Request for Review of LMIA exemption for Foreign Workers seeking Medical Residency Jobs
Prepared by Society for Canadians Studying Medicine Abroad ("SOCASMA") for ESDC and IRCC – July 30, 2019

1. Summary

SOCASMA has reviewed the public information and documentation with respect to the exemption from the necessity of a Labour Market Impact Assessment ("LMIA exemption") for Canadian Faculties of Medicine and associated health employers when hiring foreign workers[1] into jobs as resident physicians and fellows from wealthy Middle Eastern nations. This exemption provides these foreigners exclusive access to coveted medical residency positions in Canadian hospitals. We and the general public closely followed and expressed concern over the chaos caused by the 2018 threat by Saudi Arabia to immediately withdraw over 1,000 medical residents and fellows currently working in hospitals across Canada. This situation provided much public evidence that **foreign medical residents occupy essential jobs in Canadian hospitals, and the evidence shows that these jobs are not "extra"** (implying unnecessary) as often claimed by those deeply engaged[2] in bringing these workers to Canada. Tying the idea of "extra" to the origin of funding for these positions is a misleading argument.

Residency positions are good paying jobs, with minimum salaries equal to the average Canadian income. They also function as post-graduate training necessary to access future physician employment in Canada. Importantly, medical residents provide essential labour in Canadian hospitals. Regardless of where the resident comes from, or how they are funded, a resident is performing work that needs to be done. If these positions were not filled by foreign medical residents, they would be filled by other medical professionals, including Canadian resident physicians, or hospitalists.[3] **Thus it appears apparent that, without conducting a LMIA, it is not defensible to claim that foreign medical residents do not take jobs away from Canadians.**

We are further concerned that the LMIA exemption not only facilitates exclusive access by select foreign doctors to Canadian medical residency positions, **it also creates backdoor access for Foreign IMGs to qualify for and enter the physician workforce in Canada, leading to further displacement of**

[1] While these specific foreign workers are often called "visa trainees", they are in fact foreign workers, or foreign medical residents.

[2] https://ottawacitizen.com/opinion/columnists/padmos-saudi-medical-trainees-arent-taking-training-spots-from-canadian

[3] https://canadianhospitalist.ca/ A Hospitalist is a physician whose primary professional focus is the general medical care of hospitalized patients. Their activities include patient care, teaching, research, and leadership related to hospital medicine.

Canadians[4] from the workforce in Canada[5]. This is a material issue today and we agree with Mathews et al[6] that it warrants a call for government (vs university) oversight of this pathway to practice. According to a recent report from CAPER, the Canadian Post-MD Education Registry, Canadian Universities currently train more foreign visa doctors (2,301) than Canadian IMG doctors (2,214)[7]. And evidence suggests as many as half of these foreign visa doctors may in fact remain in Canada after their residency or fellowship.[8]

We have reviewed the mandate of ESDC, and believe that maintaining the LMIA exemption is contrary to several areas of the ESDC mandate and Minister's Letter which collectively are intended to create and protect jobs and training for Canadians. In particular, the Department's responsibility is to:

- Improve workers' access to good quality job training that provides Canadians with pathways to good careers;
- Develop policies that ensure all [Canadians] can use their talents, skills and resources to participate in learning, work and their community;
- Deliver programs that help Canadians move through life's transitions, from school to work, from one job to another, from unemployment to employment and from the workforce to retirement.

We recognise why Canadian Faculties of Medicine and the associated health employers would want to avoid the LMIA process: **the LMIA exemption means they do not have to demonstrate that giving Canadian jobs to fee-paying foreign nationals does not impact Canadians seeking and qualified for the same work.** The fact that there is a financial gain for university Faculty of Medicines does not change the simple fact that these foreign workers are taking jobs and training that would otherwise go to Canadians because the work itself is essential, and must be performed.

In our recent phone conference, ESDC framed the basis for the LMIA exemption as addressing / achieving two conflicting policy objectives[9]:

- Competitiveness of academic institutions, vs
- Interests of Canadians in the labour market.

We submit that when balancing these two conflicting policy objectives, the interest of Canadians in the labour market and the public interest to secure reasonable and timely healthcare is paramount to the

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[4] "Canadian IMGs" in this document refers to both Canadian citizens and permanent residents who are considered International Medical Graduates (IMG) because they received their medical degree from a medical school not in Canada or the USA (as accredited by the Committee on Accreditation of Canadian Medical Schools or the Liaison Committee on Medical Education). Foreign medical residents are also "IMGs" however they are treated preferentially to Canadian IMGs through all aspects of the equivalency exam and residency application process.

[5] "The growth in the number of visa trainees and the high retention of these physicians warrant further consideration of the oversight and coordination of visa trainee programs in provincial and in pan-Canadian physician workforce planning." See Mathews *et al.* https://www.researchgate.net/publication/317612224_Credentialing_and_retention_of_visa_trainees_in_post-graduate_medical_education_programs_in_Canada

[6] See link in Footnote 5 for link to study.

[7] https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31950-0/fulltext

[8] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5468948/

[9] It should be noted that the "competitiveness of Canada's academic institutions" is not documented in the reasons originally provided in the Backgrounder that lead to Bulletin 230, nor in Bulletin 230 itself, when the decision to exempt foreign medical residents from the LMO was made.

benefit of additional revenue to the universities. We submit that the financial interests of a few university departments are dwarfed by the ESDC mandate to improve Canadians' access to good quality job training, provide pathways to good careers, and to develop policies and programs to help Canadians transition from school to work and to participate in learning, work and their community. Medical residency jobs for Canadians check all of the boxes on the ESDC mandate.

If we don't get this balance right, the competitiveness of the Canadian economy itself may suffer. Every year we are turning away hundreds of qualified Canadians from pursuing a career in medicine in Canada, forcing them to emigrate to other countries.

The fact that foreign medical residents are a "good deal" for Ministries of Health and Universities does not negate the fact they are taking away jobs and training opportunities from Canadians. We submit that in the long run this policy is a "bad deal" as it depletes resources necessary to uphold the medical training pathway for Canadians for the sake of university profit and short-term budget gains. These policies not only displace Canadians but also exacerbate Canada's physician shortage and hence, negatively affect public access to health care and threaten our national health care security.

We implore ESDC to take heed of the empirical evidence from 2018 that demonstrates the high price of our heavy reliance on free foreign labour to deliver necessary resident physician services as it leaves Canadian health care vulnerable to decisions of foreign governments and the state of Canada's international relations.

In summary, foreign medical residents fill essential jobs, take away post-graduate training jobs necessary to obtain a license to enter the medical profession from Canadians, deplete scarce training resources, exacerbate the physician shortage[10] and public access to health care, leave Canadian medical graduates unemployed and unable to access the profession for which they are trained, and springboard select foreign IMG physicians into full medical licensure in Canada ahead of their Canadian IMG counterparts.

On account of the foregoing, and further supporting evidence below, **we outline the steps that we request be taken by ESDC, including the removal or rescindment of the LMIA exemption for medical residency positions.** At this time, we are not requesting a review with respect to medical fellowship positions as the circumstances that give rise to fellowship training positions is far more varied and has more diverse considerations as compared to residency positions.

Our request:

1. That ESDC immediately initiate a Review of the LMIA exemption for foreign workers entering Canada to take positions as medical residents.

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[10] Ministries of health often claim that there is not physician shortage. They speak in terms of "distribution imbalance". However, one need only look at the statistics of the provincial recruiting agencies including the positions they are unable to fill to obtain an objective view of the fact that Canada does not train enough Canadians to meet the public need for physicians. The statistics of the provincial colleges of physicians and surgeons of foreign registrants also provides evidence in this regard. The media, the Fraser Institute, and common experience should also cast skepticism on any statement that there is no physician shortage.

2. That ESDC immediately reinstate the requirement for a LMIA for foreign medical residents until the Review is completed. The information in the LMIA will provide empirical evidence of the labour market impact of these foreign workers in Canada.
3. That ESDC investigate, through inquiries of hospitals and health authorities, how these positions would be filled in both the short term, and the long term, in the absence of the hundreds of foreign medical residents currently working in Canada. This investigation must inquire beyond the simple "there is no funding for Canadian medical residents" to obtain answers as to how this work would be otherwise be delivered in Canadian hospitals – be it by residents or other healthcare professionals.[11]
4. That ESDC, during their review, avoid conflating the source of funding for foreign medical residents and the corresponding lack of additional Canadian medical resident funding from Ministries of Health, with the fact that these essential jobs in Canadian hospitals would otherwise be filled by Canadians.
5. That ESDC investigate how many foreign medical residents ultimately immigrate to Canada having had, and indeed on the basis of, their privileged access to Canadian medical residency training, and thus displace Canadians from jobs as physicians in Canada.

Please don't hesitate to request any further information or sources we have to support this submission. We look forward to your timely reply on this important matter and to supporting your review.

Sincerely yours,

Rosemary Pawliuk,

President of Society for Canadians Studying Medicine Abroad

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[11] During the Saudi situation in 2018 many hospitals would have prepared a plan to respond to the imminent departure of over 1,000 Saudi medical residents and fellows. Obtaining these response plans would identify the near term and longer-term strategies to replace these essential positions.

2. HRSDC Reasons for exemption from LMO in Operation Bulletin 230 and Backgrounder ("HRSDC Reasons") September 1, 2010:

1. **Foreign medical residents do not take away employment or training opportunities from Canadians** because these positions are specifically created for and funded entirely by foreign governments. (Bulletin 230 page 1) and (Backgrounder Page 3)
2. As such HRSDC determined that **Canadians cannot be negatively impacted** by these offers. (Bulletin 230 page 1)
3. HRDC did not share the view of some "Canadian medical stakeholder groups" that these foreign positions contribute to the physician shortage in Canada by draining limited physician training resources available in Canada, and that these physician trainers should concentrate solely on medical post-graduates who will establish their careers permanently in Canada. They also did not appear to agree that foreign medical residents may not ultimately contribute to the "physician shortage" as they may immigrate to Canada. HRSDC concluded that:
    - "foreign medical residents and fellows do not take away employment or training opportunities from Canadians as these positions are specifically created for and funded entirely by foreign governments in the case of residents." (Backgrounder, page 3)
    - "As part of their financial agreement with their home country, such foreign nationals commit to return to their country of origin once their residency or fellowship has been completed. However, Canada is not party to these agreements and does not compel foreign nationals to return to their home countries on the basis of these commitments. Foreign post-graduate residents and fellows may qualify to apply to immigrate to Canada under the Canadian Experience Class (CEC) because the work they perform in their [Canadian] residency or fellowship positions generally allows them to gain the required minimum of two years of full-time skilled work in Canada required to apply under the CEC." (Backgrounder, page 3)

3. Discussion and Evidence Rebutting the HRSDC Reasons[12]

3.1 Medical residency positions are first and foremost jobs. Resident physicians are NOT students. These jobs are a pathway to further employment for physicians in Canada.

a. The self-regulating bodies of the provinces require that medical graduates complete a period of on-the-job training to supplement their academic degree before they can become licensed for independent practice. The purpose of mandating medical graduates to practice under supervision in at the job entry level is to ensure that medical graduates have practical experience to ensure public safety.

b. Resident physicians provide essential medical services, research and training in Canadian hospitals. Hospitals cannot be run without the services of resident physicians. Resident physicians take histories, conduct examinations, order tests, make diagnoses, and prescribe and provide treatment. They make life and death decisions and provide valuable patient care. There are well over 1,000 residents and fellows from Saudi Arabia alone working in Canadian hospitals. If they were not there those positions would be filled by other Canadian health professionals[13].

c. Resident physicians are employees of hospitals or health agencies, regardless of the origin of funding for their positions. They work up to 80 hours per week, for which they are remunerated. In some cases, foreign residents are as much as half of the resident physician labour. All resident physicians' wages and work conditions are negotiated and governed by a collective agreement, including non-Canadian resident physicians. They earn between $40,000 to $90,000 per year plus benefits, depending on the province and residency year. For perspective the average Canadian income is $45,000 per year.

d. The universities' role is to provide the academic part of residency training and to ensure that the program is structured to meet the standards of the RCPSC and the CFPC. They are compensated for this service regardless of where the funding for resident physicians comes from. Academic learning is generally comprised of a half day per week of didactic learning plus studying for examinations. Continuing education while working full time is not unique to residents. Many professional regulatory bodies require their licensees to take a minimum amount of continuing education classes each year.

e. Some universities, such as University of British Columbia, passed a resolution clearly stating that resident physicians are NOT students and that residents were entitled to none of the privileges of students.

3.2 Foreign medical residents do take away jobs from Canadians and Canadians are negatively impacted by these offers to foreign nationals. Every year there are

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[12] Statements in this document are based on evidence that we have collected from reliable sources including government documents obtained through the Freedom of Information process. Should you require the source documents or more evidence, please contact us.

[13] "From the Canadian hospital side, finding the proper human resources to manage the void created by the departure of our Saudi trainees will take Herculean efforts. Having a few months of grace will help hospitals manage and cope." https://ottawacitizen.com/news/local-news/loss-of-saudi-residents-a-staggering-problem-for-canadian-hospitals-doctor-warns

hundreds of qualified Canadian IMGs who cannot access residency training, which is a pre-requisite of becoming licensed for independent practice across Canada.

a. In 2019 there were 2302 Canadian IMGs who had proven substantial equivalency who applied for residency positions. Only 391 matched to a residency position, leaving 1911 Canadian IMGs without residency positions.

b. Most international medical graduates are forced to emigrate and build a life in medicine outside of Canada or stay in Canada and work in whatever jobs they can find.

c. According to a recent report from CAPER, the Canadian Post-MD Education Registry, Canadian Universities currently train more foreign visa doctors (2,301) than Canadian IMG doctors (2,214).

3.3 Medical residency positions are not "created" or "extra" positions that would not otherwise exist in the absence of free labour from foreign governments, contrary to what is often stated by universities.

a. These foreign funded positions are necessary to the delivery of healthcare in Canada and would be replaced with positions for either Canadian medical residents or other Canadian healthcare professionals, funded by the Ministries of Health in absence of free foreign labour.[14]

b. In absence of a reliance on the free foreign labour, Provincial, Federal or Canadian organisations would likely be forced to or offer to fund new Medical Resident positions – including Ministries of Health, municipalities, citizen groups, private corporations, and the Department of National Defense.

c. Most of the hospitals in Canada which accept foreign medical residents could not function effectively without them because they are filling necessary jobs. In McGill University 20% of the residents are foreign medical residents. At McMaster, some departments are made up by one-third to one-half.[15]

d. The fact that the foreign medical residents are a "good deal" for Ministries of Health and Universities does not negate the fact they are taking away jobs and training opportunities from Canadians. Senior Management for many Canadian hospitals identified the gap in services that the departure of over 1,000 Saudi medical residents and fellows would leave, which is clear evidence that these are essential jobs that would be filled in absence of the free foreign labour. Since the Saudi threat of withdrawal, even those within the universities' Faculties of Medicine

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[14] The importance of resident physicians in the health care system and the value of the services they provide is not something that has been researched in Canada to the best of our knowledge. However, there is substantial research about the value and need for resident physicians in the United States. Although there are differences between the American and Canadian health care system, the findings in American research relevant to the necessity and value of resident physicians is applicable to Canada. See for instance: https://www.healthaffairs.org/doi/full/10.1377/hlthaff.20.2.136 and https://www.nejm.org/doi/full/10.1056/NEJMp1402468. The nearest Canadian study about the economics of medical residency that we are aware of was conducted by the University of Calgary Economics Department. See https://www.semanticscholar.org/paper/Social-rates-of-return-to-investment-in-skills-and-Emery-Crutcher/9207dcf2a0c175142abbe05ed2ae6793efaeb0a1

[15] https://www.theglobeandmail.com/canada/article-canadian-hospitals-scrambling-as-saudi-medical-students-withdraw-from/

are speaking out about how the public interest is negatively affected by a reliance on foreign medical residents.

i. Chief of Staff at Windsor Regional Hospital, Dr. Ing in reference to the 10 resident physicians from Saudi Arabia who were ordered home stated that the departure of the Saudis would impact the hospital's efficiency in providing patient care, since these Saudi-funded residents are an "integral part" of the local health care system. Dr. Musyi, CEO of the hospital said that this would cause a "crimp in care" as Saudi trainees are relied on to perform rotations.

ii. Dr. Salvatore Spadafora, the vice dean of post-MD education at the University of Toronto's Faculty of Medicine described the role of Saudi-sponsored residents as "vital" to delivery of health care in Ontario.

iii. Dr. Archer of Queen's University states that Canadian/Saudi diplomatic relations have caused uncertainty and staffing shortages in many hospitals across Canada. He states that hospitals rely on fully-funded Saudi-sponsored residents for patient care, and that withdrawal of these foreign residents would create "chaos in the clinical coverage of many of our hospital services, since there are inadequate numbers of Canadian medical trainees to backfill the missing international trainees."

iv. Paul-Emile Cloutier, president and CEO of HealthcareCAN, the national voice of healthcare organizations and hospitals, said if the rapid withdrawal of Saudi medical trainees had occurred, there would have been a "major [negative] impact" on waits for specialized care, as serious healthcare staff shortages continue across the country.

v. Dr. Mark Taylor, Vice-President of Medicine for Nova Scotia Health Authority, stated that if Saudi Arabia had not backed down from its original position the results would have "catastrophic" for Nova Scotia citizens.

vi. Dr. McLean of McMaster University at the prospect of losing 156 Saudi medical residents and fellows: "We're still trying to understand what the gaps in coverage are, but they are significant," Dr. McLean said. "There's a lot of uncovered nights."

3.4 Canada's National Health Security is threatened by the size, and prominence of the foreign medical resident positions as it leads to underfunding of Canadian medical residency positions.

a. The Professors of Medicine of Canada state that the public interest demands that it fund its own "faltering pipeline for the training of Canada's doctors.... This is a pressing issue that threatens Canada's National Health Security. We believe that we have an ethical responsibility to avoid dependence relying on uncertain funds from foreign (and sometimes hostile) nations to pay for the training of the doctors that we have now and the increased number of doctors we will need for a healthy future." [16]

b. Dr. John Stewart of McGill University stated that the money received by the universities "is irresistible for cash-strapped institutions, but is detrimental to training doctors for Canada's own needs. The shortage of Canadian doctors is well-established. Every Saudi trainee [medical resident] takes the place of a Canadian who would live and work here." He continues: "The

[16] https://deptmed.queensu.ca/dept-blog/why-canada-should-fund-its-own-medical-education-system

impact of training Saudi Arabian doctors on both the training of Canadian doctors and on our medical manpower needs are vital issues."[17]

c. In the past year there has been a growing awareness of the fact that universities sell residency positions to increase their revenue and the implications of doing so. Concern of harm is being expressed by the public, by Canadians who are international medical graduates, by health care administrators, and even from physicians working for the universities themselves. The concerns include:

   i. Canadians with international medical degrees are being displaced by foreign workers;

   ii. Foreign medical residents deplete limited training resources needed by Canadians. The universities have no ability to train more residents due to insufficient human resources and infrastructure. The Ministry of Defence has offered to fund 50 positions in 2018. They made the same offer in 2019 and state they could and would fund more. They have been given 5 positions in 2018 and 4 positions in 2019. The Ministry of Defence (which is prepared to pay fees at a comparable level to the Gulf country sponsors) was advised the universities lacked the infrastructure and training resources to train the 50 residents the Ministry of Defence requires[18]. (Would it be ironic if our Canadian military found success in securing sponsored family medicine residency positions through Faculties of Medicine in recognized jurisdictions such as Ireland, Australia and the United Kingdom[19] to ensure their future recruiting needs are met?);

   iii. Reliance on foreign medical residents interferes with Canada's ability to address Canada's physician needs. Expending scarce resources to train foreign physicians is an opportunity cost to Canada's physician needs. For example, the shortage of anesthesiologists and psychiatrists in Canada is acute, yet there are currently about 120 foreign medical residents in anesthesiology and 48 in psychiatry, which is an opportunity cost of 168 trained Canadian physicians in these areas alone;

   iv. Reliance on single-source funding from a foreign government has compromised the independence and autonomy of our health care policy-making and human resource management, and ultimately leaves our physician training pathway and adequacy and security of future clinical services for Canadians highly vulnerable.

   v. The fundamental values of Canada and Saudi Arabia do not align, especially as they relate to human rights. Saudi Arabians account for a disproportionate number of conduct complaints (at least in British Columbia). Further, it is not uncommon for socio-cultural problems to arise between male foreign medical residents and female patients and staff in our Canadian health-care workplace.[20]

   vi. The precise number of foreign medical residents is not known to us (we presume the Ministries of Health have accurate information), but it is believed generally to be in the

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[17] https://beta.windsorstar.com/opinion/columnists/stewart-saudi-arabian-medical-trainees-in-canada-mask-a-problem-we-should-correct/wcm/49f5efe3-606a-4836-860c-6ba27f9046c8/amp/

[18] We have verified this information with the Ministry of Defence.

[19] https://www.cfpc.ca/RecognizedTraining/

[20] If ESDC would like additional information on this issue of inconsistent competence and conduct issues related to cultural differences that affects working relationships with female staff and patients, please advise.

range of 647 to 857 compared to a total of 334 residency positions[21] offered to Canadian IMGs in 2018/2019.

3.5 Foreign workers are becoming licensed to practice in Canada while equally, or better, qualified Canadian IMGs[22] are denied that opportunity.

a. We undertrain across Canada. For example, in BC, the attrition rate of physicians is between 400 and 450 according to the Doctors of BC. BC accepts only 288 medical students per year. BC trains only 346 residents per year.

b. Access to health care including excessive waiting times beyond even the government's own standards has placed Canada consistently in the bottom 3 of the countries rated by the Commonwealth Fund.[23] Although the physician shortage across all parts of Canada is regularly in the news, it has been described as a "crisis" in both Nova Scotia and British Columbia in the last month.

c. When the provinces determine the pressure of insufficient physicians is so great that action must be taken, they direct provincial recruiters to hire foreign physicians, and to streamline the immigration process to support their recruitment objectives. These recruited foreign doctors are primarily from South Africa but also from the USA, Australia, Ireland, and the United Kingdom.[24] These are also the leading countries from which Canadian IMGs graduate. This is a second level of displacement of Canadians who have been unable to access residency training in Canada.

d. There have been varied reports about the number of foreign medical residents who stay in Canada after their training is complete. With the exception of Libya, which complained that 99% of its trainees stayed in Canada, the estimates were between 10% and 25% for all foreign medical residents. In 2017 a comprehensive study was conducted. It found that 24% of trainees ignored their contract to return home and stayed in Canada directly after completing their training. However, by 2015, 53.6% of these foreign medical residents who had completed training had remained or returned to Canada to work.[25] It was concluded that visa training programs represent another route for Foreign IMGs to qualify for and enter the physician workforce in Canada, thus further displacing Canadians and Permanent Residents from employment opportunities in Canada.

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[21] Slightly more than this number of Canadian IMGs get residency training positions as some provinces allow Canadian IMGs to compete against CMGs for positions that are unmatched after the first iteration. This data is available on the CaRMS website.

[22] Foreign medical residents do poorly compared to CMGs and Canadian IMGs in the MCCQE2. Only 39.5% passed the MCCQE2. Under their contract with the universities, they are entitled to additional supports to assist them in passing the mandated exams. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5468948/

[23] https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Final%20for%20release%20e-brief_271_Online.pdf?mc_cid=b33439c8d8&mc_eid=560e315495

[24] https://www.thechronicleherald.ca/news/local/overseas-trip-to-recruit-uk-irish-doctors-working-officials-253722/

[25] Credentialing and retention of visa trainees in post-graduate medical education programs in Canada. https://link.springer.com/article/10.1186/s12960-017-0211-6; https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31950-0/fulltext

e. Considering the number of foreign medical residents, this verifies that the overall displacement of Canadian physicians from the workforce is likely in the thousands. A study is required to ascertain the extend of displacement that has occurred.

f. The foreign medical resident program essentially provides a "pay to play back stage pass" to select foreign nationals to immigrate to Canada to work as physicians. This is because their access to a foreign funded medical residency creates the opportunity to qualify to apply to immigrate to Canada *because of the work they perform in their residency or fellowship allowing them to gain the required minimum of two years full-time skilled work in Canada required to apply under the Canadian Experience Class (CEC)*. Despite financial agreements with their own home countries that commit foreign medical residents to return to their home country after their residency is completed, Canada does not compel these foreign nationals to return to their home countries on the basis of those commitments.

3.6 Foreign medical resident fees are not used to create new Canadian residency positions by universities ($100,000 per medical resident per year)

a. We have been advised by physicians associated with UBC in the face of criticism of selling much needed residency training to foreign-funded residents, that this money allows us to train more Canadians. In fact, this is a falsehood, as shown in FOI access to the relevant documents that demonstrated that zero dollars went to fund Canadian residency positions.[26] There is no reason to believe it is any different in other provinces.

b. The Ministry of Health does not fund more residency positions as a result of having free resident physicians.

c. The fees from foreign medical resident sponsors are allocated at the universities' discretion, whereas fees paid for postgraduate training to the universities from the Ministries of Health are to be used to pay for the cost of postgraduate training. The temptation to keep Ministry-funded residency positions flat and prefer funds which allow for spending at the universities' discretion, appears hard to resist. We are unaware of any audits, or guidelines from the Ministries of Health or any other oversight agency directing the universities in their use of these foreign "sponsor" funds.

3.7 Resolving Policy Conflict between Jobs and Training for Canadians, and Competitiveness of Canada's academic institutions

a. Section 205(c)(ii) provides:

(ii) limited access to the Canadian labour market is necessary for reasons of <u>public policy</u> relating to the competitiveness of Canada's academic institutions or economy;

b. One must consider what is intended by "competitiveness of Canada's academic institutions".

i. The Act does not provide a list of criteria to consider. However, the qualifying words "public policy" are important – they appear first in the statement and therefore modify and govern the analysis of what is relative to the evaluation of competitiveness. Pure

[26] The documentation can be forwarded to you upon request.

financial gain of an institution is rarely equated with public policy. It is more likely than not that competitiveness of academic institutions contemplates attracting knowledge, expertise and academics who have special knowledge and skills to further the purpose of an academic institution, i.e., attracting higher learning rather than pure financial gain. The Middle East / Gulf resident physicians are not selected because they are "the best and the brightest", nor because they offer academic superiority to the benefit of enhancing Canada's academic institutions. In fact, they don't even have to prove substantial equivalence by taking the examinations required of Canadian IMGs. Complaints about inconsistent competence and cultural problems related to disrespect of female patients and co-workers are not uncommon and should be considered a strong indication that issues of public policy can be undermined by the LMIA exemption.[27]

ii. It is difficult to understand how "public policy relating to the competitiveness of Canada's academic institutions" could come into play in the context of medical residency training given that medical residency training is not "academic" but on-the-job training (serving a purpose similar to articling in law, or trade apprenticeships) intended for the purpose of conferring practical experience, under supervision, to ensure public safety and health. Secondly, universities in Canada do not have legislative authority to provide medical residency training; they are only legislatively empowered to confer medical degrees. Third, section 205(c)(ii) contemplates a demonstration that these foreign medical residents are ***necessary* for the reasons of public policy *relating* to competitiveness.** It is hard to envision how foreign vs Canadian, medical residents could be found to be necessary to make an academic institution more competitive. This is more so considering medical residency training falls outside the legislative mandate of the academic institutions, and to the best of our knowledge, Canada and the United States are the only developed countries where residency training is associated with academic institutions.

iii. After considering all of the above, financial gain of the universities appears to be the sole criteria remaining to establish "necessary for reasons of public policy relating to the competitiveness of Canada's academic institutions or economy", which cannot be sufficient reason to undermine access to the physician labour market for hundreds of Canadian doctors.

3.8 Foreign medical residents are not "funded entirely by foreign governments".

a. Foreign medical resident contracts are accepted from the Middle East Gulf countries, primarily Saudi Arabia, Kuwait, Oman, Bahrain, and Libya. The sponsors vary and include universities, hospitals, corporations, Cultural Bureaus, and governments and their ministries such as Ministries of Health, Ministries of Defence, and Ministries of Higher Education.[28]

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[27] If ESDC would like additional information on this issue of inconsistent competence and conduct issues related to cultural differences that affects working relationships with female staff and patients, please advise.

[28] Copies of some of these contracts can be made available upon request. Further, we suggest ESDC make themselves aware of how much funding is actually from "foreign governments" in order to review the current

b. Conversely, in Canada, sponsorship funding from non-provincial or federal entities has not been allowed, for example by corporations, cultural organisations, municipalities or individuals.

3.9 Canadian organizations are prepared to fund residency training for Canadians, yet are blocked from doing so.

a. Federal Department of National Defence and the Canadian Armed Forces.
The Ministry of Defence cannot deploy troops where it needs. Their policy is not to deploy to areas where there is a risk of injury without a physician in the ranks. They, like the rest of us, are limited by the doctor shortage. In 2018, they offered to fund 50 residency positions. Most of the universities stated they could not train additional residents due to insufficient training resources. Only 3 or 4 universities had capacity to train a few recruits.

- Only 5 positions were made available to the Ministry of Defence in 2018.
- Only 4 positions were made available to the Ministry of Defence in 2019.

b. In British Columbia (and probably in other provinces as well) religious groups and ethnic communities have historically funded residency training for immigrant physicians. These groups continue to be ready, willing, and able to fund residency positions to assist with their demographic needs.

c. In the interior of British Columbia, there are mayors who have expressed a desire to fund residency training. The motivation is that the community is negatively impacted economically because people do not want to live and work in a place that does not have access to medical care. Similarly, with large corporations which are based in rural regions. They are motivated to fund residency training as they believe that this will alleviate the difficulty, they have attracting workers to these regions. I cannot speak for the rest of Canada but I expect the same to be true.

d. When SOCASMA asked that an individual be allowed to fund a resident on the same terms as that foreign medical residents are funded, that request was denied by the university.

e. We have raised this issue of availability of funding with UBC and with the Ministry of Health several times. Each time the answer is that they do not have the necessary infrastructure and trained preceptors to train more residents. The lack of training resources to fund additional positions for Canadians funded by Canadians appears to be consistent across the country.[29]

3.10 Standard of practice and public safety may be compromised as foreign medical residency candidates are not consistently objectively examined for competence.

a. Although Bulletin 230 requires that residents and fellows come with a medical degree that is recognized as equivalent to a Canadian MD, in Canada, with the exception of medical degrees from the USA and foreign medical residents who pay hefty fees to the Faculties of Medicine, no international medical degree is assumed to be equivalent for the purpose of accessing residency

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support for the reason for the LMIA exemption cited in Bulletin 230, while proof of "foreign government" funding is not required to be provided by visa applicants when entering Canada to take up medical residency positions.

[29] This is evident from the fact that the Ministry of Defence was only able to train 4 or 5 recruits in a year when they would like to train 50 now.

training. Canadian IMGs must pass two Medical Council of Canada examinations to demonstrate substantial equivalence to a Canadian MD, the NAC OSCE[30] and the MCCQE1[31] before they are allowed to access residency training.

b. Foreign medical residents are not required to pass either of these examinations to be granted a resident physician position and treat patients in some provinces, and only the MCCQE1 in others.[32]

c. "Visa training programs represent another route for IMG to qualify for and enter the physician workforce in Canada. The growth in the number of visa trainees and the **high retention of these physicians** warrant further consideration of the oversight and coordination of visa trainee programs in provincial and in pan-Canadian physician workforce planning." Mathews et al.[33]

d. Interviews and FOI disclosures demonstrate that since the early 1990s there have been complaints from supervising physicians about the inconsistent quality of knowledge and skills among foreign medical residents.

e. Foreign medical residents do poorly compared to CMGs and Canadian IMGs in the MCCQE2. Only 39.5% passed the MCCQE2. Under their contract with the universities, they are entitled to additional supports to assist them in passing the mandated exams.

f. We are aware of one Saudi resident who was fired from a program in the USA in 2016 and had a residency position in Ontario within days of his termination.

g. Some administrators complain about the problems that arise from the vastly different culture, especially when the manner in which they view and treat women causes problems that adversely affect patient care and staff relations. [34]

3.11 Discrimination and Unequal Opportunity for Canadian IMGs

a. Foreign medical residents under the provisions of their contract are given the same opportunities as CMGs. Canadian IMGs are denied the same opportunities as CMGs.

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[30] The Medical Council of Canada (MCC) explains that the National Assessment Collaboration Objective Structured Clinical Examination (NAC OSCE) was developed and became available in 2010. "The NAC OSCE is designed to evaluate an IMG's clinical skill at the level of a Canadian medical graduate entering postgraduate training." The examination includes 16 stations, 12 of which are encounters with actor patients. The remaining four stations are written (short answer) therapeutic questions. The examination will measure a physician's skill in history-taking, performing a physical examination, communicating with a patient and diagnosing and managing a patient's complaint or presentation. The NAC OSCE seeks to ensure that a person has the necessary skills necessary for practicing medicine.

[31] The MCC explains that the MCCQE1 is a "summative examination that assesses the critical medical knowledge and clinical decision-making ability of a candidate at a level expected of a medical student who is completing his or her medical degree in Canada."

[32] https://www.researchgate.net/publication/317612224_Credentialing_and_retention_of_visa_trainees_in_post-graduate_medical_education_programs_in_Canada

[33] *ibid*

[34] If ESDC would like additional information on this issue of inconsistent competence and conduct issues related to cultural differences that affects working relationships with female staff and patients, please advise.

b. Foreign medical residents have access to residency training disciplines that Canadian IMGs are denied.

   i. There is a quota of the number for Canadian IMGs to access to residency. There is no quota for Foreign IMGs. The foreign medical resident programs are used to meet the health care needs of hospitals, in lieu of increasing intake of Canadian IMGs to meet our domestic needs.

   ii. Canadian IMGs are restricted in the disciplines they can access, largely relegated to general specialties with the vast majority of designated positions in family medicine.

c. To provide a specific example, in BC Canadian IMGs can only be generalists. They are not given any opportunity to train in a specialty other than internal medicine, psychiatry, and pediatrics. They are denied the opportunity to sub-specialize in the 3 specialties that are available. This denial is stated in the terms of accessing the Canadian IMG Stream. In addition, Return of Service contracts require Canadian IMGs to start their return of service immediately after certification. Some provinces allow deferral of this obligation if a person wants to sub-specialize, but in BC, deferral is not entertained, effectively preventing Canadian IMGs from sub-specializing.[35]

d. Canadian IMGs face prejudice. They are negatively stereotyped as inferior medical graduates. This stereotype is perpetuated through a system where Canadian IMGs are not allowed to compete against CMGs even after passing the substantial equivalency examinations.

e. Canada espouses equal opportunity for all its citizens and permanent residents. It espouses that Canadians are entitled to succeed on the basis of individual attributes and are not limited by group classification. Much is said about breaking down glass ceilings in our pursuit of freedom and equality. But for Canadian IMGs the ceiling is not glass. It is readily apparent. It is university created, government condoned, classification of Canadians which entitles Canadian and American medical school graduates to progress to become licensed physicians regardless of how well-suited and able they are for the medical profession. The motto is "No CMG left behind". It is university created, government endorsed, classification, marginalization, and limitation of Canadians who are international medical school graduates.

f. Premiers of the Provinces and Territories of Canada held a meeting of the Council of the Federation earlier in July 2019. The following statement was issued http://www.canadaspremiers.ca/wp-content/uploads/2019/07/Immigration_and_Labour-Market_July10_FINAL-1.pdf:

"Newcomers and foreign-trained Canadians must be able to get timely and fair assessments of their qualifications in order to find good well-paying jobs and participate fully in Canada's economy. Existing work on foreign qualifications recognition has provided meaningful progress on enhancing the timeliness and fairness of foreign qualification recognition processes. Premiers direct labour market ministers to develop a strategic plan that will enhance collaboration, and seek opportunities to improve timeliness, fairness and transparency of assessment processes for newcomers."

g. In entry jobs to medicine, credential recognition is not the issue. As of 2010, the tools for assessment for knowledge and clinical skills of international medical graduates were put in

[35] Sub-specialization training (fellowship) eligibility and/or selection policy requires that one move directly from residency to sub-specialization.

place. These examinations which are designed to establish substantial equivalency were and continue to be available in a timely manner. Nevertheless, Canadian IMGs are not able to "participate fully in Canada's economy" because the Canadian Medical Schools, who are in a position to select which medical graduates progress to resident physician jobs, choose to use their position to advantage their own graduates at the expense of principle, competition, public interest, and Canadian IMGs who have demonstrated their medical training qualifications.

In summary, there is no reasonable basis upon which Faculties of Medicine and employers of resident physicians should be exempt from the LMIA process.

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