

## J-1 Visa Waiver: Conrad 30

Foreign medical graduates (FMG) who study or complete residencies in the U.S. in J-1 visa status are subject to the 212(e) two-year home residence requirement, which requires that they must spend at least two years in their home country before they are allowed to change their status to H-1B or be granted permanent resident status in the U.S. If you are a FMG who has an offer of full time employment at a health care facility and are working in an area experiencing a designated shortage of health care professionals, you may be eligible to apply to the U.S. State Department for a waiver of the two-year home residence requirement.

Please Note: Conrad waiver applications are complex. This section is meant to provide a general overview of the process. If you have any questions about your individual case, we recommend that you speak with an immigration attorney who has experience in this area of the law. You may contact our office to request an initial consultation.

The Conrad Waiver (also commonly known as the Physician Waiver) program is administered by each state Department of Health, and each state has developed their own application process and specific requirements. In general, the sponsoring medical facility will apply to the state health department to sponsor you for a waiver. Each state is allotted 30 waiver spots each fiscal year to sponsor FMGs. Most states only sponsor primary care physicians who will practice medicine at facilities located in a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP). Each state is allowed to grant 5 of the 30 waiver applications to physicians who work for sponsoring facilities not located in HPSA/MUA/MUP but the physicians serve patients located in HPSA/MUA/MUP (however not all state exercise this option).

As an alternative to sponsorship by the state health department, a FMG may be sponsored by other government agencies, including the Veteran's Administration and the Department of Health & Human Services.

To begin the Conrad waiver process, each applicant must apply for a case number with the U.S. State Department (DOS). To apply for a DOS case number online, go to [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html). Once the application is submitted online, you will be assigned a case number. Be sure to print a copy and submit the hard copies of all requested documents to the U.S. State Department along with the required fee. You will not be granted a case number until the fee and required documents are received and logged into the DOS system. Please allow 4 weeks after mailing the case number application to the DOS before inquiring about the case number. You can check the status of your case number application by going to <http://169.253.2.79/>. Once your case number is granted, the information will show up online that your application is pending receipt of the state sponsored application.

The application instructions provided by the state health department must be reviewed carefully to ensure that all requirements are met. The U.S. State Department instructions must also be reviewed and followed carefully. The Third Party Barcode Page located in the DOS case number application packet contains the specific U.S. Department of State instructions that must accompany each application submitted to the state sponsor.

The sponsoring medical facility should also check with the state health department to determine the deadline for submitting applications to the state. Some states accept applications on a rolling basis while other states have specific cut-off dates for accepting applications during the fiscal year.

To locate facilities in areas designated by the U.S. Department of Health and Human Services as Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP) go to <http://hpsafind.hrsa.gov/> and <http://muafind.hrsa.gov/>. This link will be useful in determining the county where the facilities are located <http://www.ffiec.gov/Geocode/default.aspx>.

Please note that to fully qualify for a waiver on this basis you must agree to begin employment at the health care facility within 90 days of receiving the waiver, and sign an employment contract with the sponsoring facility to continue to work at the facility full time for a minimum of 40 hours per week for no less than three years in H-1B status. Each state will also have their own specific requirements for the contract.

Each Conrad applicant will also need to submit a signed statement to the U.S. State Department agreeing to meet the requirements set forth in section 214(k)(1)(B)(C) of the Immigration and Nationality Act, begin employment with the sponsoring facility within 90 days of receiving the J waiver, and to work at the facility at least 3 years on a full time basis.

Note: The law permits only medical doctors to apply for a waiver on this basis. However, if the FMG's government funded their program, the FMG must also request a "no objection" statement from the country to which they are otherwise obligated to return.

Once the sponsoring state health department grants one of the 30 slots to the FMG, the Conrad application is then

forwarded to the U.S. State Department for review. If the U.S. State Department approves the application, they will issue a favorable recommendation to the U.S. Citizenship and Immigration Services (USCIS) to grant the J-1 waiver. The USDOS website <http://169.253.2.79/> will be updated from "Pending" to "Favorable Recommendation" once the favorable recommendation is granted.

Once the favorable recommendation is granted, the sponsoring facility can file an H-1B petition for the FMG with USCIS. The USCIS will usually approve the waiver application at the same time as the H-1B petition.

The physician must remain with the sponsoring facility for the required 3 years unless the Attorney General determines that extenuating circumstances exist such as the closure of the facility or hardship to the foreign physician would justify a lesser period of time.

Sponsorship by a facility located in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA) may open up a path to permanent residence for many physicians if they stay in the area for a minimum of 5 years. The facility can sponsor the foreign physician for a National Interest Waiver (NIW). The physician must still fulfill the three-year Conrad requirement in H-1B status but those three years can be counted towards the five-year NIW requirement. The National Interest Waiver application must be submitted to the USCIS within 6 months of signing the employment contract. The NIW application must also be accompanied by a support letter from the facility's state health department. Other options for permanent residence in other categories may be available as well.