

State of Illinois
Pat Quinn, Governor

Department of Public Health
Damon T. Arnold, M.D., M.P.H., Director



State 30 J-1 Visa Waiver Program

Revised January 2010

**STATE OF ILLINOIS
ILLINOIS DEPARTMENT OF PUBLIC HEALTH
STATE 30 J-1 VISA WAIVER PROGRAM**

APPLICATION PROCESSING PERIOD OCTOBER 1 – SEPTEMBER 30

The following material describes the Illinois Department of Public Health's application process for the Waiver of Two-Year Home-Country Physical Presence Requirement, International Medical Graduates, Exchange Visitor Program. The Department's policies are further described in 77 Ill. Adm. Code 591.

Purpose, Authority and Scope

Section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), adopted in the closing days of the 103rd Congress, amended the provision of the Immigration and Nationality Act that deal with the two-year foreign residence requirement affecting international medical graduates, also known as foreign medical graduates. These medical graduates were admitted to the United States on a J visa, or acquired such status after admission to the United States, and are required to return to the country of their nationality or last residence upon the completion of their participation in an exchange visitor program.

The Bureau of Citizenship and Immigration Services may grant a waiver of the two-year home country physical presence requirement upon the favorable recommendation of the director of the U.S. Department of State, Waiver Review Division. The Immigration and Nationality Technical Corrections Act of 1994 authorizes a state department of public health to request the director of the U.S. Department of State, Waiver Review Division recommend that the Bureau of Citizenship and Immigration Services grant the waiver.

The 1994 act also requires the government of the country to which the international medical graduate is required to return must furnish the director of the U.S. Department of State, Waiver Review Division with a written statement that it has no objection to such waiver. The medical graduate must demonstrate that he or she has a bona fide offer of full-employment, that he or she will begin employment within 90 days of receiving a waiver and that he or she will continue to work for a total of not less than three years at a health care facility in an area designated by the United States Secretary of Health as having a shortage of health care professionals. (Immigration and Nationality Act, as amended, section 214(k)(1) (8 U.S.C. 1184 (k)(1).)

Under the amendment to section 212(e) of the Immigration and Nationality Act, the commissioner of the Immigration and Naturalization Service will look to the director of the U.S. Department of State, Waiver Review Division for a recommendation on international medical graduate waiver cases brought "pursuant to the request of a state department of public health or its equivalent."

Under Section 214(k)(1)(A) the Attorney General will not grant the waiver unless the country to which the international medical graduate is contractually obligated to return furnishes the director of the U.S. Department of State, Waiver Review Division with a written statement that it has no objection to such waiver. State departments of health are allowed to request international medical graduates sign a certification statement indicating presence or absence of a contractual obligation to their home country or country of last residence. Only in instances where such a contractual obligation exists will the physician be required to obtain a letter of no objection.

Eligible Physicians

The Illinois State 30 J-1 Visa Waiver Program accepts applications from international medical graduates in all specialties based on the selection allocation that is outlined on Page 5, Item 5.

Eligible Practice Opportunities

The Federal regulations require the international medical graduate to be employed by a “facility” as defined at 42 CFR 5.2, Designation of Health Professional Shortage Areas. A copy of that information is included with this material.

The regulations also require the international medical graduate to be employed within a federally designated health professional shortage area (HPSA), a Medically Underserved Area (MUA) or with a Medically Underserved Population (MUP), or if not located in a HPSA or MUA/P, documentation that at least 51 percent of the participating international medical graduate’s patients come from a HPSA or MUA/P. If an international medical graduate is to be employed in an area having a population group designation, the employing facility will be required to demonstrate in its waiver request how it plans to reach the underserved population group. There must be a semi-annual documentation that at least 51 percent of the patients served by the international medical graduate come from the underserved population group or area(s).

Application Processing Fee

The U.S. Department of State, Waiver Review Division requires a user fee to cover costs of processing the two-year home residence waiver application. The application and instructions can be found on the U.S. Department of State website:
<http://foia.state.gov/FORMS/visa/ds3035.pdf>

DO NOT send a check with your initial application to the Illinois Department of Public Health. When all applications sent to the Department have been reviewed and decisions made, those applicants whose waiver requests will be forwarded to the U.S. Department of State, Waiver Review Division, will be contacted and asked to forward a check to that agency.

Application Package

The application package to be prepared by or on behalf of the international medical graduate seeking the waiver of the two-year home country residency requirement shall include the following items specified by the provisions of Public Law 103-416:

1. Statement from the administrator or director of the health care facility or agency that will be employing the foreign medical graduate which describes:
 - the prior recruitment difficulties experienced by the facility or agency
 - the expected practice arrangement for the international medical graduate
 - the impact on the facility or agency and the patients it serves if the home residency waiver is not granted.

2. Copy of a minimum three-year employment contract between the international medical graduate and a health care facility that includes the name and address of the facility, identifies the specific geographic area or areas in which the international medical graduate will practice, and specifies that the physician will practice full-time and will practice only in the specified geographic area identified in the contract.
3. Statement from the employing health care facility or agency that salary or other form of financial support is at a level equivalent to that offered to all other physicians recruited by the health care facility or agency.
4. Letter of support from the chief of staff of the hospital where the international medical graduate will have admitting privileges verifying that such privileges will be granted and, if not, how admissions of the patients of the international medical graduate will be arranged.
5. Letter of support from a local organization or agency such as the chamber of commerce, local health department or other community-based organization.
6. Copy of Illinois medical license or proof of ability to be licensed by the beginning of the contract period.
7. Copy of U.S. Department of State, J-1 Visa Waiver Recommendation Application (DS-3035). Available at <http://foia.state.gov/FORMS/visa/ds3035.pdf>
8. Copy of international medical graduate's curriculum vitae.
9. DS-2019 /IAP-66 (Certificate of Eligibility for Exchange Visitor J-1 Status) for each year international medical graduate was in J-1 status.
10. Completed and notarized certification Statement A signed by the international medical graduate agreeing to the contractual requirements set forth in Section 214 (k)(1)(B) and (C) of the Immigration and Nationality Act (copy attached) and Physician Attestation.
11. Completed and notarized Certification Statement B describing international medical graduate's obligation to his/her home country.
12. Personal statement from physician regarding his/her reasons for not wishing to fulfill the two-year home country residence requirement to which he/she agreed at the time of acceptance of exchange visitor status.
13. Completed and notarized Certification Statement C in which international medical graduate states that his or her medical license has never been suspended or revoked and that he or she is not subject to any criminal investigation or proceedings by any medical licensing authority.
14. Completed and notarized Certification Statement D regarding accuracy of application material.
15. Completed and notarized Certification Statement E regarding specialty status.

All application materials should be mailed to:

Illinois Department of Public Health
Center for Rural Health
535 West Jefferson Street
Springfield, Illinois 62761-0001

Processing of Application by Illinois Department of Public Health

Upon receipt of application materials, staff in the Illinois Department of Public Health's Center for Rural Health will verify completeness of the application. One written request to the health facility or agency acting on behalf of the international medical graduate will be made asking for any materials not included in the application. If requested materials are not received within 30 calendar days of the date of the written request, the application will be returned to the health care facility or agency.

In those instances when application materials support such action, a statement signed by the director of the Illinois Department of Public Health will be added to the application that it is in the public interest of Illinois' underserved areas that a waiver of the two-year home-country residency requirement be granted. The Department also will add necessary documentation showing the area selected for practice by the international medical graduate is a designated physician shortage area.

The requesting health care facility or agency will be notified in writing of the Department's decision on the waiver. If the Department does recommend a waiver, the application package will be forwarded to the U.S. Department of State, Waiver Review Division, Waiver Review Branch.

Number of Waiver Applications to be Processed

The Immigration and Nationality Technical Corrections Act of 1994, amended in 2002, allows state health department to submit 30 waiver requests per federal fiscal year. When the Illinois Department of Public Health has processed the 30 waiver requests allowed per federal fiscal year, any subsequent applications will be returned to the applicant.

The maximum number of waiver applications processed by the Department for any shortage area will equal the number of physicians needed to reduce the area's population to primary care physician ration to the Illinois threshold ration used to designate rural and urban areas. These thresholds are defined in 77 Ill. Adm. Code Part 594. in rural areas, the threshold ratio is 2,400 population per full-time equivalent primary care physician and in urban areas, the threshold ratio is 3,000 population per full-time equivalent primary care physician.

Selection Process

As outlined in the administrative rules, Visa Waiver Program for International Medical Graduates, 77 Ill. Adm. Code 591, the following selection criteria will be applied:

1. In the first and second calendar quarters of the federal fiscal year, a maximum of two visa waiver applications will be approved per facility requesting J-1 visa waivers for international medical graduates. In subsequent calendar quarters, facilities that have already had two waivers approved may apply for additional waivers; however, selection priority will be given to applications from facilities that have not previously had waivers approved.

2. Selection preference will be given to the visa waiver application for the international medical graduate whose position represents the largest proportion of primary care specialty vacancies at the facility offering employment to the physician.
3. Applications received in the first and second quarters of the federal fiscal year will not be considered if the addition of the international medical graduate will increase the number of primary care physicians beyond the number needed to eliminate the health professional shortage area designation for the geographic area, facility or population group.
4. Selection preference will be given to applications received from HPSAs having the greatest unmet need for primary care physicians. Unmet need is the number of primary care physician full-time equivalents needed to cause the HPSA to no longer meet the threshold ration for HPSA designation.
5. The following selection allocations will be used in processing waiver applications:
 - a. In the first and second calendar quarters of the federal fiscal year, six waivers will be reserved for psychiatrists who will serve in rural facilities; 12 of the remaining 24 waivers will be reserved for primary care physicians; 12 waivers will be available to physicians in other specialties.
 - b. In the first and second calendar quarters of the federal fiscal year, the Department will reserve 50 percent of the waivers allocated to primary care physicians who will serve in rural areas.
 - c. The Department may grant up to five waivers to physicians in other than primary care specialties who will practice at medical facilities that can document that at least 51 percent of the participating physicians' patients come from a HPSA or MUA/P.
 - d. In the third and fourth quarters of the federal fiscal year, remaining waivers may be used for primary care, psychiatrist and other specialty waiver applicants, both rural and urban.

Semi-Annual Verification of International Medical Graduate's Medical Practice

Each six months subsequent to the date of the granting of the J-1 waiver by the U.S. Department of State, Waiver Review Division, the Illinois Department of Public Health shall request written verification of the full-time practice of the international medical graduate in the physician shortage area indicated in the employment contract originally submitted with the waiver application package. If at any time the international medical graduate fails to practice on a full-time basis in the approved shortage area, the Department will notify the Immigration and Naturalization Service and recommend deportation proceedings be instituted.

NOTE: All questions regarding the J-1 Visa Waiver Program should be directed to the Department's Center for Rural Health at 217-782-1624, TTY (hearing impaired use only) at 800-547-0466.

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ILLINOIS DEPARTMENT OF PUBLIC HEALTH
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J-1 Visa Waiver Program

CERTIFICATION STATEMENT C
MEDICAL LICENSE STATUS

This is to certify that I, _____
Printed/Typed Last Name First Name Middle

am not subject to any criminal investigation or proceedings by any medical licensing authority,
nor has my medical license ever been suspended or revoked.

Signature of Physician Seeking Waiver

Date

Attested by

State of _____

County of _____

Signed or attested before me on _____ (date) by

_____ (name of person/s).

Signature of Notary Public

Notary Seal

CERTIFICATION STATEMENT D

ACCURACY OF APPLICATION INFORMATION

This is to certify that the information presented in this application for assistance from the Illinois Department of Public Health to request a waiver of the home residency requirement for the international medical graduate indicated below is accurate and correct to the best of my knowledge.

For the Health Care Facility/Agency

International Medical Graduate

Printed or Typed Name

Printed or Typed Name

Signature

Signature

Title or Position with Facility/Agency

Date

Facility/Agency Name

Date

Attested by

State of _____

County of _____

Signed or attested before me on _____(date) by

_____(name of person/s).

Signature of Notary Public

Notary Seal

CERTIFICATION STATEMENT E
PRIMARY CARE SPECIALTY
FOR J-1 VISA WAIVER APPLICANTS

This is to certify that I, _____
Printed/Typed Last Name First Name Middle

Check one _____ am board eligible _____ am board certified

In the specialty/specialties listed below.

Check applicable specialty:

- _____ Family Practice
- _____ General Internal Medicine
- _____ General Pediatrics
- _____ Obstetrics/Gynecology
- _____ Combined Medicine/Pediatrics
- _____ Psychiatry
- _____ Other (Specify) _____

Signature of Physician Seeking Waiver

Date

Attested by

State of _____

County of _____

Signed or attested before me on _____ (date) by

person/s). (name of

Signature of Notary Public

Notary Seal