



New Hampshire’s J-1 Visa Waiver Program Policy and Guidelines

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1.0 The New Hampshire J-1 Visa Waiver Program Introduction

The federal J-1 Visa Program allows an international medical graduate to come to the United States (US) under an educational exchange program for up to seven (7) years. When the Visa expires, the physician must return to his/her native country for at least two (2) years before applying for a permanent Visa in the US. The J-1 Visa Waiver Program will eliminate the two-year requirement, providing the sponsoring state approves the waiver, if the waiver recipient agrees to practice medicine full-time in a designated health care facility for a minimum of three-years and begin employment within 90 days of receiving of the waiver.

The J-1 Visa Waiver Program allows NH to sponsor 30 waiver applications per federal fiscal year, October 1st through September 30th for primary care providers and sub-specialists who support primary care efforts. NH accepts applications until July 1st, during each federal cycle year. Applications that are incomplete or received after this date are held until the next federal cycle year. Preference for J-1 waivers will be given to physicians in primary care (i.e. Family Practice, Pediatrics, Obstetrics & Gynecology, Internal Medicine, & Psychiatry) and in sub-specialties (i.e. Hospitalists, Geriatrics, General Radiology and General Surgery) who are willing to work at safety net sites. Safety net sites include health departments; Federally Qualified Health Centers (FQHCs); Community Mental Health Centers; homeless clinics; Critical Access Hospitals (CAHs) and associated clinics; psychiatric facilities; and Rural Health Clinics (RHCs). Federal law allows for up to ten (10) waiver applications from facilities outside designated underserved areas if the J-1 physician's service site(s) can document that they serve patients from medically underserved areas and serve as a safety net to the indigent and medically underserved population of NH. These J-1 waiver applications will be referred to as Non-designated Waiver Requests/Flex Spots. Providers in federal designation areas will have priority over non-designated waiver requests.

Find **NH's designated shortage areas** at <http://www.hrsa.gov/shortage/find.html>

The State has a preference for outpatient primary care physicians but will consider specialists in the service area if the facility can demonstrate that a shortage of that specialty exists in that service area and that the J-1 physician and service site(s) are willing to charge for services at the usual and customary rates prevailing in the service area. In addition, the service site(s) shall have a policy providing the patients unable to pay the usual and customary rate a reduced rate according to the service site's sliding-fee-schedule or not at all, based on poverty level. The site(s) agrees not to discriminate on the patient's ability to pay for care or the payment source, including Medicare and Medicaid.

Federal law allows foreign physicians who have a valid J-1 Exchange Visitor Visa to pursue graduate medical education or training in the United States. The J-1 Visa allows physicians to remain in the US until their studies and/or training is completed. Upon completion of the program, J-1 physicians must return to their native country for at least two years before they will be able to return to the US. Physicians who are subject to, but do not wish to comply with, the two-year residence requirement may apply for a waiver of that requirement under any one (1) of the following five (5) grounds provided by the US Immigration and Nationality Act:

1. If the exchange visitor's government states that they have no objection to the exchange visitor not returning to the home country to satisfy the two-year foreign residence requirement of Section 213(e) of the Immigration and Nationality Act, as amended, and remaining in the US if he/she chooses to do so.
2. If the exchange visitor is working on a project for or of interest to a US Federal Government Agency and that agency has determined that the visitor's continued stay in the US is vital to one of its programs.
3. If the exchange visitor can demonstrate that he/she will be persecuted upon return to the home country due to race, religion, or political opinion.
4. If the exchange visitor can demonstrate that his/her departure from the US would cause extreme hardship to his/her US citizen or lawful, permanent resident spouse or child. (The mere separation from family is not considered to be sufficient to establish exceptional hardship).
5. Pursuant to the requirements of Public Law 103-416, of October 25, 1994, and Public law 107-273, of November 2, 2002; foreign medical graduates who have a full-time employment offer at a health facility in a designated Health Professional Shortage Area (HPSA), and who sign a contract to begin employment and

continue to work at the healthcare facility for educational or training purposes (as of June 1, 1996), for a total of 40 hours per week and for no less than three (3) years.

2.0 Goals of the New Hampshire State J-1 Visa Waiver Program

All sponsoring sites must provide short- and long-term strategies that will not only keep the physician in the service area, but will also encourage the physician to continue to practice in NH after the three-year obligation is completed. The Rural Health and Primary Care Section respectfully requests that each physician, upon completion of his/her obligation, submit a *Confidential Exit Survey* (Appendix H). It is our hope that information gathered from this survey would help both the State of NH and various facilities with retention incentives and possibly pinpoint some inadequacies in certain areas that may discourage prospective J-1 physicians.

3.0 Waiver Request Eligibility and Guidelines

3.1 To be eligible for a J-1 Visa waiver, a physician must:

- Have a contract for full-time employment from an eligible service site(s).
- Work a minimum of 40 hours per week (for at least 45 weeks per service year) in an outpatient, clinical setting. At least 32 hours, of the required 40 hours per week, must be spent providing direct patient care in the outpatient ambulatory care setting at the approved service site. The remaining eight (8) hours must be spent providing clinical services for patients in the approved service site(s), in alternative settings (e.g., hospitals, nursing homes, shelters, etc.) as directed by the approved site(s), or in administrative activities. OB/GYN physicians, Family Practice physicians (who practice obstetrics on a regular basis) and Psychiatrists: the majority of the 40 hours per week (no less than 21 hours per week) is expected to be spent providing direct patient care. These services must be conducted in an approved ambulatory care service site during scheduled office hours. The remaining 19 hours must be spent providing inpatient care at the approved service site; providing clinical services in alternative settings (e.g., hospitals, nursing homes, shelters, etc.), as directed by the approved practice site(s); or performing practice related administration. Practice-related administrative activities shall not exceed 8 hours of the minimum 40 hours per week. Up to 7 weeks (35 work days) of leave is allowed from the service site per service year (vacation, holidays, professional education, illness, etc.).
- Have completed an approved and accredited postgraduate training program in the US or Canada in primary care or a specialty that supports primary care.
- Have a NH Medical License.
- Include either a “No Objection” letter from the home country, or a statement that the physician is not contractually obligated to return to the home country.

3.2 To be eligible, an employer/service site(s) must:

- Be located in an area designated by the US Secretary of Health & Human Services as a HPSA, MHPSAs, MUA/P, or E-MUP or:
- Provide advance documentation before a non-designated/flex spot is approved by the Section. If approved, the non-designated/flex spot will be held for three months.
- Include a bona fide offer of employment in the form of a completed employment contract for a period of at least three years that is signed by the J-1 physician and by the authorizing representative of the facility with:
 - The “non-competition provisions” shall not be enforceable against J-1 physicians during the initial three-year period of employment, pursuant to Department of State regulations regarding J-1 waivers for foreign medical graduates.
 - Stipulations that the physician will be employed at least 40 hours per week in an outpatient, clinical patient care setting. Provide added information if more than one service site is to be utilized by the physician to perform his/her required 40 hours per week.
- Have a sliding-fee-scale in place and based on the current Federal Poverty Guidelines (<http://aspe.hhs.gov/poverty/>), as published in the Federal Register, and provide free care when medically necessary. Explain implementation plan, and public notice, plus written commitment to their use. The service site(s) must provide the policy and a copy of the sliding-fee-scale with their application.

- Provide RHPC with a copy of the approved letter from the US Citizenship and Immigration Services and provide an e-mail of when the employment period begins and ends for the three-year J-1 commitment.
- Provide RHPC with the Arrival to Practice Report within 30 days of the start of employment at the service site(s).
- Jointly submit a Semi-Annual Report (due January 31 and July 31) to RHPC during the term of the J-1 Visa waiver.
- Allow RHPC to conduct periodic monitoring either through site visits, telephone calls, exit surveys, or written reports.
- Comply with federal and state program policies and guidelines. Failure on the part of the sponsoring employer or the J-1 physician - who has been granted a waiver - to comply with the rules and regulations of this program will result in a report of noncompliance to the USCIS and may, among other things, make the site ineligible for future placements for a period of time to be determined by the Section.
- Not change, by contractual amendment or otherwise, the essential terms of the employment contract presented to RHPC, unless authorized by RHPC.

4.0 Special Consideration for Non-Designated Waivers

In order for NH to consider the application of a J-1 physician in a non-designated/flex spot, we are requiring that the employer or immigration attorney (the use of an immigration attorney is *strongly* suggested) provide early justification for the need of a J-1 physician in a non-designated service area. This allows the State an opportunity to evaluate the need of the community and the appropriateness of approving the J-1 physician to serve in the specified service area. Rural Health and Primary Care will e-mail the employer's contact representative the decision. If the non-designated service area is approved, a flex-spot will be held for the facility and the completed waiver application must be received by the State for final review **within 3 months**. Please note that support from the State is not a guarantee that the federal agencies reviewing the waiver application will approve the waiver request. In all cases, federal designated waivers will have priority over non-designated slots. Also, keeping all medically underserved areas of New Hampshire in mind, the State will impose a limit of 3 flex slots per facility from October 1 to March 1 after which time the slots will be opened to any eligible facility regardless of how many they've requested (up to 10).

The J-1 Visa Waiver Program policy objectives are to increase access to physicians by the indigent and medically underserved. Flexibility provisions require a qualifying physician to serve substantial numbers or percentages of the indigent and medically underserved.

The following are determinants in adjudicating waiver requests for non-designated/flex spots:

- Nature of medical facility: Certain medical facilities play an important role in serving the needs of the State's indigent and medically underserved populations. For example, systems and hospitals serving as important safety net providers to these populations, even if such facilities may not be located in designated medically underserved areas. Also, providers of important outreach services to the State's vulnerable population groups, particularly in specialty and tertiary care services, which are practice areas not supported at a local level.
- Physician's expected practice plan: There are quantifiable measures to judge the actual contributions of a physician to at-risk population groups within the State. It is possible to evaluate a foreign physician's expected contributions to a state's vulnerable population groups by considering such factors as: percentage or actual number of the physician's public aid patients, expected annual write-offs of patients who have fallen through the safety net, discounted fee arrangements extended to the indigent, medical services provided to minorities, unique practice area/substantial referral network making the physician a statewide referral source for certain medical conditions, the prevalence of a disease among the poor and disadvantaged, etc.

4.1 Guidelines for Pre-Approval of Non-Designated Waivers Slots

The following documentation must be provided in the pre-application packet for a J-1 Visa Physician to be considered for a non-designated area:

- A letter from the head of the medical facility requesting a non-designation waiver slot, which includes the address of the employer and the address of the service site(s) (if different from employer), the J-1 physician

specialty to fill the position, and the employer's contact representative with phone number and e-mail address for correspondence purposes.

- A description of the medical facility, which details the nature, and extent of its medical services.
- A copy of the facility's sliding-fee-schedule including the implementation plan, and public notice, plus written commitment to their use. (A charity policy is not a substitute for a sliding-fee-schedule, unless fees are waived for all medically indigent uninsured patients with incomes at or below 100% of the federal poverty level.)
- For specialists who are not in primary care, provide reasons for the specialty shortage in the service area, how the specialist will support primary care in the service area, and consistently meet the needs of underserved population of NH.
- The payor mix (uninsured, underinsured, Medicaid, Medicare, bad debt, and other) in the last 6 months as percent of revenue at the service site(s) to determine the need of the service area.
- A written statement describing how the facility and J-1 physician will ensure that uninsured, underinsured, Medicare and Medicaid patients will continue to receive services during the three-year commitment to the J-1 Visa Waiver Program.
- The approximate distance of the closest Federal Qualified Community Health Center (FQHC) from service site(s).
- The percentage or actual number of patients located in medically underserved areas, regionally, including those from the nearest Federally Qualified Health Center. Please list the regions.
- A description of the effect on the area/population if the waiver is denied by the RHPC Section.

Please provide pre-approval information to the Division of Public Health Services, Rural Health and Primary Care Section, 29 Hazen Drive, 2E, Concord, NH 03301-6504. If you have questions, please contact Rural Health and Primary Care at janine.wainwright@dhhs.nh.gov.

5.0 New Hampshire J-1 Visa Waiver Application Process

There is no fee to apply for a J-1 Visa waiver in NH. However, you must first apply to the US Department of State for a case file number (see Appendix B – Resources) which you will need for the J-1 Visa waiver application. Do not submit this request and fee to the State of New Hampshire.

The submission of a complete waiver package does not ensure that RHPC will recommend a waiver. In all instances, RHPC reserves the right to recommend or decline any waiver request application. In order to facilitate a waiver request, the request must come from a health care provider or immigration attorney on behalf of the J-1 physician, and not directly from the J-1 physician.

Each application will be reviewed to determine whether the application is complete and meets the requirements of the federal and state policies and guidelines. Please refer to Appendix A – Waiver Packet Checklist. The amount of time necessary to completely process an application varies, based on accuracy of the application and documentation. If all necessary materials are included, the application review process will take approximately three (3) to five (5) weeks. Non-designated /flex-spot applications may take longer.

When reviewing waiver applications, RHPC will view negatively any past or current disciplinary actions or proceedings such as owners, administrations, or medical directors who are under investigation, indictment, or conviction for violations of federal, state, or local laws, regulations, or ordinances related to medical practices or any past violations of the NH J-1 Visa Waiver Program. The RHPC Section has the discretion to limit the number of waiver requests from health care providers who submit multiple applications in a federal cycle year. The only exception will be waiver applications from federally funded clinics, or state agencies that provide health care to the indigent, uninsured, or institutionalized populations of NH. When considering a J-1 physician, the health care provider may choose to impose additional requirements to these guidelines to assure the best delivery of health care services and consistency with their practices' policies.

In reviewing waiver requests, RHPC will ensure the packet is complete with the information and documentation requested. RHPC will determine how the J-1 physician and service site(s) will improve access to care in the MUA or non-designated area to ensure that the proposed placement will not adversely affect or compromise the delivery of health care in the underserved areas in the State.

5.1 Steps to Sponsor a J-1 Visa Waiver

The USDOS reviews and considers state recommendations with other policy considerations. The USDOS certifies the state recommendation and forwards it to the US Citizenship and Immigration Services (USCIS). Process times vary depending when in the federal cycle they are received and can take several weeks. The USCIS makes a final recommendation to approve or disapprove the J-1 waiver. The USCIS will send a letter to the health care facility and/or immigration attorney with their decision. This can also take several weeks. Again, status requests should be made to the health care provider or immigration attorney handling the request.

6.0 Monitoring and Reporting

To confirm that the J-1 physician begins his/her employment within 90 days of receiving the J-1 waiver, the employer and/or service site shall notify the Rural Health and Primary Care Section upon receipt of written notification of approval from U.S. Citizenship & Immigration Services (I-612). The *Certification of Arrival to Practice and Report Agreement* (Appendix F) should be completed as soon as possible from the start of employment at the facility.

A semi-annual reporting process is established for each J-1 physician practicing under a waiver to ensure the J-1 physician and service site(s) continue the services required under the Conrad 30 Program and the State of NH's Memorandum of Agreement. It will be the employer and/or service site's responsibility to provide the semi-annual reports in a timely manner. They are due twice a year, regardless of start date, on January 30th and July 30th. Failure to provide these reports in a timely manner will jeopardize future J-1 Visa Waiver placements. The *Semi-Annual Report* is attached as Appendix G.

The Rural Health and Primary Care Section will also conduct periodic monitoring of all J-1 Waiver physicians either through site visits, exit interviews, telephone calls, or requests for written reports.

7.0 Change in Employment of J-1 Visa Waiver Recipient

7.1 Change in Status Due to Extenuating Circumstances

If the service site(s) named in the waiver is due to close before the obligated three-year service, the physician and immigration attorney must notify USCIS and receive approval from this agency for the change. Depending on the circumstances, USCIS may consider the closure of the health care facility named in the waiver application as an extenuating circumstance, excusing early termination of employment. The J-1 physician granted a J-1 Visa waiver and H-1B status, must comply with the terms and conditions of that non-immigration status. Such compliance includes notifying the USCIS of any material changes in the terms & conditions of the H-1B employment by either filing an amended or new H-1B petition, as requested, under 8 CFR, 214.2(h) (2)(I)(D), 214 (h)(s)(E), and 214.2(h)(11). An example of an extenuating circumstance is the closure of a health care facility or hardship to the foreign physician. In determining whether to excuse early termination of employment, USCIS will base its decision on the specific facts of each case. In all cases, the burden to establish eligibility rests with the physician. Contract changes which result in termination of a contract, a change in practice scope, and/or relocation from a site approved in the application request must be presented in writing to Rural Health and Primary Care at least thirty (30) days prior to the change.

7.2 Transfer

New Hampshire does not encourage the transfer of employment once a waiver has been approved. If unforeseen circumstances cause the waiver recipient to transfer to or add a new practice site, please contact Rural Health and Primary Care at janine.wainwright@dhhs.nh.gov.

A foreign physician who is granted a visa waiver and encounters a practice failure due to extenuating circumstances may, with the approval of RHPC, continue the service obligation at another approved health care facility in NH. A written transfer request must be submitted to Rural Health and Primary Care documenting the need for a transfer at least (60) days in advance of the proposed change. The letter needs to explain the reason for transfer, the proposed new employer, the federal designation area, the site director's name, the practice name/address/contact information,

and proposed date of transfer. The J-1 physician will need to consult with his/her immigration attorney for advice. The letter must be sent to Rural Health and Primary Care.

The new employer must:

- Provide a letter of intent to employ the physician
- Provide a copy of the new employment contract for at least the length of the physician's waiver obligation period, which follows all the guidelines of the original approved contract
- Meet health care facility participation requirements as set forth in this document
- Must sign, along with the J-1 physician, a "Memorandum of Agreement" with the State before transfer can take effect

RHPC will review the change in employment within the State and make a decision based on the same criteria used in the original application. Any change in employment site within NH for the J-1 Visa waiver cannot take place without written approval from RHPC, the Section Administrator, USCIS and/or USDOS. Please confer with your immigration attorney in this matter. As previously mentioned, you are signing a contract with the State of NH and noncompliance of the program may result in, among other things, cancellation of the Visa waiver.

7.3 Termination

Notify Rural Health and Primary Care, in writing, within seven (7) calendar days in the event of employment termination of the J-1 physician by the employer and/or service site(s). Include the specific reason(s) for termination. RHPC cannot provide legal advice to the employer or J-1 physician; both parties may want to seek legal counsel to assist with this issue.

7.4 Change in Practice Site Status

The change of status includes adding a new site location to the original practice site or transferring sites while working with the same employer.

- Adding a work location: It is acceptable to add a work location with the same employer as long as the original conditions are met. If you are employed at a priority facility (CAH, FQHC, RHC, or other state facility) then you must continue to serve at that facility at least 60% of the time, and you must be serving in the same capacity as stated in the original waiver application.
- Transferring work locations: While it is not encouraged, at times, is unavoidable. The physician must meet the original conditions: continued to be employed full-time, serve in the specialty as stated on the original application, and work in a designated medically underserved area.

The employer and J-1 physician need to contact Rural Health & Primary Care and receive approval for any changes, in writing, at least thirty (30) days in advance of any consideration of permanent changes in a service site(s) or circumstances of the J-1 physician under the agreement. If the J-1 physician is relocated to a service site that is not in a designated medically underserved area, termination of the J-1 waiver may result and will be reported to USDOS and USCIS for breach of contract.

J-1 Visa/Conrad 30 Waiver Program

Appendix A

Waiver Packet Checklist

All listed information and documentation must be submitted in order to be considered for a waiver slot. Waiver requests that do not comply with these requirements will not be entered into the State's waiver review process and will be returned. Because there is sometimes a delay in receiving the NH Board license, we will allow the application packet to be sent in without license information. Please note on top of application packet that the license is in process and give an approximate date of issuance. The RHPC Section will review the packet, but the packet will be considered incomplete until we receive a copy of the NH License. If the license is received after July 1st, the Section reserves the right to hold the waiver request until the following federal cycle year, which begins on October 1st.

The following is a list of information and documents to be submitted for a waiver recommendation under the NH J-1 Visa Waiver Program. Documents should be placed in the following order:

- Form G-28: Notice of Entry of Appearance as Attorney or Accredited Representative
- Form DS-3035: Physician Data Sheet and Third Party Bar Code Page
- Copies of physician's DS2019s, physician's and family member's I-94s
- Letter from the head of the medical facility that wishes to hire the J-1 physician, requesting a waiver recommendation on the J-1 physician's behalf and addressed to RHPC which includes:
 - a. A description of the J-1 physician's proposed responsibilities and schedule (hours per day & days per week)
 - b. A statement of how the J-1 physician's employment will satisfy important unmet needs including the health care needs of the specific community and preventive programs the physician will initiate or continue that address health problems prevalent in the specific community. If the provider will work in multiple sites, please describe the proposed responsibilities and schedule at each site
 - c. Documentation that was earlier submitted to RHPC describing the need for the J-1 physician to be employed in a "non-designated" area, if applicable
 - d. A statement that the medical facility is located in an area designated by the US Secretary of Health & Human Services as a medically underserved area in NH
 - e. A description of the medical facility, which details the nature and extent of its medical services
 - f. A copy of the facility's sliding-fee-scale and policy. (**Note:** A charity policy is not a substitute for a sliding fee schedule, unless fees are waived for all medically indigent, uninsured patients with incomes at or below 100% of the federal poverty guidelines)
 - g. The Payor Mix in the last six months as percent (%) of revenue at the service site(s). Include uninsured patients, underinsured Patients, Medicaid, Medicare, bad debts, and other
 - h. Retention efforts
 - i. A summary of the effect on the area/population if the waiver is denied by the RHPC
 - j. An agreement from the facility to comply with physician monitoring and retention activities by providing semi-annual reports to RHPC. The commitment to comply with monitoring may be included in the facility's letter of request or can be a separate statement, signed by the facility administrator
- The valid, signed contract of full-time employment which must include:
 - a. offer of full-time employment, service site(s) of employment
 - b. specification of a commitment of at least three (3) years
 - c. type of profession or medical services that the physician will be required to perform at service site(s)
 - d. physician agreement to begin employment at the approved service site(s) within 90 days of receiving a J-1 Visa waiver
 - e. verbiage that the J-1 physician and the employer may not change, by contractual amendment or otherwise, the essential terms of the employment agreement contract required by the J-1 Visa waiver policies

- f. do not include a “Non-Compete Clause;” physician must only be terminated for cause and may not be terminated by mutual agreement or without cause. Both parties must sign the contract.
- From the physician:
 - a. A copy of the NH Medical License. **Note:** An application may be submitted before physician receives the state license, however, the application will not be sent to USDOS and USCIS until a copy of the license is received. Please provide the approximate date of expected license issuance
 - b. ***NEW*** NPI number. This can either be on a separate piece of paper or written on the copy of the license or other physician document. The NPIs provide us with the ability to easily validate providers in the state for workforce planning and assessment.
 - c. Curriculum vitae/résumé
 - d. A signed and dated statement by the J-1 physician that declares he/she has not filed any competing application for a J-1 waiver in any other state or federal agency
 - e. Either a no objection letter from home government, if applicable or a statement from the physician that s/he is not contractually obligated to return to the home country

Upon completing the review of the waiver request, RHPC will send a “Memorandum of Agreement” (MOA) to the immigration attorney representing the employer. The MOA requires the signature of the physician and the legal representative for the employer. A copy of the signed MOA and the recommendation letter will be forwarded to the representative acting for the J-1 physician, upon completion.

Any questions about the New Hampshire J-1 Visa Waiver Program should be directed to the Division of Public Health Services, Rural Health & Primary Care Section, 29 Hazen Drive, 2E Concord, NH 03301-6504. Contact e-mail: janine.wainwright@dhhs.nh.gov.

We recommend applications be assembled as follows:

- Include **two (2) copies** of the application packet; one original and one copy
- Do not** include documents that are not required by DOS or the State of NH
- Do not** use staples, binders, two sided copies or pages larger or smaller than 8.5 x 11
- The DOS waiver case file number should appear on every page of the application
- The packet needs to include a Table of Contents
- Separate documents with a colored divider page, labeled with the numbers following the Table of Contents

J-1 Visa/Conrad 30 Waiver Program

Appendix B

Resources

Federally designated shortage areas: <http://www.hrsa.gov/shortage/find.html>

J-1 Visa Waiver State Program: <http://www.dhhs.nh.gov/dphs/bchs/rhpc/visa.htm>

Visa waiver information from the US Department of State: http://travel.state.gov/visa/temp/info/info_1296.html

Federal Poverty Guidelines: <http://aspe.hhs.gov/poverty>

National Rural Recruitment and Retention Network: <https://www.3rnet.org/locations/new-hampshire>

New Hampshire Recruitment Center: <http://www.bistaterecruitmentcenter.org/>

New Hampshire Community Health Centers: <http://www.bistatepca.org/bi-state-members>

New Hampshire Hospitals: <http://www.nhha.org/index.php/nh-hospitals/hospital-members>

J-1 Visa/Conrad 30 Waiver Program

Appendix C

Frequently Asked Questions

How do I find job openings in NH?

NH does not maintain a list of vacancies specifically for J-1 Visa physicians or provide placement services. Many physicians search through private recruiters, employment ads, and medical journals. Because all eligible practice sites must demonstrate that they have attempted to recruit a US citizen or a permanent resident physician for a period of at least six months prior to waiver sponsorship, the physicians may locate potential employers through employers' earlier recruitment efforts. The Rural Health and Primary Care Section contracts with the NH Recruitment Center, a service of Bi-State Primary Care Association (<http://www.bistaterecruitmentcenter.org/>), to act as a single point of contact for the recruitment of primary care providers and through this agreement utilizes the National Rural Recruitment and Retention Network (3RNET) for recruitment. Find more information at <https://www.3rnet.org/locations/new-hampshire>.

How do I request a J-1 Visa Waiver?

The waiver request must come from a health care provider or immigration attorney on behalf of the J-1 physician, and not directly from the J-1 physician. There is no fee to apply for a J-1 Visa waiver in NH. However, you must first apply to the USDOS for a case file number which you will need for the J-1 Visa waiver application. Do not submit this request and fee to the State of New Hampshire. For further instruction, refer to the section titled "Steps to Sponsor a J-1 Visa Waiver" in the Policy and Guidelines.

How long will it take the State to process my waiver request?

Each application will be reviewed by the RHPC Section to determine whether the application is complete and meets the requirements of the federal and state guidelines. The amount of time necessary to process an application varies based on level of accuracy in the initial application. If all materials are provided, the initial review process should take approximately three to five (3-5) weeks. RHPC will accept applications when the physician's NH Medical License is still in process, however the application will NOT be sent to USDOS until a copy of the license is received. The sponsoring legal representative will be notified when the Section has made a decision. Non-designated/flex spot applications may take longer. If a waiver application is approved by the State, the waiver packet will then be sent to the USDOS for further review. The USCIS will grant the final decision and notify the Section.

How do I check the status of my waiver request?

Once an application has been submitted to the State of New Hampshire for consideration, the J-1 physician needs to refer all questions regarding his/her application to the employer or immigration attorney handling their application request. All J-1 physicians who call or e-mail regarding their status will be directed to contact their legal representative.

Who actually grants a J-1 Visa Waiver Application?

The State reviews J-1 Visa applications for consideration. If the State recommends a J-1 Visa waiver the application is sent to the USDOS for their recommendation. The USDOS submits the application to the USCIS for final determination of approval/disapproval.

J-1 Visa/Conrad 30 Waiver Program

Appendix D

Glossary/Acronyms

DOS - Department of State, Bureau of Consular Affairs Waiver Review Division: The Federal agency that reviews the recommendations submitted by interested state agencies on behalf of J-1 physician applicants. In turn, they submit their own recommendations to the US Citizen and Immigration Service (USCIS) for final determination of approval/disapproval.

E-MUP - Exceptional Medically Underserved Populations: An area experiencing unusual local conditions or barriers to health care access. They are recommended by the Governor and community leaders.

Federally Designated Shortage Areas: Includes HPSAs, MHPSAs, MUA/Ps, E-MUPs, and Community Health Centers.

Full-Time Clinical Practice: Defined as working a minimum of 40 hours per week, for at least 45 weeks each service year. The 40 hours per week may be compressed into no less than 4 days per week, with no more than 12 hours of work performed in a 24-hour period. Participants do not receive credit for hours worked over the required 40 hours per week and excess hours cannot be applied to any other work week. Research and teaching are not considered to be clinical practice. On-call status will not count towards the 40-hour work week, except to the extent the provider is directly serving patients during that period. Up to seven (7) weeks, or 35 work days, of leave is allowed from the service site each year.

Hospitalist: A primary care provider in NH who treats patients exclusively in the hospital setting (an inpatient provider). Hospitalist physicians will be accepted on a limited basis. Hospitalist acceptance is dependent on the number of primary care outpatient provider applications submitted during the federal cycle year.

HPSA - Health Professional Shortage Area: An area defined by the US Department of Health & Human Services as having a shortage of health care providers.

MHPSA - Mental Health Professional Shortage Area: A defined geographic area with a low psychiatrist-to-population ratio or other high needs factors.

MUA - Medically Underserved Area: A defined geographic area with a low provider-to-population ratio, or other high needs factors.

MUP - Medically Underserved Population: A population group with barriers to healthcare access due to culture, language or economics.

Primary Care Provider: A physician practicing general/family medicine, general internal medicine, general pediatrics, and/or and general OB/GYN. Regarding mental health, a primary care provider is a general psychiatrist. For the purpose of this Program, all primary care providers serving the institutionalized (i.e., prisoners, or psychiatric hospital patients) are also considered primary care providers.

RHPC – Rural Health and Primary Care: The sponsoring Section in the Division of Public Health Services at the NH Department of Health and Human Services that oversees the J-1 Visa Waiver Program.

Safety Net Providers: County health departments; Community Health Centers (Federally Qualified Health Centers (FQHCs) and Look-A-Likes (LALs), and Rural Health Clinics (RHCs)); Community Mental Health Centers;

homeless shelters; Critical Access Hospitals (CAHs) and associated clinics; and state correction and psychiatric facilities.

Service Site: The physical location(s) where the J-1 physician will provide medical services. This location can be different from the sponsoring site location if, for example, a satellite office is used.

Sliding Fee Schedule: A schedule offering discounted fees for services to persons without health insurance. The sliding fee schedule determines, based on gross family income, the percentage or portion of billed charges for which the uninsured client will be responsible. Sliding fee schedules must be based on current Federal Poverty Guidelines (<http://aspe.hhs.gov/poverty/>). The employer must have the schedule or a similar policy for the uninsured, whose income falls at or below the 200% of current Federal Poverty Guidelines, posted in the lobby. The policy must state that all patients will be seen regardless of their ability to pay. Community Health Centers, National Health Service Corp sites, NH Loan Repayment sites and J-1 Visa Waiver sites are required to develop and implement a sliding fee schedule policy as well as post a notice about the availability of a sliding fee schedule in a visible location at their facility.

Specialist: Other than a primary care provider (ie: Hospitalists, Geriatrics, General Radiology, and General Surgery). Applications will be accepted on a limited basis; primary care provider submissions take precedence. The facility must provide documentation for the need of the specialist and explain how the specialists will assist primary care and meet the needs of the medically underserved population of NH.

USCIS – United States Citizenship and Immigration Services: The governmental body that is responsible for the final recommendation to approve or deny the J-1 Visa waiver. This is a Bureau in the Division of Homeland Security.



Jeffrey A. Meyers
Commissioner

Lisa Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301-6527
603-271-2276 1-800-852-3345 Ext. 2276
Fax: 603-271-4506 TDD Access: 1-800-735-2964



New Hampshire J-1 Visa Waiver Program

Appendix E

MEMORANDUM OF AGREEMENT

Between [EMPLOYER], [PHYSICIAN], and New Hampshire Department of Health & Human Services, Division of Public Health Services, Bureau of Public Health Systems, Rural Health and Primary Care Section.

The Bureau of Public Health Systems, Rural Health and Primary Care Section, has been given the responsibility within the State of New Hampshire to recommend and process J-1 Visa Waiver applications through the J-1 Visa Waiver Program (also known as the "Conrad State 30 Program"). This program is coordinated with the U.S. Department of State (USDOS) and the U.S. Citizenship and Immigration Services (USCIS) of the U.S. Department of Homeland Security (successor to the Immigration and Naturalization Services of the U.S. Department of Justice and is the federal agency that grants J-1 Visa Waivers).

PURPOSE

NOW COMES the State of New Hampshire through the New Hampshire Department of Health and Human Services, Division of Public Health Services, Bureau of Public Health Systems, Rural Health and Primary Care Section, [EMPLOYER] (Hereafter referred to as the employer), and the J-1 physician, [PHYSICIAN] (Hereafter referred to as the J-1 physician) agree to support the mission of the New Hampshire J-1 Visa Waiver Program.

[PHYSICIAN], NH Licensed Medical Doctor, will be employed full-time as a [SPECIALTY] for [EMPLOYER NAME AND ADDRESS]. [NARRATIVE EXPLAINING SERVICE SITE AS WELL AS HPSA DESIGNATION].

FEDERAL DEFINITION OF FULL TIME EMPLOYMENT

“Full-time clinical practice” is defined as a minimum of **40 hours per week** at an approved service site, for **minimum of 45 weeks per service year** providing direct patient health services at an approved service site, no less than 4 days per week with no more than 12 hours work to be performed in any 24-hour period, with no more than 8 hours per week devoted to practice-related administrative activities. The practice will include hospital treatment coverage appropriate to meet the needs of patients of the approval practice site and to ensure continuity of care. Research and teaching are not considered to be “clinical practice”. Time spent for all health care providers and dentists in “on-call” status will not count toward the 40-hour week.

STATEMENT OF AGREEMENT

- A. To confirm that the J-1 physician begins their employment within 90 days of receiving the J-1 waiver, the employer shall notify the Rural Health & Primary Care Section upon receipt of written notification of approval from the U.S. Citizenship & Immigration Services (I-612) via the Certification of Arrival to Practice and Report Agreement (See Appendix F of the NH J-1 Visa Waiver Program Policies and Guidelines). This

notification must include the date the three (3) year obligation commences and ends as well as the employment start date.

- B. The J-1 physician and employer agrees that during the term of the three-year employment contract signed between the employer and the J-1 physician that the J-1 physician's service site(s) services shall serve and provide services that include the following populations:
- Indigent and non-insured patient, providing that the distribution of such patients is proportional, fair, and equitable among covering physicians.
 - Medicare, Medicaid, and medically underserved patients, without discrimination based upon ability to pay for such services (i.e. self-pay, sliding-fee schedule, charity care).
 - Individuals, without discrimination, that are unable to pay for services, or for those whose payments will be made under Medicaid and Medicare rates.
 - Persons receiving services at the usual and customary rate prevailing in the medically underserved area in which services are provided. Charges will be on a sliding-fee schedule for persons at or below 200 percent of poverty or persons unable to pay for these services.
- C. The J-1 physician will work not less than four days per week or more than 12 hours in a 24 hour period. The hours must be performed during normal office hours, or hours which best meet the needs of the community.
- D. The employer will employ the J-1 physician on a full-time basis for three years (minimum of 40 hours per week, not including time spent in travel and/or on-call). Hours spent in an inpatient acute care setting may not be included in the 40 hours.
- E. The employer and J-1 physician agree to evaluate and treat any appropriate referrals from any of the community health centers located in New Hampshire, using the sliding-fee schedule established for community health center patients or the facility's sliding-fee-schedule, whichever would best serve the patient financially.
- F. The J-1 physician, employer and/or service site(s) will allow the Bureau of Public Health Systems, Rural Health and Primary Care Section to conduct periodic monitoring either through site visits, exit interviews, telephone calls, or requests for written reports until the term of the three-year contract is complete.
- G. The J-1 physician understands that if he/she fails to fulfill the terms of his employment contract with the employer in this agreement, he/she becomes subject to the two-year foreign residence requirement and may become ineligible to apply for an immigrant visa, permanent residence, or any other change of immigrant status until the two-year foreign residence requirement is met.
- H. The J-1 physician must maintain the appropriate New Hampshire professional medical license under this agreement and conform to all State laws and administrative rules pertaining to the profession being practiced. If there are any restrictions that would prevent this J-1 physician from doing his/her duties at the described service site(s), the J-1 physician will be in violation of this Visa Waiver which will result in the Rural Health and Primary Care Section reporting non-compliance to USCIS.
- I. Twice annually (January & July), the employer and service site(s) shall be responsible for providing Semi-Annual Reports (see Appendix G in the NH J-1 Visa Waiver Program Policies and Guidelines) in regards to the underserved and needy population being served by them during his/her three-year J-1 Visa Waiver commitment. The Semi Annual Reports shall be sent to the Bureau of Public Health Systems, Rural Health & Primary Care Section, 29 Hazen Drive 2E, Concord, NH 03301-6504 or janine.wainwright@dhhs.nh.gov.

- J. The employer and/or service site(s) will maintain the practice schedule of the J-1 physician for the number of hours per week and length of service specified in this agreement. Any changes in practice circumstances are subject to review by the Rural Health and Primary Care Section based upon the policies of the J-1 Visa Waiver requirements.
- K. The employer and/or service site(s) must notify and receive approval from the Rural Health & Primary Care Section for any changes in writing at least thirty (30) days in advance of any consideration of permanent changes in the sites or circumstances of the J-1 physician under their agreement. If the J-1 physician is relocated to a service site that is not in a designated medically underserved area, termination of the J-1 waiver may result and will be reported to the USDOS and USCIS immediately.
- L. The employer shall notify the Rural Health & Primary Care Section in writing within seven (7) calendar days in the event of termination of employment of the J-1 physician by the employer and/or service site(s) and must include specific reason(s) for termination. The Rural Health and Primary Care Section cannot provide legal advice to the employer or J-1 physician; both parties may want to seek legal counsel to assist with this issue.
- M. A J-1 physician who is granted a visa waiver and who encounters a practice failure due to extenuating circumstances may, with the State's approval, continue the service obligation at another approved health care facility in New Hampshire. A written transfer request must be submitted to the Rural Health & Primary Care Section documenting the need for the transfer at least sixty (60) days in advance of the proposed change. The J-1 physician will need to consult with an immigration attorney for advice.

Failure to comply with the provisions contained within this Memorandum of Agreement may, at the discretion of the Section Administrator, Bureau of Public Health Systems, Rural Health & Primary Care Section, result in the denial of a J-1 Visa waiver, or facilities who are out of compliance with the terms and conditions of the Memorandum of Agreement may not be eligible for future J-1 Visa Waiver requests.

I declare under the penalties of perjury that the foregoing is true and correct.

 [AUTHORIZED SIGNATORY OF EMPLOYER] Date
 [LOCATION]

Subscribed and sworn to before me,
 this ____ day of _____, 20__.

 Notary Public

 [PHYSICIAN] Date
 [LOCATION]

 Alisa Druzba, Section Administrator Date
 Rural Health and Primary Care Section

J-1 Visa/Conrad 30 Waiver Program

Appendix F

Certification of Arrival to Practice and Report Agreement

I, _____, a physician participating in the New Hampshire J-1 Visa Waiver Program certify that I have arrived for work at _____, on ___/___/___ after having received notification from the US Citizenship and Immigration Service. My three-year service period begins ___/___/___ and ends ___/___/___.

Updated Information

Home Address: _____

Home Phone: _____ Cell Phone: _____

Email Address: _____

NH Medical License Number: _____

My Physician Supervisor will be: Name: _____ Phone Number: _____

Email: _____

Signature of Supervising Physician Date

Signature of Site/Facility Executive Director/CEO Date

Location of Service Site: _____
Street City/State/Zip

Telephone Number

I hereby certify that I, the undersigned, will provide primary health care or specialty services at the above-stated address a minimum of 40 hours per week for 3 years. Deviation from this agreement may result in notification by the NH Rural Health and Primary Care Office to the US Department of State and the US Citizenship and Immigration Service. I have a current NH medical license and have been thoroughly credentialed.

Physician's Signature Date

Return completed form to: Workforce Coordinator
Rural Health & Primary Care Section
NH Division of Public Health
29 Hazen Drive
Concord, NH 03301

J-1 Visa/Conrad 30 Waiver Program

Appendix G – Semi-Annual Report

Reporting Period: __/__/__ to __/__/__

*Monitoring reports are due on January 30th and July 30th of each year until the physician's three-year commitment is complete. Failure to submit these reports will result in the physician and/or employer being in "noncompliance" with program policies. *It will be the responsibility of the employer/and or practice site to submit the J-1 Visa Waiver Semi-Annual Report in a timely manner.*

*Please complete this form, make any necessary changes, and scan/email, fax, or mail to: Workforce Coordinator, Rural Health & Primary Care Section, 29 Hazen Drive, 2E, Concord, NH 03301-6504, 603-271-2276 FAX 603-271-4506, janine.wainwright@dhhs.nh.gov

Physician Information (Please print or type):

Name: _____

HOME Mailing Address/City/State/Zip: _____

Phone: _____ FAX: _____ Email: _____

I, the above named physician, do provide services at the practice site(s) stated on the Memorandum of Agreement for a minimum of 40 hours per week, and comply with the Memorandum of Agreement and J-1 Visa Waiver guidelines.

Physician's Signature: _____ Date: _____

Employer Information:

Employer Name: _____

Address: _____

Authorized Contact Person: _____ Title: _____

PH #: _____ E-Mail: _____ Fax #: _____

- Employment Start Date: _____
- Describe your payor mix in the last 6 months as percent of revenue where the J-1 physician is working:
 - Medicaid: ____ %
 - Medicare: ____ %
 - Commercial: ____ %
 - Uninsured: ____ %
- Has the J-1 physician worked a minimum of 40 hours per week as described under the definition of full-time, described under the program? **YES** **NO** If no, please explain:
- Has the employer maintained the practice schedule of the J-1 physician at the practice site (s) for the number of hours per week and length of service specified in the agreement? **YES** **NO** If No, please explain:

I do hereby certify that J-1 Physician & Employer/Practice Site(s) have complied with the Memorandum of Agreement and J-1 Visa Waiver Guidelines:

Authorization Employer Signature: _____

Title: _____ Date: _____

J-1 Visa/Conrad 30 Waiver Program

Appendix H

Confidential Exit Survey

Physician's Name: _____ **Specialty:** _____

Home Address: _____

City/State/Zip: _____

Home Phone: _____ Email: _____

Practice Site Name: _____

Address/City/State/Zip: _____

County: _____ Phone: _____ Email: _____

Federal Designation: _____

Start Date of J-1 Obligation: _____ **Completion Date:** _____

Did you apply for a National Interest Waiver (NIW)? Yes No

Retention Information: Will you remain at the site: Yes No

If the answer is no, what is the reason for leaving?

Reason	Comments (Feel free to elaborate on the back of this sheet)
Salary/Benefits	
Workload	
Relationship with management	
Relationship with other professional staff	
Inadequate support staff	
Administrative responsibilities	
Physical surroundings (facility)	
Family needs	
Geographic location	
Other (describe)	

Do you feel that you had an impact on the practice? Yes No

Describe: _____

Date of survey: _____

Please email, mail, or fax to:
NH Division of Public Health
Rural Health and Primary Care Section
29 Hazen Drive
Concord, NH 03301

Phone: 603-271-2276 Fax: 603-271-4506 Email: janine.wainwright@dhhs.nh.gov