



# ICE, Podiatry, and You!

The road to U.S. citizenship is often a bumpy one.

BY LAWRENCE F. KOBAC, DPM, JD

This is not the kind of ICE that you apply to a sprained ankle. This concerns a podiatrist who was involved with ICE, the U.S. Immigration and U.S. Customs Enforcement. What could ICE possibly have to do with our profession, podiatry? The name and locations have been changed to protect the people involved.

It is 2005. Ahmed was in the United States on a tourist visa. He was visiting relatives in Jersey City. He overstayed his tourist visa. He had committed no crime while he was a guest in our country. For a reason that he never found out, ICE paid him a visit. He was not home. They left their business card. Ahmed contacted them. He cooperated with ICE and appeared where they asked when they asked. Soon, he was deported back to his country. He does not remember being formally arrested. He does remember the ICE agents as being friendly and appreciative of his cooperation.

Let's fast forward 10 years. During the intervening time, Ahmed met Amira, a friend of his cousin. They met while Amira was visiting her family back in Egypt. Amira was born in

the United States and was an American citizen. Ahmed and Amira hit it off. Before long, they were married. They married in Egypt. It was a legitimate marriage, not a pretend marriage for citizenship purposes. There was no fraud involved. The marriage made Ahmed eligible for a Green Card. It took several months to obtain the Green Card. Marrying a U.S. citizen does not automatically make you, the spouse, a U.S. citizen. It does not even automatically get you a Green Card.

including immigration-related, could end the process then and there. This did not happen to Ahmed. He just assumed that his prior cooperation with ICE was the reason.

There is an advantage to marrying a U.S. citizen in such a situation. Ahmed only had to wait three years, not five years, after obtaining his Green Card, to apply for U.S. citizenship. In 2015, Ahmed proudly became a U.S. citizen. He was legitimately living with his wife, Amira. Prior to

---

**Marrying a U.S. citizen does not automatically make you, the spouse, a U.S. citizen. It does not even automatically get you a Green Card.**

---

When you marry a U.S. citizen, you can apply for an immigrant visa. For those getting their visas through the consular processing, their U.S. citizen spouse must sponsor them. The application must go through the U.S. Consulate, in this case, the one in Cairo. The candidate must undergo a medical examination and an interview. Prior violations of U.S. law,

his being granted citizenship, this was confirmed through the U.S.C.I.S., the U.S. Citizenship and Immigration Services. Nothing was found in Ahmed's background to prevent him from becoming a U.S. citizen.

Ahmed, determined to live the "American Dream", was set out to become part of the healing arts. He

*Continued on page 138*

ICE (from page 137)

applied and was accepted at one of the schools of podiatric medicine. It is up to each school of podiatric medicine if they accept a student that is not a citizen of the United States. He graduated, with honors, in 2019 and successfully completed a three-year residency at an accredited hospital in

did not exist or was not obtainable. By now, Ahmed was a father of two beautiful young children. Ahmed decided it was time to contact an experienced health law attorney to help resolve the matter of obtaining a professional license in this new state. Keep in mind that he had previously obtained a license to practice in the other state! It became apparent that

gration adjudicates your application.

4) You must have lived for at least three months in a state (or USCIS district) having jurisdiction over your place of residence.

5) You must have continuous residence in the United States as a lawful permanent resident for at least three years immediately before the date you file your application.

6) You must reside continuously within the United States from the date you filed your application until the date you naturalize (become a citizen).

7) You must be physically present in the United States for at least 18 months out of the three years immediately before the date you file your application.

8) You must be able to read, write, and speak English and have knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.

9) You must be a person of good moral character, attached to the principles of the Constitution of the United States, and well-disposed to the good

---

### **ICE takes the stand that whenever any person violates United States immigration law, they have committed a crime; they are a criminal.**

---

2022. He had previously successfully obtained a professional license from the state where he did his residency program. He then applied for a license to practice podiatry in a different northeastern state. As part of their application process, they asked Ahmed if he had ever been convicted of a crime. He honestly checked the “no” box when asked if he was ever found guilty of a criminal offense. The state ran its routine background check that turned up that he was guilty of a prior offense in 2005.

Ahmed was shocked. He was not handcuffed. His Miranda rights were never read to him. Nobody ever pronounced him guilty of anything. In fact, the ICE agents were quite complimentary, as Ahmed had willingly left the United States over 17 years ago.

Now, the state was asking for a myriad of documentation pertaining to his prior conviction. Ahmed had never retained an attorney back then. He had no documentation and did not know how to obtain any either. The application did allow him to provide an explanation and obtain a letter from the “Superior Court” as to the fact that they had no records due to the length of time. However, the Superior Court had no record of any proceeding because there wasn’t any. Attempting to obtain documentation from ICE was not a realistic possibility; it might take years, if ever, to get them to confirm anything.

Ahmed and his wife, Amira, expended considerable efforts attempting to track down documentation that

not all background checks were equal.

His attorney was able to contact someone they had previously dealt with on that state’s board. They were willing to accept a detailed explanation and a notarized affidavit affirming the facts as presented.

In fact, ICE takes the stand that whenever any person violates United States immigration law, they have com-

---

### **Employees must verify that each employee is here in the United States legally and is able to accept work in this country under the terms of their entrance. You may employ anyone with a Green Card, however, you still must fill out an I-9 Employment Verification form.**

---

mitted a crime; they are a criminal. It does not matter if the “criminal” cooperated upon their apprehension.

Ahmed is not the only podiatrist who was not born a U.S. citizen but who married a U.S. citizen. Here is a list of the necessary requirements for eligibility for such a person:

1) You must be at least 18 years of age.

2) You must be lawfully admitted as a permanent resident for at least 3 years (Green Card).

3) You must have been living as married to a U.S. citizen during those three years immediately before the date you file your application and while the U.S. Citizenship and Immi-

gration and happiness of the United States for at least three years immediately prior to the date you filed the application and to the Oath of Allegiance. (This list was adapted from the USCIS website.)

Today, Ahmed is practicing in that northeastern state. He has recently hired a staff for his office. He opened in an area where many of the residents also speak Arabic, Ahmed’s first language. Not all his employees are U.S. citizens. He had to be advised as to what his responsibilities are concerning his employees and their citizenship status. First, it must be pointed out that Ahmed’s responsibilities

*Continued on page 139*

ICE (from page 138)

concerning non-citizen employees are the exact same as a podiatrist who is a citizen by virtue of being born here.

Employees must verify that each

new resident (for permanent residence) or a non-immigrant petition (for temporary residence) on their behalf. Certain refugees may accept employment as part of their immigration status. Employers who employ non-citizens may have to comply

with certain special IRS rules. Check with your accountant. For the most part, only non-citizens with permission for the DHS, the Department of Homeland Security, can apply to obtain a social security number. Check with your accountant for individual state rules in this regard.

a productive citizen of his adopted country. The road to becoming a citizen was a bumpy one. Although “trying to do it right”, he still had problems and aggravation. Through good advice and perseverance, Ahmed is now worried about choosing the best school for his children. Welcome to America! **PM**

---

**Employers who employ non-citizens may have to comply with certain special IRS rules. Check with your accountant.**

---

employee is here in the United States legally and is able to accept work in this country under the terms of their entrance. You may employ anyone with a Green Card, however, you still must fill out an I-9 Employment Verification form. Every employee must fill out an I-9 form, even a U.S. citizen. If the employee is not a U.S. citizen and does not have a Green Card, you may file an immigrant petition (for perma-

nent residence) or a non-immigrant petition (for temporary residence) on their behalf. Certain refugees may accept employment as part of their immigration status. Employers who employ non-citizens may have to comply

with certain special IRS rules. Check with your accountant. For the most part, only non-citizens with permission for the DHS, the Department of Homeland Security, can apply to obtain a social security number. Check with your accountant for individual state rules in this regard.

Ahmed, who is now in the process of becoming a successful podiatrist, is not unique in his quest to become



**Dr. Kobak** is Senior Counsel in Frier Levitt's Healthcare Department in New York. Larry has extensive experience representing physicians in connection with licensure issues, as well as successfully defending physicians before Medical Boards, OPMC,

OPD investigations, as well as Medicare Fraud, Fraud & Abuse, Hospital Actions, RAC Audits, Medicare Audits, OIG Fraud, Healthcare Fraud, Medical Audits, and Health Plan Billing Audits. As a licensed podiatrist prior to becoming an attorney, he served as the international president of the Academy of Ambulatory Foot and Ankle Surgery.

---