

PRIMARY CARE OFFICE

Conrad 30 J-1 Visa Waiver Program

Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
303-692-2466



Colorado Department
of Public Health
and Environment

Colorado Overview of Federal J-1 Visa Waiver Requirements

Federal law requires foreign physicians seeking graduate medical education in the United States (U.S.) to obtain a J-1 Exchange Visitor Visa. The J-1 Visa allows physicians to remain in the U.S. until their medical studies are completed. Upon completion, physicians must return to their home country for a minimum of two years before they can return to the U.S. on a different Visa. Physicians who are subject to home return may apply for a waiver of that requirement under any one of the following grounds, as provided by U.S. immigration law:

1. Exceptional hardship to spouse or child who is a U.S. citizen or permanent resident
2. Persecution if forced to return to his/her home country
3. A statement in support of a waiver from an interested U.S. government agency
4. A statement in support of a waiver from a state health department

Each state is allowed 30 J-1 waiver recommendations under provision (4), each federal fiscal year (October 1 – September 30), to the U.S. Department of State. The U.S. Department of State reviews the application and makes a recommendation to the United States Citizenship and Immigration Services (USCIS) as to whether the residency waiver should be granted. The USCIS makes the final determination and will inform the applicant and the Colorado Department of Public Health and Environment, Primary Care Office, of their decision. From the time of application receipt in the Primary Care Office, the approval process typically takes 3 to 4 months in its entirety.

Basic Procedures for Waiver Applications:

- Step 1: Prospective J-1 physicians must complete and send a “Data Sheet” application to the U.S. Department of State. Forms can be downloaded at: http://travel.state.gov/visa/temp/info/info_1296.html
- Step 2: Once the Waiver Review Division has received the Data Sheet application, the physician will be sent a case number and instructions on how to proceed with the application.
- Step 3: Application to the Colorado Department of Public Health and Environment must be made requesting that the state act as the interested governmental agency in support of the waiver request.
- Step 4: Once received by the State, the approved applications are submitted by the Colorado Department of Public Health and Environment to the U.S. Department of State for a secondary review.
- Step 5: The U.S. Department of State determines its recommendation and forwards the application to the United States Citizenship and Immigration Services (USCIS) for final approval.

Overview of Colorado Waiver Review Process

The State of Colorado is committed to assisting all residents of Colorado with improved access to high quality, affordable healthcare. The Colorado Department of Public Health and Environment (CDPHE) will consider waiver requests of the home return requirement on behalf of physicians holding a J-1 Visa if the following conditions are satisfied. The physician must:

- Work in a clinical practice located in an area of the state designated by the Secretary of Health and Human Services as having a shortage of healthcare professionals (HPSA, MUA, MUP). Applications outside of a shortage area designation will be considered if strong evidence (see Dire Need Criteria) of a shortage in the physician's specialty is provided and the healthcare facility can demonstrate a history of providing care to the medically under-served (Medicaid, Medicare, and uninsured).
- Practice at least 40 hours per week for three years in primary care (family or general practice, general internal medicine, general pediatrics, general obstetrics/gynecology, general psychiatry), or in a medical specialty if certain conditions are met (including 6 months of recruitment for the position, a competitive salary, location in a Health Professions Shortage Area or a Medically Underserved Area, and specifying why the specialty is needed in the service area using the Dire Need Criteria guidance). In competitive waiver application years (30 or more applications received), primary care placements will generally be considered before specialty placements.
- Practice in the public interest (provide care to the Medicaid, Medicare, and uninsured populations of the service area).
- Sign and adhere to the *Statement of Commitment to Comply with Program Requirements*, which includes biannual reporting for the three-year obligation and a brief exit survey.

Requests for a J-1 Visa Waiver must be submitted by a Colorado healthcare facility (employer) desiring to hire the physician. The Colorado program has a preference for outpatient primary care placements, but will consider applications for specialists and inpatient assignments if the healthcare facility can demonstrate a shortage of that specialty in the area of service. The application must show the entire facility is able and willing to serve the under-served population of the service area (patients on Medicaid, Medicare, and the uninsured).

Each application is reviewed in the order it was received and each is reviewed based upon its own merits. Consideration is determined on the completeness of the application, reflecting the need in the community, the healthcare facility's retention plan, and the degree to which the physician's training is reflected as matching the community's needs. After 30 recommendations are made to the U.S. Department of State, the program will be closed until the beginning of the next federal fiscal year beginning October 1st.

The Primary Care Office (PCO) designates the International Medical Graduate Waiver Review Committee (Committee) to review each waiver application to determine how the placement will improve access to care of the under-served population in an area and to ensure that the proposed placement will not adversely affect or compromise the delivery of healthcare in the area. The Committee is comprised of professionals from healthcare organizations invested in primary care issues in under-served areas of Colorado. The Committee meets regularly and most application reviews are completed within 30 days of receipt. The submission of a complete waiver package does not guarantee that the waiver will be recommended. The PCO reserves the right to support or decline support of any waiver request. If the Committee's decision is affirmative, a copy of the application and the necessary cover letter will be sent to the U.S. Department of State.

Effective April 14, 2010, an application fee has been assessed in exchange for a complete application review and waiver determination. Fees are not refundable in the event the Governor's Designee declines to support a 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" with a note that the payment is for the "Primary Care Office Waiver Application Review Fee". **The cost for the Colorado Conrad 30 J-1 Visa Waiver application review is \$1,000.**

The J-1 Visa Waiver application is only one step in the process. A waiver is necessary but not all that is required to obtain a foreign physician's services. A waiver simply eliminates the requirement that the physician return to his/her home country for two years before he/she can return to the US. It is important to note that the waiver of the two year residence requirement is not itself a Visa. Physicians going through the Conrad 30 J-1 Visa Waiver program are eligible for, and must make an application to, the USCIS for an H1-B Visa once the waiver is granted. Permanent residence Visas are not available to the physician until the three-year service obligation is complete. A physician may want to seek legal counsel to assist with the preparation and submission of all required immigration forms and documentation. The PCO cannot provide legal advice to facility applicants or physicians.



Waiver Application Requirements & Checklist

To expedite the application approval process:

- Print or stamp the physician's waiver review case number from the Department of State on *all* application pages
- Provide information for *all* section and subsection headings outlined below and *order* them in the completed application as they appear in this checklist
- Submit *two* unbound, single sided copies of the complete application, along with a check for \$1,000 made out to the "Colorado Department of Public Health and Environment," indicate on the check that the payment is for the "Primary Care Office, Waiver Application Review Fee". Send the complete application to:
*Colorado Department of Public Health and Environment
Primary Care Office, Prevention Services Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530*
- Please do not use staples, tabs, or pages larger or smaller than 8 ½ by 11

The application must include:

- Complete Conrad 30 J-1 Visa Waiver application face page (included in this application packet)**
- Waiver application review fee:** Include a check addressed to the "Colorado Department of Public Health and Environment." Indicate on the check that the payment is for the "Primary Care Office, Waiver Application Review Fee." **The fee for the application review \$1,000.**
- Healthcare employer statement on official letterhead with the following two sections:**
 1. **Section 1: Employer Information Statement**
 - An **employer statement** requesting a J-1 Visa Waiver on behalf of the physician
 - A **facility description** including the legal name, address, county, and overview of health services offered
 - Note, if the J-1 is not employed by the health care facility in which they provide services, then an additional statement must be included that describes the relationship between the agency employing the J-1 and the health care facility where they will practice. A brief history of partnership and the on-going support ensuring compliance with Colorado program requirements must also be included. This statement also requires contact information from both the employing agency and the health care facility where the physician will work.
 - How this **physician's qualifications** and future responsibilities will help satisfy the healthcare needs and improve access to care for the under-served population of the service area
 2. **Section 2: Community information statement:**
 - A **description of the location** and characteristics of the area served by the healthcare facility
 - A **statement detailing the current healthcare resources** of the area and how they are over utilized, excessively distant, or otherwise inaccessible to the population served by the healthcare facility
 - An **impact statement** explaining how a denial will negatively affect healthcare in the community
 - The **Health Professional Shortage Area (HPSA) or Medically Underserved Area or Population (MUA/P)** ID number (please reference: <http://hpsafind.hrsa.gov/> for more information)
 - A payor mix **statement of percentage of medically underserved patients** (Medicaid, Medicare, and uninsured) the practice has provided over the last six months

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- ❑ **Evidence of serving the medically underserved, include the following:**
 1. *Photo or text copy of a sign* posted in patient waiting areas displaying sliding fee or public insurance option
 2. *Copy of sliding fee schedule* (must reflect the current year's Federal Poverty Guidelines)
 3. Copy of the utilization *policy* for the sliding fee schedule
 4. Copy of *patient non-discrimination* policy

- ❑ **Evidence of recruitment (effort summary for the previous six months) including:**
 1. *Length of time* the position has been vacant
 2. *Evidence and description of efforts to recruit a U.S. physician* (for example: ads placed in at least one major medical publication, area newspapers, letters to residency programs, agreements with placement services, attendance at health fairs, participation in the Colorado Rural Health Center's CPR Program, etc. – please visit <http://www.coproviderrecruitment.org/> more information –include three to five representative examples of advertisements for the vacancy)
 3. *Evidence of efforts to recruit through the National Health Service Corps* where such placements are possible (for example: date the site application was submitted, attempts to interview scholars or loan repayment physicians – please visit: http://nhscjobs.hrsa.gov/Search_HPOL.aspx for more information)
 4. *Evidence that the proposed salary is commensurate* with prevailing wages for similar positions in the region (please reference: <http://www.foreignlaborcert.doleta.gov/wages.cfm>)

- ❑ **A signed employment contract specifying the following:**
 1. *Full time equivalent* employment (≥40 hours per week)
 2. *Employment term* of no fewer than three years
 3. *Start date of no later than 90 days* after USCIS notification of approval
 4. *Description of the primary or specialty care* to be provided by the physician and the proportion of time expected to be in direct patient care (inpatient and/or outpatient)
 5. *Description of service to be provided to under-served patients* (Medicaid, Medicare, and uninsured)
 6. The contract *may not contain a non-compete clause*

- ❑ **Retention plan specifying the following (Example included in packet):**
 1. *Monetary and non-monetary compensation*, work environment, organizational culture, community acclimation for the physician and physician's family, etc.

- ❑ **Physician information specifying the following:**
 1. *Third Party Barcode Page* that includes physician name and case number
 2. *U.S. Department of State Waiver Review Data Sheet* (DS-3035) application with case number
 3. A *commitment to comply* with the J-1 Visa Waiver Program requirements of the Colorado Department of Public Health and Environment statement signed by the physician (included in this application packet)
 4. Legible copies of all *IAP-66/DS-2019 forms*
 5. *Copies of I-94* entry and departure cards
 6. *Form G-28*, if an attorney represents the physician
 7. J-1 physician's *Resume or Curriculum Vitae*
 8. Three *professional letters* of recommendation for the J-1 physician
 9. Proof of physician's *Colorado Medical License* or licensure eligibility
 10. A *personal statement from the physician* explaining his/her reason for not fulfilling the two-year home residency requirement and commitment to serving the under-served ***Form letters with "boilerplate" language not accepted**
 11. A *statement declaring that he/she has no other waiver requests* pending with another government agency (included in this application packet)
 12. *Explanation of "out of status"* for any periods of time in some other visa status or out of the country, if applicable
 13. A *statement of "No Objection"* from country of origin, if applicable

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Conrad 30 J-1 Visa Waiver Application Face Page

Physician's Name _____
Permanent Address _____
City, State, Zip _____
Phone Number _____
Email Address _____
Country of Origin _____ Birth Date _____
DOS Case Number _____
Discipline/Specialty _____

Physician Signature _____ Date _____

Applicant Organization _____
Address _____
City, Zip & County _____
Phone Number _____ Fax Number _____

Physician Practice Location
Address _____
City, Zip & County _____
Employer Contact Name _____
Email _____
Phone Number _____ Fax Number _____
Practice Setting (Inpatient or Outpatient) _____

Check One: HPSA MUA MUP ID# _____
Authorized Employer Signature _____ Date _____
Title _____

Physician Retention Plan

In an effort to promote a more stable healthcare system for under-served areas in Colorado and to increase physician satisfaction, the Primary Care Office requires you to include in your application the steps you have taken or anticipate taking to improve the likelihood of retaining the J-1 physician in your community after their service commitment is complete.

The following information contains *suggestions* to help in the development of a strategy for your healthcare facility. These ideas are based on research and satisfaction surveys of J-1 Visa Waiver physicians. Not all communities are able to address every area; however, discussing these issues and planning ahead may result in a better experience for both the physician and the employer.

Workplace/Relationship Considerations:

- Foster a personal relationship with the physician.
- Establish regular meetings to discuss workplace integration issues (concerns, which negatively impact the potential for long term retention, can arise from unmet expectations of either party).
- Develop a recruitment/retention committee or assign this task to a committed individual.
- J-1 physicians report that employers who foster a culture of quality are the most desirable as employers. This translates in to higher rates of retention.

Environment/Support Considerations:

- Availability of medical colleagues for consultation and mentoring
- Number of staff and professional support
- Adequate call coverage
- Quality facilities, equipment, and personnel
- Access to referral physicians
- Access to continuing medical education
- Physician's on-call responsibilities and patient load
- Established and appropriate referral patterns
- Physicians report that professional environment and personal lifestyle are as important in the decision to accept and remain in a position, as is compensation.

Lifestyle Considerations:

- Spouse's employment opportunities
- Recreational and entertainment opportunities
- Quality of schools
- Cultural activities
- Adequate housing
- Adequate shopping facilities (for example: access to familiar food, clothing, activities, etc.). One J-1 physician was attracted to a community whose grocery store agreed to carry a few food items from the physician's home country.
- Physician and his/her family's opportunities to integrate into the community (for example: participation in social events to develop a sense of belonging).

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**US Department of State
Exchange Visitor Attestation**

I, _____ hereby declare and certify, under penalty of the
please print physician name
provisions of 18 U.S.C. 1001, that I do not have pending, nor am I submitting during the pendency of this request,
another request to any United States Government department or agency or any other state department of public
health, or equivalent, other than the **Colorado Department of Public Health and Environment**, to act on my
behalf in any matter relating to a waiver of my two year, home country, physical presence requirement.

Physician Signature

Date



Physician and Employing facility *Statement of Commitment to Comply* with Program Requirements

It is understood that the purpose of the Colorado Conrad 30 J-1 Visa Waiver program is to increase access to healthcare for medically under-served populations. It is understood and agreed that I will provide such services in exchange for the support of the Colorado Department of Public Health and Environment in making a waiver request on my behalf AND in accordance with INA Section 214(1), paragraph 2.

I agree to comply with all Conrad 30 J-1 Visa Waiver program requirements of the Colorado Department of Public Health and Environment including:

- Fulfilling and agreeing to a **three year** commitment to serve **full-time** (40 hours/week) at the healthcare facility named in the waiver application
- Must begin working at the healthcare facility within 90 days of receiving USCIS notification of granted waiver
- Agrees to continue work in accordance with INA Section 214(1), paragraph 2, serving the area designated by the Secretary of Health & Human Services as a shortage (exception for FLEX placement)
- Notifying the Primary Care Office (PCO) of the J-1 physicians' new local address and phone number
- Notifying the PCO of physician start date
- Submitting a copy of the USCIS approval notice to the PCO
- Submitting semi-annual reports to the PCO, which includes patient population served
- Cooperating with periodic site visits and other program monitoring activities
- Seeking approval in writing from the PCO prior to any changes in practice location or scope occur
- Completing an exit survey at the end of the three year service obligation

Physician's Printed Name _____

Physician's Signature _____ Date _____

Facility's Authorized Representative (Print) _____

Title of Representative _____

Facility's Authorized Representative (Sign) _____ Date _____

Facility Name _____

Monitoring and Reporting Requirements

The Primary Care Office at the Colorado Department of Public Health and Environment will conduct periodic monitoring of all J-1 Visa Waiver physicians, either through on-site visits, telephone calls, or requests for various reports. The physician and employer must submit to the Primary Care Office semi-annual reports describing the patient population served. Reports are due to the Primary Care Office in January and July of each year for the full three-year service commitment. The semi-annual report will be emailed to the physician approximately three weeks before the submission due date (January/July). In this report, the healthcare facility is required to report on the patient payor mix and number of under-served patients (Medicaid, Medicare, and uninsured). Contract changes which result in termination of contract, practice location, or practice scope must be submitted in writing to the Primary Care Office 30 days prior to the requested change.

Upon approval of the waiver request from the USCIS, the employer of the J-1 Visa Waiver physician is encouraged to work with the local public health agency, community health clinic, and any rural health clinic in the area to assure care for the under-served population in the area. The Primary Care Office will notify these entities when a new J-1 physician is placed.

Effect of failure to abide by the terms and conditions of the waiver: J-1 Visa Waiver physicians who do not complete the three year commitment to the healthcare facility named in the waiver application (unless the USCIS has determined that there are extenuating circumstances or hardships to the physician), who do not work in U.S. Department of Health and Human Services designated shortage areas or areas otherwise deemed to have a specialty shortage and a history of providing care to the under-served, who change employment without permission from CDPHE and the USCIS, or who do not comply with the terms and conditions of the *Statement of Commitment to Comply with Program Requirements* will be deemed to not have maintained their nonimmigrant status and will be reported to the USCIS. Furthermore, a letter to USCIS certifying completion of the physician's three year service obligation will be withheld. Facilities that are out of compliance with the terms and conditions of the *Statement of Commitment to Comply with Program Requirements* may be made ineligible for future J-1 Visa Waiver physicians, placement of state supported healthcare providers through the Colorado health Service Corps, and/or National Health Service Corps site designation.