“Persons suffering from loathsome or dangerous contagious disease”).

- In most cases: If inadmissible, waivers are available; treatment is key.

- Additional details in regulations at 42 CFR 34.
Class A and B Conditions (42 CFR 34)

- **Class A Conditions:**
  - Make the foreign national inadmissible on health-related grounds.
  - Conditions listed in INA 212(a)(1).
  - For example: Active Tuberculosis.
  - Civil surgeon’s diagnosis of a Class A condition is conclusive.

- **Class B Conditions:**
  - Do not make the foreign national inadmissible on health-related grounds but may be relevant for other grounds of inadmissibility.
  - Physical or mental condition, disease, or disability serious in degree or permanent in nature.
  - For example: Latent TB, Diabetes.
Medical Examination

- Purpose: To determine whether the applicant has a Class A condition that would render the applicant inadmissible and ineligible for adjustment of status.

- Technical Instructions for the Examination of Aliens in the United States (TIs) supplement 42 CFR 34 and detail how the examination must be performed.

- The results must be annotated on Form I-693, Report of Medical Examination and Vaccination Record.
Adjustment Applicants Examined by Civil Surgeons

- In general, all adjustment of status applicants are required to have, at some point in time during their immigration history, a medical exam (either outside or inside the United States).

- Extent of the exam depends on the adjustment category:
  - **Most adjustment applicants**: Generally, need full examination from a civil surgeon because they are not medically examined abroad before coming to the United States.
  - **K nonimmigrants**: Generally, do not need a new examination if they apply for adjustment of status within 1 year of their medical examination abroad.
  - **Refugees seeking adjustment**: Generally, only require vaccinations; they are medically examined but not required to be vaccinated before entering the United States. Exception: Refugees entering with a Class A condition (and a waiver), must have another full examination.

- Applicants submit the completed and sealed Form I-693 to USCIS as part of their adjustment applications.
Role of the Centers for Disease Control and Prevention (CDC)

- Promulgate regulations at 42 CFR 32 that define health-related inadmissibility conditions.

- Set forth the immigration medical exam requirements in the TIs:
  - The TIs are binding on all parties involved.

- Advise USCIS during the adjudication of waiver requests for immigrants with Class A conditions.

- Respond to medical questions that officers, civil surgeons, and panel physicians may have based on the TIs.
The Role of Civil Surgeons

Professional requirements

- Licensed M.D. or D.O. in the state in which he or she practices;
- 4 years of professional experience, not including residency or other training; and
- Authorized to work in the United States.

Applies for/receives USCIS Civil Surgeon Designation

- **Form I-910**, Application for Civil Surgeon Designation.
- Blanket designation for health department physician and military physicians -- no application needed but must meet the requirements outlined in USCIS Policy Manual, Volume 8, Part C, Chapter 3.
The Role of Civil Surgeons

- Must follow CDC’s TIs and any updates when conducting the medical examination.

- Must verify the identity of the applicant and take necessary fraud prevention measures, as outlined in the instructions of Form I-693 and the TIs.

- Must report medical examination results on Form I-693.
The Role of Civil Surgeons

- Make referrals when required under the TIs:

  - All TB cases but for latent TB must be referred to the local health department; or

  - For any condition, when unable to make a definitive diagnosis or to determine whether a disease or disorder is a Class A or a Class B condition.

- Must refer the foreign national for a medical or mental health evaluation that will provide sufficient information to resolve the uncertainties.
The Role of Civil Surgeons

- Must ensure that a physician receiving the referral verifies the identity of the applicant and takes the necessary fraud prevention measures, as outlined in the instructions of Form I-693 and the TIs.

- The civil surgeon remains responsible for completing and forwarding the medical report form to the applicant so that the applicant can submit it to a USCIS/DHS official. The report of the consulting physician, as received by the civil surgeon, must be included with the medical report form.
The Role of Civil Surgeons

- Provide applicants with the completed Form I-693 in a sealed envelope.
- Provide applicants with a copy of the medical examination.
- Stay current on the TIs.
- If contact information has changed, notify USCIS within 15 days at Public.Engagement@uscis.dhs.gov.
- Does not determine whether the applicant is admissible or inadmissible.
The Role of Health Departments

- Administer the TB Control Programs in the U.S.

- Administer other health-related programs for certain populations, such as refugees or asylees who are eligible for HHS benefits (independent from DHS immigration procedures).

- Blanket designated by USCIS as civil surgeons only to complete the vaccination portion of Form I-693 for refugees not in need of a full medical exam.
  - Only physicians who meet the civil surgeon requirements are authorized to sign the vaccination supplement for refugees.
The Role of USCIS

- Adjudicates applications for adjustment of status.

- Verifies that applicants have received the required medical exam(s) in accordance with CDC’s TIs.

- Adjudicates waiver requests; as part of the adjudication, consults with CDC.

- Designates Civil Surgeons and administers the Civil Surgeon program based on INA 232 and 8 CFR 232.
The Role of USCIS

- Based on Form I-693, determines whether the applicant is inadmissible on health-related ground(s).
  - USCIS is bound by civil surgeon’s diagnosis.
  - Can request clarification.

- Cannot find someone admissible on health-related grounds if there is a Class A condition.

- Cannot find someone inadmissible on health-related grounds if there is NOT a Class A condition.
Completing Form I-693

- Use most current version available at http://www.uscis.gov/i-693; prior versions of Form I-693 are generally not acceptable.

- Completing the form correctly the first time saves time for civil surgeons, applicants, and USCIS.
Completing Form I-693

■ Evidentiary Value:

■ The medical examination report was submitted to USCIS less than one year after completion of the examination.

■ The benefit application is adjudicated no more than one year after the date the medical examination report was submitted to USCIS.
Summary

Foreign national in the United States prepares paperwork needed for Adjustment of Status (Form I-485).

Foreign national makes appointment with civil surgeon and attends medical examination.

Civil Surgeon examines the foreign national according to CDC’s TIs. and records results of medical examination on Form I-693.

Civil Surgeon gives foreign national the completed Form I-693 in sealed envelope.

Foreign national prepares adjustment of status application, including the Form I-693 completed by the civil surgeon.

Note: Foreign national may submit the Form I-693 after filing the adjustment application, as outlined on Form I-693’s entry page at www.uscis.gov/i-693.

Foreign national files the application with USCIS.

USCIS adjudicates the adjustment of status application.

If the applicant is admissible and otherwise eligible for adjustment, the application is approved and the green card is issued.

If Form I-693 is deficient, USCIS sends a letter to the applicant requesting that the applicant submit additional evidence or have the medical examination results corrected by the civil surgeon.

If required under CDC’s TIs, the civil surgeon refers for diagnosis or classification to another physician or a health department, as appropriate.
Resources

- Immigration and adjustment of status: [www.uscis.gov](http://www.uscis.gov)

- Civil surgeons and prospective civil surgeons: 
  [https://www.uscis.gov/tools/designated-civil-surgeons](https://www.uscis.gov/tools/designated-civil-surgeons)
  - Contact information for CDC and USCIS
  - Links to various documents, including Form I-693, TIs, and Civil Surgeon Seminar Information

- CDC’s Technical Instructions (TIs): 

- Health-related grounds of inadmissibility: USCIS Policy Manual, Volume 8, Part B

- Civil Surgeon Designation and Revocation: USCIS Policy Manual, Volume 8, Part C
Questions?