



Colorado Department
of Public Health
and Environment

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Primary Care Office, Prevention Service Division

6 CCR 1016-3

**INTERNATIONAL MEDICAL GRADUATES SEEKING STATE SUPPORT OF AN
IMMIGRATION PETITION (J-1 VISA WAIVER PROGRAM)
(PROMULGATED BY THE STATE BOARD OF HEALTH)**

Adopted 02/17/10, effective 03/30/10

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Prevention Services Division (Primary Care Office)

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

1.1 Authority

This regulation is adopted pursuant to the authority in section 25-20.5-604, Colorado Revised Statutes and is intended to be consistent with the requirements of the State Administrative Procedures 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 (1) (l) (D) (ii) and the National Interest Waiver Program 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) "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.
- (3) "Conrad 30 J-1 Visa Waiver Program" means the program established in 8 U.S.C. sec. 1184 (1) (l) (D) (ii), allowing foreign-trained physicians who meet certain criteria to practice in communities designated as Medically Underserved Areas, Medically Underserved Populations, or Health Professional Shortage Areas.
- (4) "National Interest Waiver Program" means the program established in 8 U.S.C. sec. 1153 (b) (2) (B) (ii) allowing foreign-trained physicians who meet certain criteria to practice in communities designated as Medically Underserved Areas, Medically Underserved Populations, or Health Professional Shortage Areas.
- (5) "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 International Medical Graduate physicians.
- (6) "Primary Care Office" means the office created in C.R.S. 25-20.5-603.
- (7) "Practice Site" means the physical location at which the International Medical Graduate will provide clinical services and may or may not be the administrative address of the Employer.
- (8) "Employer" means the legal entity seeking to engage the International Medical Graduate physician in an agreement to provide medical services in exchange for a salary and other remunerations.

- (9) "Waiver Application Review Committee" means the committee of health access experts, appointed by the Governor's Designee, who represent broad interests in addressing Colorado's health work force needs and who support and participate in the decision making process regarding the waiver petitions of International Medical Graduates.

1.3 Program

International Medical Graduates are permitted to come to the United States for medical residency training on an Exchange Visitor Visa. Upon completion of training, exchange physicians are required to return to their country of origin for two years before applying for a new United States 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, if requesting a Conrad 30 J-1 Visa Waiver, or five years if requesting a National Interest Waiver. 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 placement of the International Medical Graduate physician is in the national interest.

1.4 Waiver Petition

- (1) An eligible International Medical Graduate shall:
- (A) demonstrate a medical education equivalent to a United States trained physician;
 - (B) successfully complete at least three years of a United States based medical residency program;
 - (C) demonstrate English language proficiency;
 - (D) file a statement of no objection from the country of origin, where applicable;
 - (E) have or obtain a Colorado Medical License;
 - (F) agree to comply with program requirements for the full term of service;
 - (G) report practice characteristics to the Primary Care Office on a biannual basis; and
 - (H) complete an exit survey at the conclusion of his or her service obligation.
- (2) 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 International Medical Graduate'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 elderly patients;
 - (E) assess clinic charges on a posted sliding fee schedule for low income patients;
 - (F) employ the International Medical Graduate 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 same region;

- (G) assign a patient panel to the International Medical Graduate physician that is not substantially different than that of other physicians in the practice with the same clinical specialty;
 - (I) report practice characteristics to the Primary Care Office on a biannual basis; and
 - (H) 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 waiver support 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" on the following schedule.
- (A) \$1,000 for a Conrad 30 J-1 Visa Waiver application review.
 - (B) \$250 for a National Interest Waiver application review where the physician is a current J-1 Visa Waiver physician practicing in Colorado.
 - (C) \$1,250 for a National Interest Waiver application review where the physician is not a current J-1 Visa Waiver physician practicing in Colorado.

1.4 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) Complete applications, where both the International Medical Graduate and Practice Site are eligible under program rules, will be referred to the Waiver Application Review Committee for a vote. In federal fiscal years where more than 30 applications are received, priority will be given to applicants who:

- (1) are specialists in Family Medicine, General Internal Medicine, General Pediatrics, General Obstetrics and Gynecology, or General Psychiatry;
 - (2) will be placed in an outpatient clinical setting; and
 - (3) are assigned to a Practice Site located in a current Health Professional Shortage Area.
- (C) The Governor's Designee will support waiver petitions that are recommended by a majority vote of the Waiver Application Review Committee. All decisions regarding state support of a waiver petition are final.
- (D) 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 Application
- (A) Applications will be accepted at any time and will be reviewed in the order that they are received.
- (B) Complete applications, where both the International Medical Graduate and Practice Site are eligible under program rules, will be evaluated by the Governor's Designee if an applicant is a current J-1 Visa Waiver physician practicing in Colorado, or be referred to the Waiver Application Review Committee for a vote if the applicant is not a current J-1 Visa Waiver physician practicing in Colorado.
- (C) The Governor's Designee will make the final determination of state support. All decisions regarding state support of a waiver petition are final.