



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF RURAL HEALTH

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GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

MARGARET L. SAUER, MS, MHA
DIRECTOR

TO: All Interested Parties

FROM: Margaret Sauer, MS, MHA
Director

SUBJECT: North Carolina State 30 J-1 Visa Waiver Program

Enclosed with this letter, please see information on the North Carolina State 30 J-1 Visa Waiver Program.

The North Carolina Office of Rural Health (ORH) is the interested government agency designated to implement the J-1 Visa waiver provision for foreign medical graduates provided by Section 220 of Public Law 103-416. **ORH does not work directly with physician candidates to locate an eligible site. A waiver request to ORH must come from an existing eligible site on behalf of a J-1 physician, and not directly from the physician.**

ORH will review application packets on a first-come, first-served basis, and if ORH believes it is in the public interest that the physician remains in the United States, a waiver request will be submitted to the United States State Department.

Thank you for your interest in North Carolina.

Attachments

J-1 Visa Waiver Information for Foreign Physicians Interested in Practicing in Underserved Areas of North Carolina

The State of North Carolina is committed to improving access to quality, affordable health care for persons residing in the state's rural and underserved areas. To increase the number of physicians practicing in these areas, the North Carolina Office of Rural Health (ORH) is serving as the "interested government agency" to implement the waiver provision for foreign medical graduates provided by Section 220 of Public Law 103-416. To this end, ORH is reviewing and processing waiver applications for physicians admitted to the United States under a J-1 visa before, on, or after the date of enactment of the law and before June 1, 1996.

Annually, on October 1, the State of North Carolina receives 30 J-1 Visa Waiver slots. To ensure North Carolina's primary care needs are met, twenty (20) of the thirty (30) slots are reserved for Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry physicians practicing in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA). Physicians practicing as hospitalists in Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry will also be considered. The remaining ten (10) slots may be used for flex or specialist positions. Flex slots do not require the physician to be working in a HPSA or MUA and are not limited to Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry. If specialist applications exceed the number of available flex/specialty slots, specialist applicants practicing in a HPSA or MUA will be placed on a waiting list. Beginning May 1, ORH may consider utilizing unallocated primary care slots for specialists on the waiting list.

A waiver request to the ORH must come from an existing eligible site on behalf of a J-1 physician and not directly from a J-1 physician. The waiver request should be submitted for review to Medical Placement Services, NC Office of Rural Health. All the required information and documentation must be submitted in a single package with documents presented in the order described in the Application Checklist. **Please send an original and a copy and ensure that the waiver number is on the bottom of each page (for the original and copy).** Waiver requests that do not comply with these requirements will not be considered. Applications will be processed on a first-come, first-served basis. The submission of a complete waiver package to ORH does not guarantee that ORH will recommend a waiver. In all instances, ORH reserves the right to recommend or decline any request for waiver.

ORH will review the information contained in the application packet. If ORH believes it is in the public interest that the J-1 physician remains in the United States to serve for three years in an eligible health center in a HPSA or MUA (Primary and Mental Health Providers) or specialty shortage area (Specialist Providers) of the State, a waiver request will be submitted to the United States State Department. If the State Department finds that the waiver request contains all the necessary documentation, they will forward the package to the U.S. Citizenship and Immigration Services (USCIS) with a favorable recommendation. The USCIS will inform the candidate of its decision.

It is important to note that the waiver of the two-year residence requirement is not a visa. Physicians making application through the state waiver program must make an application to the USCIS and be approved for H 1 (B) visa status prior to employment in North Carolina. No person

who has obtained a change of status under subparagraph (A) of Attachment F and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of non-immigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

North Carolina State Waiver Program Procedures for J-1 Visa Waiver Requests

Candidate Eligibility:

The 20 Primary Care J-1 Visa Waiver slots are reserved for Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry physicians practicing in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA). Physicians practicing as hospitalists in Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry will also be considered.

The 10 flex/specialty slots do not require the physician to be working in a HPSA or MUA and are not limited to Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/Gynecology, or Psychiatry. If flex/specialist applications exceed the number of available flex/specialty slots, specialist applicants practicing in a HPSA or MUA will be placed on a waiting list. Beginning May 1, ORH may consider utilizing unallocated primary care slots for specialists on the waiting list.

Questions may be directed to **Placement Services at 919-527-6440** from site representatives or attorneys prior to submitting the application. Applications will continue to be processed until a total of thirty (30) physicians have been identified and approved for placement.

Candidates must:

- Agree to accept assignment for Medicare/Medicaid
- Obtain a letter of no objection from his/her home country, if candidate has a financial obligation to his/her home country.
- Apply to other IGA's (Interested Government Agencies), if eligible, prior to applying to the North Carolina State 30 Program. (see Attachment G)
- Agree to submit the NC J-1 Visa Service Participant Annual Report as outlined in Attachment D.

Practice Site Eligibility:

All practice sites must be located in a Primary Care or Mental Health Professional Shortage Area or Medically Underserved Area. For specialists, sites must be located in an area proven to have a shortage for the specialty applying. Documentation demonstrating the shortage must be submitted by the hiring entity with the application. State or federally funded health centers are eligible.

If practice is located in a population shortage area or specialty shortage area, the practice is strongly encouraged to use a Sliding Discount Fee Schedule that assures no financial barriers to

care for those below 200% of poverty and must post a statement of nondiscrimination based on ability to pay in waiting room.

- Must accept assignment for Medicare/Medicaid.
- Must assure that at least 80% of patients seen by sponsored physician will be from the HPSA or shortage area to which physician is assigned.
- Non-Hospitalist primary care providers must practice in an ambulatory care setting that assures the availability of primary care services, including lab and x-ray, pharmacy, after hours and inpatient coverage, and referral arrangements for services not available on site. Specialist providers must assure the availability of after hours and inpatient coverage, and participation in emergency care services.

Employment Agreement:

The physician must demonstrate a bona fide offer of full-time employment at an approved practice site in the State of North Carolina. The employment agreement must specify the following:

- That the physician agrees to a three-year employment agreement with the approved practice site;
- That the physician agrees to begin employment at the approved practice site within 90 days of receiving a visa waiver or completion of residency training, whichever is later;
- That the physician will provide at least forty (40) hours per week of clinic time;
- That the physician agrees to work at least forty-eight (48) weeks per year;
- That the physician agrees to accept assignment for Medicare and Medicaid patients;
- That the physician will be granted hospital admitting privileges, if applicable;
- That the physician agrees to participate in call arrangements, which are specifically stated in the employment agreement;
- Must include a statement by the foreign medical graduate agreeing to the contractual requirements set forth in Section 214 (I) (1) (B) and (C) of the Immigration and Nationality Act; (see Attachment F); and,
- Must not contain a non-compete clause.

Application Process:

- Completed application packets must be sent to ORH by the employing practice or representing attorney's office. All the required information and documentation must be submitted in a single package with documents presented in the order described in the Application Checklist.

Application Checklist:

ORH will not begin to process an application until a complete packet is received. Application packets will be considered complete when the following information has been received from the employing practice.

- 1. Applicant's case file number should be listed on the bottom right hand corner of each page of the file.
- 2. Send one original and one copy of the entire J-1 Waiver packet.
- 3. A letter from the practice where the physician will be employed. This letter should:
 - describe the health care facility, its location (street address, zip code and county) and existing nature/extent of its medical services and,
 - document the HPSA or Medically Underserved Area (MUA) ID number, if applicable (please reference <https://data.hrsa.gov/tools/shortage-area>);
 - summarize how the health care facility has attempted to locate qualified US Physicians;
 - describe the foreign medical graduate's qualifications, proposed responsibilities and how their employment will satisfy important unmet health care needs of the service area community.
- 4. An employment agreement between the physician and the health care facility which includes:
 - the name and address of the specific practice site and a specific geographic area or areas in which the foreign medical graduate will practice medicine. (The physician must demonstrate a bona fide offer of full-time employment from an approved practice site within the State of North Carolina).
 - that the employment agreement shall be valid for at least 3 years,
 - that the physician agrees to begin employment at the approved practice site within 90 days of receiving a visa waiver or completion of residency training, whichever is later,
 - that the physician will provide at least forty (40) hours per week of clinic time,
 - that the physician agrees to work at least forty-eight (48) weeks per year,
 - that the physician agrees to accept assignment for Medicare and Medicaid patients,
 - that the physician will be granted hospital admitting privileges, if applicable,
 - that the physician agrees to participate in call arrangements (which are stated specifically in the employment agreement),
 - that includes a statement by the foreign medical graduate agreeing to the contractual requirements set forth in Section 214 (k) (1) (B) and (C) of the Immigration and Nationality Act (now known as 214(1); (see Attachment F). If this is not included in the employment agreement, a signed statement from the physician is acceptable.
 - must not contain, in any form, a non-compete clause.
- 5. Copies of all forms (with no time gaps) of the IAP-66 (**also known as DS-2019 - U.S. Dept. of State, Certificate of Eligibility for Exchange (J-1) Status**) issued to the foreign medical graduate seeking the waiver.
- 6. A copy of the Waiver Review Division's letter, (**Third Party Barcode Page**), with assigned waiver review number
- 7. Copy of the DS 3035 (**Department of State – J-1 Visa Waiver Recommendation Application**)

- 8. A copy of the candidate's curriculum vitae;
- 9. If required, a "no objection" letter from the candidate's home government which includes a statement like the following: (the following template language can be used as a guide)

"the Government of _____ has no objection if (name and address of medical graduate) does not return to _____ satisfy the two-year foreign residency requirement of Section 212 (e) of the Immigration and Nationality Act;"

If the candidate does not have a financial obligation to his/her home country, a statement like the following shall be included: (the following template language can be used as a guide)

"I _____ (Full Name) certify that I do not have a financial obligation to my home country of _____ and that I am not obligated to return to my home country to practice my medical specialty."

- 10. A copy of a letter of reference from the physician's Residency/Fellowship Director which addresses: (see Attachment B)
 - the physician's level of skill in handling medical problems around primary care,
 - how the physician relates to patients and staff in the medical setting,
 - the physician's ability to relate to patients, particularly patients with limited educational background,
 - other information which may be helpful in considering this physician for employment.
- 11. A copy of the Tri-Party Agreement between the physician, the employing practice and ORH. (see Attachment E)
- 12. The following signed and dated statements:

I, _____ (name of exchange visitor) hereby declare and certify, under penalty of the provisions of 18 USC, 1101, that: (1) I have sought or obtained the cooperation of The State of North Carolina Office of Rural Health; and (2) I do not now have pending, nor will I submit during the pendency of this request, another request to any U.S. Government department or agency or any equivalent, to act on my behalf in any matter relating to a waiver of my two-year home residence requirement.

I, _____ (Full Name) certify that I do not have a financial obligation to my home country of _____ and that I am not obligated to return to my home country to practice my medical specialty.

I, _____ (Full Name) agree to submit the NC J-1 Visa Service Participant Annual Report as outlined in Attachment D.

ATTACHMENT B

Required Letter of Reference

A letter from the Residency/Fellowship Director, which addresses the questions below, must be forwarded to the employer, with a copy sent to ORH. It is preferred that these questions be answered by the Residency/Fellowship Director; however, the Office of Rural Health will accept a letter from a staff physician who has supervised the J-1 physician directly and can thoroughly address these issues in relation to the J-1 physician's practice of primary care medicine.

Residency/Fellowship Director:

1. Please comment on this physician's level of skill in handling medical problems around primary care.
2. How does this physician relate to patients and staff in the medical setting?
3. Please comment on this physician's ability to relate to patients, particularly patients with a limited educational background.
4. Please add any other information which you feel may be helpful to us in considering this physician for employment.

ATTACHMENT D

An example of Attachment D Annual Report is included below.
A fillable report will follow upon NC J-1 Visa Waiver Approval.

**ATTACHMENT D
ANNUAL REPORT
NORTH CAROLINA J-1 VISA WAIVER SERVICE PARTICIPATION**

1. Reporting period (mm/dd/yy):		From	
		To	
A. J-1 Visa Service Participant Name:			
B. NC J-1 Visa Service Number:			
C. Specialty:			
D. Employer:			
E. Contacted Practice Name:			
F. Medicare Provider Number:			
G. Medicaid Provider Number:			
H. Obligation Period (mm/dd/yy):		From	
		To	
I. Employer Type: Not-For-Profit or For-Profit (enter correct choice):			
J. Do you have a special condition of your employment with (employer's name):			
Are you fulfilling this condition? Yes or No (enter correct choice):			
Comments:			

All information below is to be completed by the J-1 Practitioner.

2. Location of full-time clinical practice:

A. Practice Name:		
Street Address:		
City, State, Zip Code:		
Telephone: (Area Code/Number)		
B. Enter daily office hours (include administrative time):		
*Do not include time spent in an on-call status in practice hours.		
Sunday:		
Monday:		
Tuesday:		
Wednesday:		
Thursday:		
Friday:		
Saturday:		
C. Average hours worked per week at approved practice:		
D. Average hours worked per week treating patients at hospital:		
E. List the names and locations of nursing homes you are currently serving:		
Average total hours per week treating patients in nursing homes:		

3. Number of total patient encounters (visits)* by source of payment:

A. Medicare (exclude # Medicare crossover to Medicaid visits:		
B. Medicaid (exclude # Medicare crossover to Medicaid visits:		
C. Full-pay and Commercial Insurance:		
D. Reduced Pay:		
E. No-pay:		
F. Other:		
	Total:	

4. Number of weeks not at approved practice due to illness, vacation, or continuing medical education during:

A. This reporting period:		
B. Twelve months prior to this period:		
C. Twelve months prior to the last twelve-month period:		

5. Percent of Medicare patients from whom you accepted assignment:

A. If above is less than 100%, please explain the circumstances:		
B. Do you accept assignment under Part B of Medicare as full payment for services? Yes or No (enter correct answer):		

6. Is a notice posted in your waiting room stating that a sliding fee scale is employed by your practice, and that patients will be treated regardless of the ability to pay? Yes or No (enter correct answer):

7. During reporting period, how many additional hours were outside of approved practice(s) (e.g., local emergency room)?

8. Gross income from work this reporting period was:

Date report completed (mm/dd/yy):		
Signature of J-1 Service Participant:		
<p>Notice: Whoever, in any matter within the jurisdiction of that North Carolina "interested State Agency," knowingly and willingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or entry, shall be deemed in default of Agreement with ORH and Employer and ORH shall so notify USCIS.</p>		
<p>After completing this report including Section 1 for accuracy and securing employer acknowledgement of review of completed report, please return within 10 days of receipt to:</p> <p>North Carolina Office of Rural Health 2009 Mail Service Center Raleigh, NC 27699-2009</p>		
Employer Acknowledgement of Review of Completed Annual Report:		
Date of Review: (mm/dd/yy)		
Signature of Employer Representative:		
Name Printed or Typed:		
Position or Title:		

ATTACHMENT E

AGREEMENT BETWEEN _____,
(Name of Physician Applicant)

(Name of Employer and Practice Site Location)

and THE NORTH CAROLINA OFFICE OF RURAL HEALTH

TERM - This Agreement, made and entered into this _____ day of _____, ____ by and between _____ hereinafter referred to as Physician Applicant, _____ hereinafter referred to as Employer, and the North Carolina Office of Rural Health, hereinafter referred as ORH. The terms of this Agreement shall commence as of _____ (date) and end not earlier than _____ (date). The Employer shall notify ORH immediately if the Employment Agreement with the Physician Applicant is changed or terminated for any reason.

SERVICE - The Physician Applicant and the Employer agree to accept assignment for all Medicare and Medicaid patients presenting for care. The Physician Applicant and the Employer agree to offer services to patients regardless of their ability to pay for such services.

EMPLOYMENT CONTRACT - The employment contract between the Physician Applicant and Employer is deemed to be part of this Agreement and must be no less than three (3) years in duration.

REPORTING REQUIREMENTS - Physician Applicant and Employer agree to submit, in a timely manner, the NC J-1 Visa Waiver Annual Report Form. (see Attachment D)

DEFAULT - If, for any reason, the Physician Applicant does not complete (his or her) obligation under the terms of this agreement, ORH will notify the USCIS.

Physician Applicant Signature

Date

Employer Signature

Date

Margaret L. Sauer
NC Office of Rural Health
Director

Date

ATTACHMENT F

103 P.L. 416

[*220] Sec. 220. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

- (a) Waiver. Section 212 (e) of the Immigration and Nationality Act (8 U.S.C. 1182(e) is amended.
- (1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agency"; and
- (2) by inserting after "public interest" the following "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(l)".
- (b) Restrictions of Waiver. - Section 214 of such Act (8 U.S.C., 1184) is amended by adding at the end the following:
- (l) Restrictions on waiver.

(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 212(e) [8 USCS § 1182(e)] on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

(B) in the case of a request by an interested State agency, the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 30;

(C) in the case of a request by an interested Federal agency or by an interested State agency—

(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Attorney General to be in the public interest; and

(ii) the alien agrees to begin employment with the health facility or health care organization within 90 days of receiving such waiver, and

agrees to continue to work for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such health facility or health care organization, in which case the alien must demonstrate another bona fide offer of employment at a health facility or health care organization for the remainder of such 3-year period); and

(D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien agrees to practice primary care or specialty medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, except that--

(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary;

(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is located within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B)) in accordance with the conditions of this clause to exceed 10; and

(iii) in the case of a request by an interested Federal agency or by an interested State agency for a waiver for an alien who agrees to practice specialty medicine in a facility located in a geographic area so designated by the Secretary of Health and Human Services, the request shall demonstrate, based on criteria established by such agency, that there is a shortage of health care professionals able to provide services in the appropriate medical specialty to the patients who will be served by the alien.

(2)

(A) Notwithstanding section 248(a)(2) [8 USCS § 1258(a)(2)], the Attorney General may change the status of an alien who qualifies under this subsection and section 212(e) [8 USCS § 1182(e)] to that of an alien described in section 101(a) (15) (H)(i)(b) [8 USCS § 1101(a)(15) (H)(i)(b)]. The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding

sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.

(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or health care organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status, until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States.

(3) Notwithstanding any other provision of this subsection, the 2-year foreign residence requirement under section 212(e) [8 USCS § 1182(e)] shall apply with respect to an alien described in clause (iii) of such section, who has not otherwise been accorded status under section 101(a)(27)(H) [8 USCS § 1101(a)(27)(H)], if--

(A) at any time the alien ceases to comply with any agreement entered into under subparagraph (C) or (D) of paragraph (1); or

(B) the alien's employment ceases to benefit the public interest at any time during the 3-year period described in paragraph (1)(C).

ATTACHMENT G

Other J-1 Waiver Agencies

- Appalachian Regional Commission (ARC):

ARC Executive Director

1666 Connecticut Avenue, NW

Washington, DC 20235

(202) 884-7786