

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DR. LATIKA GIRI, on her own behalf and on  
behalf of all other similarly situated,

Plaintiffs,

v.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

Defendant.

Case No. 1:24-cv-00410

**DECLARATION OF CHRISTOPHER FEDDOCK, M.D.**

1. My name is Christopher Feddock. I am the Associate Vice President for Competency-Based Assessment at the National Board of Medical Examiners (“NBME”). I have held this position since October 2021. Prior to that, I served as the Director of NBME’s Clinical Skills Evaluation Collaboration for roughly a year and seven months.

2. I have a Bachelor of Arts Degree from the University of Pennsylvania (1994); a Doctor of Medicine Degree from the University of Kentucky College of Medicine (1998); a Master of Science Degree from the University of Kentucky (2004); and a Master of Business Administration from Xavier University (2023).

3. Prior to working for NBME, and from roughly 2004 through March 2020, I held various positions at the University of Kentucky College of Medicine, in Lexington, Kentucky (the “UK College of Medicine”), as follows: (a) Internal Medicine-Pediatrics Associate Residency Program Director (July 2004 – June 2005); (b) Internal Medicine-Pediatrics Residency Program Director (July 2005 – June 2010); (c) Internal Medicine Residency Program Director (July 2010 – September 2013); (d) Assistant Dean for Curriculum (July 2012 – February 2014); (e) Associate

Dean for Curriculum (March 2014 – February 2017); Senior Associate Dean for Medical Student Education (March 2017 – March 2020).

4. In my position as the Internal Medicine Residency Program Director at the UK College of Medicine, I was responsible for the recruitment and education of twenty-four (24) internal medicine residents per year. In my positions as the Program Director and Associate Program Director for Internal Medicine-Pediatrics, I had responsibilities for the recruitment and education of six (6) internal medicine-pediatric residents each year.

5. In my position as Senior Associate Dean for Medical Student Education, my responsibilities included advising and assisting our students in finding residency positions at which they could continue their graduate medical education following their graduation from the UK College of Medicine.

6. Unless otherwise stated, I have personal knowledge of the facts stated below, based on my work at the UK College of Medicine and/or at NBME.

7. To become a licensed physician in the United States, an individual must generally complete four years of medical school and between three and seven years in a medical residency program, achieve passing level scores on the medical licensure examinations that are required and accepted in a given jurisdiction (usually the three Steps of the United States Medical Licensing Examination (“USMLE”)), and meet any additional requirements set by the state legislatures and state medical boards. The process of becoming a licensed physician thus takes many years for all prospective physicians, and it takes longer for some than for others. It is not uncommon for a given individual to encounter an unanticipated delay in obtaining his or her medical license because of issues encountered in medical school, on a licensing exam, or in applying to residency programs.

8. Broadly speaking, there are two pools from which residency programs draw their applicants: graduates of non-U.S. and non-Canadian medical schools, known as International Medical Graduates, or “IMGs”; and graduates of medical schools located in the United States or Canada, who are sometimes referred to as “USMGs”. IMGs are sometimes also referred to as Foreign Medical Graduates, or “FMGs”.

9. The location of the medical school, not the citizenship of the physician, determines whether a medical school graduate is an IMG. This means that U.S. citizens who graduate from medical schools outside the United States and Canada are considered IMGs, while non-U.S. citizens who graduate from medical schools in the U.S. and Canada are not considered IMGs.

10. During my time at the UK College of Medicine, the College’s residency programs included both IMGs and USMGs.

11. The UK College of Medicine is affiliated with three hospitals in the Lexington area: Cardinal Hill Rehabilitation Hospital; Shriner’s Hospital; and the local Veterans Administration (VA) Medical Center. Residents who do their training at the UK College of Medicine routinely work within these facilities, helping to deliver health care under the guidance of fully licensed healthcare professionals.

12. The precise type of health care services that residents may provide varies from state to state. However, in all jurisdictions and at some point during their residencies, all medical residents provide direct care to patients, including diagnosing, managing, and treating health conditions and injuries. In many states, including Kentucky, medical residents may also apply for a DEA license and write prescriptions for controlled substances.

13. Medical school graduates who intend to continue their graduate medical education in a residency program in Kentucky must obtain one of two types of temporary licenses. These licenses are described as follows on the Kentucky Board of Medicine's website:

#### **Institutional Practice Limited License**

An Institutional Practice Limited License (IP) is issued to a physician entering an accredited residency training program in Kentucky. This license limits medical practice to the parameters of a training program. This license is issued on an academic calendar year, July 1 to June 30, and renewable annually while in training. An applicant must have completed one year of accredited postgraduate training and Parts 1 and 2 of the USMLE or COMLEX. Please refer to KRS 311.571.

#### **Residency Training License**

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A Residency Training License (R) is issued to a physician entering residency training in Kentucky. This license allows a physician to practice within the parameters of the training program, as well as moonlight at locations designated by the Program Director. This license allows a physician to apply for a DEA license. This license is issued on an academic year, July 1 to June 30, and is renewable annually while in training. An applicant must have completed one year of accredited postgraduate training and all parts of the USMLE or COMLEX. Please refer to KRS 311.571.

Here is the link to the relevant page of the Board's website: [https://kbml.ky.gov/physician/Pages/Types-of-Licenses.aspx#:~:text=A%20Residency%20Training%20License%20\(R.apply%20for%20a%20DEA%20license.](https://kbml.ky.gov/physician/Pages/Types-of-Licenses.aspx#:~:text=A%20Residency%20Training%20License%20(R.apply%20for%20a%20DEA%20license.)

14. At the University of Kentucky, most residency positions are filled by way of the main National Residency Matching Program, commonly known as the NRMP "Main Residency Match" or simply the "Match." It is my understanding that the NRMP is an independent, non-profit entity.

15. The Main Residency Match provides a mechanism for USMG and IMG applicants to enter residency training and is conducted every year. Therefore, if someone does not participate in the Match in a given year, he or she can do so the following year. Participation in the Match is voluntary, and – as discussed below -- the Match is not the only means by which an individual can

find a position in a graduate medical education residency program. IMGs and USMGs participate in the Main Residency Match.

16. The Main Residency Match uses a mathematical algorithm to match residency applicants' and residency programs' preferences. Residency program applicants prepare lists that rank their preferred residency positions at the institutions to which they have applied, and residency programs prepare lists of the applicants to which they prefer to allocate their residency positions. The algorithm then compares lists and identifies which applicants have "matched" with which residency programs. There are set dates each year by which applicants and residency programs must submit their Rank Order Lists to the NRMP.

17. If a residency applicant who participated in the Main Residency Match does not match when the matching algorithm is processed, the applicant may attempt to obtain an available unfilled position during the Match Week Supplemental Offer and Acceptance Program ("SOAP"). This includes both IMGs and USMGs.

18. Medical school graduates who did not participate in the NRMP's Main Residency Match may also participate in the SOAP in an effort to obtain a residency position. This also includes both IMGs and USMGs.

19. The NRMP's website provides far more detailed information on how the Main Match and SOAP operate and the dates on which components of the matching process occur. *See* <https://www.nrmp.org/>. I frequently consulted this website in my various positions at the UK College of Medicine, and I also routinely directed our students to do so.

20. There are also a handful of other match programs through which medical school graduates can obtain a position at a residency program in the United States, involving certain specialties. For example, there is Urology Residency Match Program that is not operated by the

NRMP (see <https://www.auanet.org/meetings-and-education/for-residents/urology-and-specialty-matches>); and there is a program known as the San Francisco Match (“SF Match”) that provides residency and fellowship matching services involving various specialties and subspecialties (see <https://www.sfmach.org/about>).

21. It is my understanding that a relatively small number of medical school graduates also obtain residency positions each year through direct communications with a residency program, after the Match and SOAP have concluded.

22. Applying for a residency position is a multi-month process in which applicants must complete several steps, many of which must occur months in advance of submitting a Rank Order List to the NRMP as a participant in the Main Residency Match. The Association of American Medical Colleges (“AAMC”) provides detailed information to medical school students on this process, which typically includes the submission of applications to residency programs by way of the Electronic Residency Application Service (“ERAS”), which AAMC operates. See <https://students-residents.aamc.org/apply-smart-residency/understanding-application-process>. I frequently consulted this website in my various positions at the UK College of Medicine, and I also routinely directed our students to do so.

23. The pre-Match application process consists of at least three separate activities: (1) researching residency programs and identifying programs that appear to be a good fit for the applicant; (2) preparing and submitting an application to the chosen programs; and (3) interviewing at the programs that invite the applicant for interviews.

24. A fourth application step is required for IMGs. Before they participate in the Match, IMGs must receive certification from an organization known as the Educational

Commission for Foreign Medical Graduates (“ECFMG”) that they are eligible to participate in a U.S.-based residency program. ECFMG’s website describes the certification process as follows:

ECFMG, through its program of certification, assesses whether international medical graduates are ready to enter residency or fellowship programs in the United States that are accredited by the Accreditation Council for Graduate Medical Education (ACGME) . ACGME requires international medical graduates who enter ACGME-accredited programs to be certified by ECFMG.

ECFMG Certification assures directors of ACGME-accredited residency and fellowship programs, and the people of the United States, that international medical graduates have met minimum standards of eligibility to enter such programs. ECFMG Certification does not, however, guarantee that these graduates will be accepted into programs; the number of applicants each year exceeds the number of available positions.

See <https://www.ecfm.org/2024ib/certification.html>.

To be eligible for ECFMG Certification, international medical students/graduates must submit an Application for ECFMG Certification, which confirms their intent to pursue ECFMG Certification and their understanding of the purpose of the certification program. The Application for ECFMG Certification consists of an on-line application and the Certification of Identification Form (Form 186), available via our on-line services. Among other things, the Application for ECFMG Certification requires applicants to confirm their identity, contact information, and graduation from or enrollment in a medical school that is listed in the World Directory with an ECFMG note stating it meets ECFMG eligibility requirements....

### **Examination Requirements**

To meet the medical science examination requirement for ECFMG Certification, applicants must pass Step 1 and Step 2 Clinical Knowledge (CK) of the United States Medical Licensing Examination (USMLE).

To meet the clinical skills requirement and communication skills requirement for ECFMG Certification, applicants must:

- Complete an ECFMG Pathway, which includes attaining a satisfactory score on the Occupational English Test (OET) Medicine, **OR**
- Have a passing performance on the former Step 2 Clinical Skills (CS) component of USMLE that is valid for ECFMG Certification.

ECFMG has established time limits and other rules for completing the examination requirements for ECFMG Certification....

## **Medical Education Credential Requirements**

.... International medical graduates must have been awarded credit for at least four credit years (academic years for which credit has been given toward completion of the medical curriculum) by a medical school that is listed in the World Directory with an ECFMG note stating it meets ECFMG eligibility requirements. There are restrictions on credits transferred to the medical school that awards an applicant's medical degree that can be used to meet this requirement. See ECFMG Policy on Transfer Credits in Medical Education Credentials.

Applicants must document the completion of all requirements for, and receipt of, the final medical diploma. See the Reference Guide for Medical Education Credentials on the ECFMG website for the exact title of the final medical diploma you must have earned (and must provide). ECFMG verifies every applicant's medical school diploma with the appropriate officials of the medical school that issued the diploma and requests that the medical school provide the final medical school transcript. Verification by ECFMG with the issuing school may also be required for transcripts that are submitted to document transferred credits. See Medical Education Credentials.

See <https://www.ecfm.org/2024ib/certification-requirements.html>.

25. The ECFMG also provides related services to assist IMGs in applying for and obtaining residency positions in the United States. ECFMG's website describes these services as follows:

### **Confirming ECFMG Certification to Third Parties**

ECFMG's Certification Verification Service (CVS) provides primary-source confirmation of the ECFMG certification status of international medical graduates.... ECFMG will confirm your certification status when a request is received from a U.S. medical licensing authority, residency program, hospital, or other organization that, in the judgment of ECFMG, has a legitimate interest in such information. For status reports sent to medical licensing authorities, the request can also be made by you....

### **Electronic Residency Application Service (ERAS®) Support Services**

The Association of American Medical Colleges (AAMC) established the Electronic Residency Application Service (ERAS) to allow medical students and graduates to apply electronically for residency positions in accredited U.S. programs of graduate medical education. Most U.S. graduate medical education programs participate in ERAS. If you apply to participating programs, you must submit your residency application using ERAS.



ECFMG serves as the designated Dean's office for students and graduates of international medical schools, assisting these individuals with the ERAS application process for first- and second-year (PGY-1 and PGY-2) residency positions....

### **J-1 Visa Sponsorship**

Foreign national physicians who seek entry into U.S. programs of graduate medical education or training must obtain an appropriate visa that permits clinical training activities. One visa commonly used by foreign national physicians is the J-1, a temporary nonimmigrant visa offered through BridgeUSA, a critical program within the Bureau of Educational and Cultural Affairs (ECA) of the U.S. Department of State.

The U.S. Department of State has designated ECFMG as a BridgeUSA sponsor for all exchange visitor (J-1) physicians who participate in clinical training programs. ECFMG sponsorship is also available for physicians' eligible dependents. ECFMG does not sponsor physicians for other U.S. visa types....

See <https://www.ecfm.org/2024ib/related-services.html>

26. If a residency program applicant is not invited to interview with a residency program, it is a virtual certainty that the applicant will not be listed on the program's Rank Order List for the Main Residency Match. By extension, if a given applicant is not invited to interview with any residency programs to which he or she applies, it is a virtual certainty that the individual will not be included on any program Rank Order Lists and will not obtain a residency position through the Main Residency Match.

27. Residency applications are a compilation of materials which demonstrate an applicant's qualifications and help residency programs assess whether the applicant would be a good fit for the specialty as well as a successful trainee. Application portfolios generally include: (1) an application and curriculum vitae (CV); (2) letters of recommendation; (3) a personal statement; (4) medical school transcripts; (5) a Medical Student Performance Evaluation (MSPE); and (6) a licensing examination transcript. Applicants generally create or assemble the first three components, their medical schools are generally responsible for components 4 and 5, and the

examination registration entity is responsible for component 6 (NBME for USMGs and ECFMG for IMGs).

28. Assuming they are otherwise eligible, medical school graduates who have passed Step 1 and Step 2 CK of the USMLE can participate in the Match and SOAP and obtain residency positions, even if they do not yet have a passing Step 3 score.

29. Residency program positions in the United States are highly competitive – some more so than others. For example, at the UK College of Medicine, we had roughly 2,500 applicants each year for the 24 residency positions in our internal medicine program. Out of those applicants, we would invite roughly 200 – 250 applicants to participate in interviews (all were in person during my tenure as program director, but most are now conducted remotely), and we would end up interviewing roughly 150 of the candidates we invited to interview. Most but not all of the individuals we interviewed would then end up on the Rank Order List that we submitted for purposes of the Main Residency Match (say 130 or so of the 150 individuals we interviewed).

30. Our internal medicine-pediatric residency program was also extremely competitive. In a given year, we would receive more than 500 applications for the 6 available residency positions.

31. Because our programs were so competitive at the UK College of Medicine, residency selection was very much a “zero sum” proposition. The selection of any given candidate necessarily meant that another, well-qualified applicant would lose the opportunity to be a resident in our programs. I believe the same can be said of most if not virtually all residency programs in the United States.

32. Of the roughly 2,500 applicants that we received at the UK College of Medicine for internal medicine residency positions, the vast majority were IMGs (say, roughly 2,000 of the

estimated 2,500 applicants). And in deciding whether to invite those applicants to interview, their USMLE scores played a very significant role in our decision-making. IMGs with higher Step exam scores had a far better chance of being invited for an interview and thus of being included on our Rank Order List for the Main Residency Match. I believe that the same is true for most other residency programs in the United States.

33. In the face of large numbers of applicants who attended medical school outside of the United States and have varying educational and experiential backgrounds, USMLE exam results provide an important and objective piece of information to residency program directors and a degree of assurance that applicants have the minimum knowledge and skills needed to become competent health care providers. It is therefore vitally important that the results that appear on an applicant's USMLE transcript are a valid and reliable indication of the applicant's knowledge and abilities in the areas that are assessed on the USMLE exams.

34. In my residency program director positions at the UK College of Medicine, I initially screened applicants, I interviewed applicants, and I was responsible for finalizing the rank order lists that we submitted to the NRMP. Hundreds if not thousands of hours were devoted to these activities every year, by me and by numerous other staff members at the College. To the extent those efforts were directed at individuals who later dropped out of the Match for any reason before we extended an offer, or who had to withdraw from our residency program after taking a position with us, the efforts would have been wasted.

35. As a residency program director, I would have significant concerns about including an applicant on our Rank Order List, or extending a residency position offer to an applicant, for whom there were concerns about the legitimacy of their credentials. This includes but would not

be limited to concerns about the validity of the examination results shown on their USMLE transcripts. The concerns fall into at least five categories:

- a. First and foremost, I would have concerns about the health and safety of individuals to whom that resident would be providing health care services. Individuals who do not have the qualifications they purport to have should not be providing health care services, and – in my view – any doubts in that regard should be resolved in favor of protecting the public’s safety.
- b. Second, and relatedly, I would be concerned about the repercussions of allowing someone to participate in the Match and obtain a residency position, only to later learn that their USMLE results or other credentials were invalid, thereby requiring removal of the resident. If this happened in our program, I would anticipate that the hospital where the resident worked would want to review every patient encounter that the resident had prior to removal, to ensure that there were not patient-safety issues that need to be addressed and to identify possible legal risk exposure from having allowed a non-qualified individual to participate in delivering health care services.
- c. Third, I would be concerned that a residency position might be going to Candidate A instead of to Candidate B, when Candidate B was in fact the better qualified applicant. This is essentially a fairness issue.
- d. Fourth, I would be concerned that the program would be misallocating scarce resources. It takes a significant amount of time and other resources to supervise and train residents. Programs devote these resources in large part because they rely upon residents to help deliver health care services to their patient populations, but they also do so because this is a critical part of the graduate medical education process in the

United States, and because the programs hope that qualified and well-trained residents might later become valued licensed professionals within the community.

- e. Finally, I would be concerned about the impact on other staff members if a resident had to be removed from his or her position because of an invalid credential. This would alter the work schedules for other residents and could easily create both staffing issues and morale problems within the facility where that resident was working.

36. In connection with preparing this Declaration, I have reviewed information on the AAMC, NRMP, and ECFMG websites regarding dates by which various residency application activities must take place for individuals to participate in the 2024 NRMP Main Match. While I might not have captured all possible activities, I believe that the following list includes the key activities and dates from the start of the application process to when residents would start work if they get a residency position, based upon the referenced websites and my personal experience as a past participant in the residency application and selection processes:

- **June 7, 2023:** 2024 ERAS season begins
- **June 28, 2023:** IMGs can get ECFMG tokens, enabling them to use ERAS
- **Sept. 6, 2023:** Applicants may begin submitting applications to programs
- **Sept. 15, 2023:** Match registration opens, participants can create accounts
- **Sept. 27, 2023:** Residency programs may begin reviewing applications
- **Sept. 2023 – Jan. 2024:** Programs review applications, conduct interviews
- **Jan. 31, 2024:** Main Residency Match standard applicant registration deadline
- **Feb. 1, 2024:** Ranking opens for applicants and programs
- **Feb. 28, 2024:** Rank order list certification deadline for applicants & programs
- **Mar. 11, 2024:** Match week begins, including SOAP

- **Mar. 15, 2024:** Match Day, results announced
- **Mar. – June 2024:** Residents with positions apply for state licensure, if required
- **Mar. – June 2024:** IMGs apply for J-1 or other visas, if needed
- **June 2024:** New residents generally start onboarding & orientation
- **July 1, 2024:** First day most new residents to begin clinical work in hospitals & other facilities

37. Note that a significant number of individuals who submit applications to residency programs in anticipation of participating in an upcoming Main Residency Match do not actually participate. Many voluntarily withdraw for personal reasons, while others are found not to be eligible to participate in the Main Residency Match. As a consequence, there have been instances in which, upon submitting our Rank Order List, we learned that an individual on our list was “withdrawn” from the upcoming Main Residency Match.

38. The NRMP publishes a report after each annual Main Residency Match, providing a range of information on the number and types of participants in that year’s Match and SOAP processes. According to the Results and Data book for the 2023 Match, 42,952 applicants participated in last year’s Match, of whom 34,822 matched (81.1%); 8,130 did not match (18.9%); 2,155 withdrew (4.5%); and 3,049 submitted no Rank Order List (6.3%). The Match rate was 93.7% for seniors of U.S. MD medical schools, 67.6% for U.S. citizen student graduates of international medical schools, and 59.4% for non-U.S. citizen student graduates of international medical schools. See Table 4, “Applicants in the Matching Program, 2019-2023,” <https://www.nrmp.org/wp-content/uploads/2023/05/2023-Main-Match-Results-and-Data-Book-FINAL.pdf>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 17, 2024.

Christopher Feddock

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Christopher Feddock, M.D.