

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Prevention Services Division

INTERNATIONAL MEDICAL GRADUATES SEEKING STATE SUPPORT OF AN IMMIGRATION PETITION: ELIGIBILITY, APPLICATION PROCESS, FEES AND SELECTION PROCEDURES

6 CCR 1016-3

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Adopted by the Board of Health on March 16, 2016.

1.1 Authority

This regulation is adopted pursuant to the authority in section 25-1.5-404, Colorado Revised Statutes and is intended to be consistent with the requirements of the State Administrative Procedure Act, section 24-4-101 *et seq.* (the "APA"), C.R.S., the Conrad 30 J-1 Visa Waiver Program established in 8 U.S.C. section 1184 (c) (2) (D) (ii) and the National Interest Waiver established in 8 U.S.C. section 1153 (b) (2) (B) (ii).

1.2 Definitions

- (1) "International Medical Graduate" means a physician who is not a United States citizen and has received a medical degree from a school outside of the United States or Canada.
- (2) "J-1 visa physician" means an International Medical Graduate who holds a J-1 visa for training in a United States medical residency or fellowship program.
- (3) "Underserved Area" means a geographic area or clinical facility with one or more of the following designations of the United States Secretary of Health and Human Services.
 - (A) "Health Professional Shortage Area" as provided in 42 U.S.C. sec. 294e.
 - (B) "Medically Underserved Area" as provided in 42 U.S.C. sec. 295p.
 - (C) "Medically Underserved Population" as provided in 42 U.S.C. sec. 254b.
- (4) "Conrad 30 J-1 Visa Waiver Program" means the program established in 8 U.S.C. section 1184 (c) (2) (D) (ii), allowing J-1 visa physicians who meet certain criteria to remain in the United States after training and practice in communities designated as Medically Underserved Areas, Medically Underserved Populations, or Health Professional Shortage Areas.
- (5) "National Interest Waiver" means the program established in 8 U.S.C. sec. 1153 (b) (2) (B) (ii) allowing International Medical Graduates who meet certain criteria to receive legal permanent residence in the United States.
- (6) "Governor's Designee" means the Director of the Primary Care Office, who has received an official assignment from the governor to act on behalf of the state regarding immigration waiver petitions of physicians.
- (7) "Conrad 30 recommendation" means the statement of the Governor's Designee in support of an immigration waiver petition.

- (8) "Primary Care Office" means the office created in C.R.S. 25-1.5-404.
- (9) "Practice Site" means the physical location at which the physician who is recommended for an immigration waiver will provide clinical services and may or may not be the administrative address of the Employer.
- (10) "Employer" means the legal entity seeking to engage the J-1 visa physician in an agreement to provide medical services in exchange for a salary and other remunerations.
- (11) "Waiver Application Review Committee" means the committee of health access experts, appointed by the Director of the Primary Care Office, who represent broad interests in addressing Colorado's health work force needs and who support and participate in the review process regarding the waiver petitions of a physician who is recommended for an immigration waiver.

1.3 Program

International Medical Graduates are permitted to come to the United States for medical residency training on a J-1, non-immigrant Exchange Visitor Visa. Upon completion of training, J-1 visa physicians are required to return to their country of origin for two years before applying for a new United States immigration Visa. The two-year home return requirement may be waived for a physician willing to practice medicine full-time in an underserved area of the United States for a period of three years. A petition for a waiver of the home return requirement is granted by the federal government where a qualified application is submitted to a state health department and the Governor's Designee determines that the immigration waiver is in the national interest.

1.4 Waiver Petition

- (1) At the time of application, an eligible J-1 visa physician shall:
 - (A) Have successfully completed at least two years of a United States based medical residency program;
 - (B) Apply for or obtain a Colorado Medical License;
 - (C) Agree to comply with program requirements for the full term of service;
 - (D) Upon receipt of a Colorado Conrad 30 recommendation, the physician will:
 - i. Report practice characteristics to the Primary Care Office on a biannual basis; and
 - ii. Complete an exit survey at the conclusion of his or her service obligation.
- (2) At the time of application, an eligible Practice Site shall:
 - (A) Be located in an underserved area or provide substantial evidence of a physician shortage in the service area for the J-1 visa physician's medical specialty;
 - (B) Accept patients covered by Colorado Medicaid;
 - (C) Accept patients insured by Child Health Plan+, if the practice accepts children;
 - (D) Accept patients insured by Medicare, if the practice accepts patients who are 65 and over;

- (E) Assess clinic charges on a posted sliding fee schedule or similar charitable care policy for low income patients;
 - (F) Employ the J-1 visa physician full time, in direct patient care, at a salary commensurate with that of a United States trained physician in the same specialty with similar experience and training in the region;
 - (G) Assign a patient panel to the J-1 visa physician that is not substantially different than that of other physicians in the practice with the same clinical specialty;
 - (H) Upon receipt of a Colorado Conrad 30 recommendation, the Practice Site will:
 - i. Report practice characteristics to the Primary Care Office on a biannual basis; and
 - ii. Complete an exit survey at the conclusion of their service obligation.
- (3) A complete application shall originate from a prospective Employer and shall contain all elements described in the application guidance available from the Primary Care Office, which include:
- (A) an application face page,
 - (B) an employer statement,
 - (C) a community statement of need,
 - (D) a recruitment effort summary,
 - (E) a signed contract that conforms to waiver and program requirements,
 - (F) a physician retention plan,
 - (G) all required immigration documentation, and
 - (H) documentation supporting the International Medical Graduate's waiver eligibility.
- (4) An application fee shall be assessed in exchange for a complete application review and immigration waiver support determination. Fees are not refundable in the event the Governor's Designee declines to support an immigration waiver petition, the Department of State or the United States Citizenship and Immigration Services declines to grant a waiver, the physician fails to begin a service commitment, or the physician or employer terminates a service commitment prior to the end of a service obligation. Fees shall be payable at the time of application to the "Colorado Department of Public Health and Environment" on the following schedule:
- (A) \$1,000 for a Conrad 30 J-1 Visa Waiver application review.
 - (B) \$250 for a National Interest Waiver letter where the physician is currently practicing, or intends to practice in Colorado.
 - (C) \$1,250 for a National Interest Waiver letter where the physician is not currently practicing in Colorado.
 - (D) The Governor's Designee may waive application fees for Executive agencies of state government.

1.5 Application Review Process

- (1) Conrad 30 J-1 Visa Waiver Application
 - (A) Applications will be accepted at any time and will be reviewed in the order that they are received.
 - (B) Once 30 waiver requests have been supported by the Governor's Designee in a single federal fiscal year, the application process will be closed until the following federal fiscal year.
 - (2) National Interest Waiver requests will be accepted at any time and will be reviewed in the order that they are received. The Governor's Designee will respond to the National Interest Waiver request in writing.
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Editor's Notes

History

Entire rule eff. 04/14/2010.

Entire rule eff. 05/15/2016.