

Blog Post

Hospital Leaders: Are You Fully Prepared For the Rising Wave of H-1B Onsite Inspections in Healthcare Systems Nationwide? Let's Ensure Your Facilities Are H-1B Compliant!

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In recent months, hospitals and healthcare systems across the country have seen an increase in random and unannounced worksite inspections by immigration officers, particularly targeting H-1B nonimmigrant worker visa holders. These inspections aim to verify employers' compliance with H-1B program requirements, including proper recordkeeping, worksite accuracy, and adherence to position and salary terms. As these inspections become more frequent and rigorous, it's essential for hospital systems to assess their H-1B compliance practices and prepare for potential federal reviews.

The Rising Scrutiny on H-1B Employers in Healthcare

U.S. Citizenship and Immigration Services (USCIS) has increased enforcement efforts, including intensified scrutiny of H-1B employers in the healthcare sector. This has resulted in a surge of audits and site visits targeting hospitals employing international medical professionals, such as physicians, medical technologists, physical therapists, IT professionals, and healthcare

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administrators. Non-compliance with H-1B regulations can lead to fines and disbarment from the H-1B program, among other consequences.

Administrative Site Visit and Verification Program

USCIS launched the Administrative Site Visit and Verification Program in July 2009 to enhance the verification process for certain visa petitions. As part of this program, immigration officers from the Fraud Detection and National Security Directorate (FDNS) conduct unannounced site visits to gather information for compliance reviews. These visits are designed to ensure that petitioners (employers) and beneficiaries (employees) are adhering to the terms of their visa petitions. We previously reported on the potential for increased activity in this area and the importance for employers to be adequately prepared. Now is the time for healthcare systems and other hospital employers to act!

Key Focus Areas During H-1B Inspections

During a worksite inspection, federal agents typically review the following areas to ensure compliance with the H-1B program:

1. Public Access Files (PAFs): Employers must maintain a PAF for each H-1B employee, which should be easily accessible to the public. These files must contain the Labor Condition Application (LCA), wage rates, benefits, and documentation confirming compliance with prevailing wage requirements.

Best Practice: Conduct regular internal audits to ensure PAFs are complete, properly maintained, and accessible.

2. Work Location Compliance: Inspectors will verify that each H-1B employee is working at the location(s) specified in their petition. Reassignments or temporary changes in worksite location require updated LCAs and H-1B amendments.

Best Practice: Maintain accurate records of employee worksite locations and ensure all locations are properly disclosed.

3. Position and Salary Verification: Federal inspectors will confirm that employees are performing the duties and responsibilities outlined in the approved H-1B petition and that the job title, duties, and salary align with the petition.

Best Practice: Regularly review job descriptions and salary records to ensure they match the approved petition.

Why H-1B Compliance Matters

Failure to comply with H-1B requirements can lead to:

- *Fines and Penalties:* Civil monetary fines for failing to maintain PAFs or for worksite violations.
- *Loss of H-1B Privileges:* Repeated violations can lead to debarment from the H-1B program.
- *Worksite Disruption:* Unannounced audits can disrupt hospital operations, especially if records are disorganized.
- *Reputation Damage:* Publicized violations can harm the hospital's reputation and its ability to attract international healthcare talent.

Proactive Steps for Healthcare Systems

To safeguard against compliance risks, hospitals should take proactive measures such as:

1. Conduct System-wide H-1B Compliance

Reviews: Review all H-1B employee records, verify work locations, and ensure PAFs are complete and accessible.

2. Train HR and Legal Teams on Inspection

Protocols: Train and educate HR and legal teams on

how to respond to an unannounced inspection and designate a point of contact for communication with federal agents.

3. Collaborate with Immigration Counsel: Partner with experienced immigration counsel for mock audits and to identify potential vulnerabilities.

4. Standardize Recordkeeping Across Locations: Ensure PAFs are consistently maintained and easily accessible across all hospital locations.

5. Stay Informed About Policy Changes: Regularly review updates to H-1B policies to ensure the hospital system complies with any new regulations.

Strengthening Healthcare H-1B Compliance Practices

As scrutiny on H-1B employers intensifies, it's more crucial than ever for healthcare systems to be prepared for potential inspections. By conducting thorough internal audits, standardizing compliance practices, and collaborating with immigration counsel, hospitals can reduce their risk exposure and maintain compliance with federal regulations. These proactive steps will help safeguard against fines and penalties, while ensuring continued access to international healthcare talent.

For more information on H-1B compliance best practices or assistance with inspection readiness, contact your Akerman immigration counsel or compliance advisor today.

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