

New Mexico Department of Health
J-1 Visa Waiver "State 30" Program 2012
For Foreign Physicians Holding J-1 Visas
(APPLICATION ACCEPTANCE DATE: SEPTEMBER 30, 2011)

INTRODUCTION

The New Mexico J-1 Visa Waiver Program (State 30 Program) allows foreign medical graduates to obtain a waiver of their 2 year foreign residence requirement in exchange for a commitment to practice in underserved areas of New Mexico after the completion of their training. Under the State 30 Program, the New Mexico Department of Health (NMDOH) may support the requests of up to 30 candidates per federal fiscal year for these waivers.

APPLICATION PROCESSING INFORMATION

Participation in the NMDOH J-1 Visa Waiver process is completely discretionary, voluntary, and may be modified at any time. The submission of a complete waiver package does not ensure that a waiver will be recommended. The NMDOH may implement criteria and procedures at any time that are more detailed than the Federal Regulations and also reserves the right to recommend or decline any request.

ELIGIBLE EMPLOYER

Health care facilities, hereafter referred to as "site(s)", are eligible to be employers of State 30 Program physicians. The site must have a written policy stating that it accepts all patients regardless of their ability to pay; for example, a sliding fee schedule, policy and procedure. The site must accept Medicare assignments and participate in the New Mexico Medicaid program. Examples of such sites include hospitals and primary care or community/migrant health centers whether for profit or not-for-profit. **All J-1 Waiver physician candidates must have a physician supervisor identified in the application. Sites at which the Candidate would be the sole physician medical provider present are not eligible under the program criteria for the State of New Mexico.**

CANDIDATE ELIGIBILITY

Candidates who have residency or fellowship training in disciplines recognized by the NMDOH to significantly improve the health care delivery system within the geographic area of request are eligible to participate in the New Mexico Program.

Primary Care specialties include:

- Family Practice
- General Internal Medicine
- OB/GYN
- Pediatrics
- Psychiatry

Specialty practices include:

- Specialty Training in addition to General Internal Medicine or other Primary Care specialties (Examples: Gastroenterology, Endocrinology, Nephrology, General Surgery, Anesthesiology, Pain Management) The NMDOH may identify other specialty areas of needs and consider applications for such.

ELIGIBLE UNDERSERVED AREAS

Candidates who are physicians with primary care specialties must seek employment opportunities within federally designated Health Professional Shortage Areas/Populations (HPSA/P) boundaries. Candidates who are board eligible or board certified in Specialty Practice must seek employment opportunities within federally designated Medically Underserved Areas/Populations (MUA/P). Candidates who have specialty training must demonstrate the need for that specialty in the area consistent with NMDOH identification of such need. Such candidates must practice that specialty as their primary care specialty.

Refer to the following web pages for current HPSA/P and MUA/MUP designations:

<http://bhpr.hrsa.gov/shortage> or HPSA & MUA/P by Address:

<http://datawarehouse.hrsa.gov/GeoAdvisor/ShortageDesignationAdvisor.aspx> .

Health care facilities that are Federally Qualified Health Centers (FQHC) are automatically eligible for State 30 Program placements.

NON-DESIGNATED UNDERSERVED AREAS

The NMDOH is permitted to recommend up to **10** waiver requests each year for physicians located in non-designated areas as long as they serve patient populations from designated medically underserved areas. Physicians must comply with all other Federal and State J-1 Visa Waiver Program requirements. Physicians must provide direct patient services. Teaching, research or administrative positions are not eligible.

Physician practice facility must provide a substantial amount of medical services to patients who reside in HPSAs or MUA/Ps. The facility must demonstrate that there is a significant shortage of specialty physicians and that there is an unmet need for this specialty among its patients.

APPLICATION ACCEPTANCE DATE AND DEADLINES

The NMDOH will begin accepting new applications on **September 13, 2010**. Applications will be accepted continuously until all Waivers have been filled. Generally, **2 to 3** applications are reserved for the Department Secretary's discretionary targeting of special priority needs. NMDOH may support requests for up to 30 candidates per federal fiscal year for the purpose of waiving of the two-year home rule requirement.

ACCOUNTABILITY

The NMDOH may monitor the obligated service of the J-1 Visa Waiver Physician by letter, survey, report, phone calls, e-mails or visits at anytime during the required 3 year obligation period to confirm compliance with State of New Mexico and Federal Requirements. J-1 Visa Waiver Physicians and Facilities will be asked to submit an **Annual Report** every January of each year during the duration of the 3 year obligation period.

In addition, a **Certification of Arrival to Practice and Report Agreement Form** must be filed with the Program (See Attachment C). The certification form confirms that the Physician has arrived and is capable of fulfilling their service obligations as a Physician participating in the J-1 Visa Waiver Program.

WAIVER APPLICATION COMPONENTS

All application components described below must be included in the order presented. Please use the following as a checklist, use page markers and indicate references (1.A.).

State Requirements

Checklist (Provide in this order):

1. A letter, with attachments, from the Chief Executive Officer of the facility at which the candidate will be employed to include:
 - A. A request that the NMDOH act as an interested government agency and recommend a waiver for the candidate.
 - B. A description of the candidate's qualifications, proposed responsibilities and how the proposed employment will satisfy unmet health care needs within the HPSA/P or MUA/MUP, or, for a non-designated area candidate, how they will serve residents from designated HPSA/P or MUA/MUP serves areas.
 - C. A narrative describing how the candidate will improve the local health care delivery system including: the impact that the candidate will have on the local health care system; whether the continuation of that system would otherwise be threatened without placement of the candidate; and how the placement will enhance that system's ability to meet the needs of the entire community, including elderly, underserved and low income populations.
 - D. A narrative assuring that the facility accepts Medicare/Medicaid eligible patients and medically indigent patients, regardless of their ability to pay, and assuring that the candidate accepts Medicare assignments and participates in the Medicaid program. Documentation supporting these assurances must be attached.
 - E. A narrative describing the recruitment efforts undertaken specific to the eligible site. It must be clearly demonstrated that a suitable U.S. physician cannot be found through recruitment or any other means. Copies of site-specific recruitment advertising, not general advertising, must be attached. Copies of agreements with placement services, etc. should also be provided. Internet searches alone are not sufficient. In addition, the site's long-range plans for retention of the physician beyond the three-year obligation must be outlined.
 - F. A narrative describing the extent of support from local medical professionals and major health facilities for placement of the candidate.
 - G. A narrative describing the nature and extent of medical services available at the facility.
 - H. A list of practicing physicians with the same specialty as the State 30 Program candidate in the HPSA/P or MUA/MUP service area.
 - I. The name of the supervisor of the J-1 Waiver Physician candidate during their 3 year 40 hour per week obligation. **Please Note: Current NM J-1 Waiver Physicians are not allowed to supervise other J-1 Waiver Physicians during their 3 year 40 hour per week obligation. Also, solo-practice NM J-1 Waiver Physicians Obligations are not allowed in New Mexico.**

2. A signed Certification of Arrival to Practice and Report Agreement (Attachment C).
3. At least **3** letters of support from representative community members including other medical professionals and major health care facilities within the HPSA/P or MUA/P. The letters of support must indicate:
 - a. Willingness to accept the candidate.
 - b. A stable practice opportunity of 3 years minimum duration.
4. At least **3** letters of recommendation from individuals with personal knowledge of the Candidate's ability.
5. A copy of the State of New Mexico Medical License Application or a copy of a current New Mexico Medical License.
6. A copy of a current photo of the candidate.
7. A pre-paid envelope for delivery of J-1 Waiver candidate's application to the U.S. Department of State.

Non-Designated Area State Requirements

Checklist (Provide in this order):

8. Items 1 through 7, and 10 through 19.
9. Documentation/assurance that:
 - A. The applicant physician will provide direct patient services full-time. Teaching or administrative positions are not eligible.
 - B. The facility is an Eligible Facility that:
 - a. Has made extensive efforts to recruit United State Physicians.
 - b. Provides a substantial amount of medical services to patients who reside in geographic areas designated HPSA/Ps or MUA/MUPs.
 - c. Is in an area of significant shortage for the medical specialty to be practiced by the applicant physician.
 - d. Serves an unmet need of the patients from designated and non-designated areas.
 - e. Is licensed by the NMDOH.

Federal Requirements


Checklist (Provide in this order):

10. Copies of all IAP-66/DS-2019 Forms "Certificate of Eligibility for Exchange Visitor (J-1) Status" for the Candidate, CBCIS forms I-94 for the candidate and spouse, if appropriate.
11. Proof of passage of examinations required by CBCIS.
12. An affirmation by the candidate and the employing site documenting that the candidate has language competency consistent with the community to be served.

13. An indication of the tracking number issued by the U.S. Department of State on each page in the lower right corner.
14. A copy of the Candidate's Curriculum Vitae.
15. A Candidate Data Sheet to be completed by the candidate (Attachment A)
16. A completed and signed State 30 Program Policy Affidavit and Agreement form. (Attachment B).
17. Evidence of HPSA/MUA/MUP designation in the form of a printout from the federal web site of the area where the practice site is located <http://bhpr.hrsa.gov/shortage> or <http://datawarehouse.hrsa.gov/GeoAdvisor/ShortageDesignationAdvisor.aspx>
18. A copy of the signed employment contract. The contract must specify the following:
 - a. An agreement to work at the site stated in the application for a total of not less than three years.
 - b. An agreement to practice medicine a minimum of 40 hours per week, at the eligible site.
 - c. An agreement to begin employment at the stated site within 90 days of receiving a waiver.
 - d. An agreement that the candidate will pay a monetary penalty to the employing site in the event of candidate default. The penalty can be any amount not exceeding \$250,000.
 - e. Non-compete clause(s) or their equivalents in employment contracts are not acceptable (New Mexico requirement).
 - f. An agreement to comply with all State of New Mexico and United States Federal Tax Laws and Requirements.
19. Provide a Letter of Assurance that all contract requirements (18. a. b. c. d. e. and f.) have been incorporated within the employment contract between the J-1 Waiver Physician candidate and the employer. The Letter of Assurance should be signed by both the J-1 Waiver Physician candidate and the employer.
20. An assurance that the name of the Employer as specified in the J-1 Waiver Physician Application must be the same on all payments to the J-1 Waiver Physician during their obligation

Submit waiver request with 1 original and 2 copies of the entire application package to:

Gabriel D. Chavez, Jr., Program Coordinator
 J-1 Waiver "State 30" Program
 New Mexico Department of Health
 Office of Primary Care and Rural Health
 300 San Mateo Blvd, NE Suite 900
 Albuquerque, New Mexico 87108



 Approved _____ Date 11/2/2011
Catherine D. Torres, M.D.
Cabinet Secretary

ATTACHMENTS

Please provide the attachments in this order. You may use additional pages to fully respond to questions. Please reference the attachments (for example Attachment A. 9.)

ATTACHMENT A
Candidate Data Sheet to be filled out at time of application
Type or print your answers

1. **Full Name (as appears on passport):** _____
2. **Date of Birth:**_____ **Country of Birth (City, Country):**_____
3. **Country of nationality of last legal permanent residence:**_____
4. **Date and place of issuance of original exchange-visitor (J-1) visa:** _____
Current address (to send correspondence) and immigration district:

5. **Home phone #:**_____ **Business phone#:** _____
Home e-mail:_____ **Business e-mail:** _____
6. **List the exchange-visitor programs in which you participated in this application. Provide the program number and include field of specialization.**
7. **Alien registration number if known:** _____
8. **If your exchange-visitor program includes U.S. government funds, funds from your own government or from an international organization, please give a full description of the funding in this application.**
9. **If your spouse has applied for a waiver, please include information about his/her case in this application (name, date of birth, country of birth and case number).**
10. **Does this application include any J-2 dependents? Please include information about these dependents in this application (name, date of birth, country of birth and relationship).**
11. **Please include copies of all IAP-66/DS-2019s issued during your stay in this country.**
12. **HPSA and or MUA/MUP number and location:**_____
13. **Attorney/Preparer of Application:** _____
Address: _____
Phone #:_____ **Fax #:** _____
E-mail: _____

I certify that I have read and understood all the questions set forth in this application and the answers I have furnished are true and correct to the best of my knowledge and belief. I understand that any false or misleading statement may result in the refusal of a waiver recommendation.

Physician Candidate Signature

Date

ATTACHMENT B

STATE 30 WAIVER PROCEDURE AFFIDAVIT AND AGREEMENT

I _____, being duly sworn, hereby request the New Mexico Department of Health (NMDOH) to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless the State of New Mexico, the NMDOH, any and all State of New Mexico employees, agents and assigns from any action or lack of action made in connection with this request.

I further understand and acknowledge that the entire basis for the consideration of my request is the NMDOH's discretion to improve the availability of primary health care or specialty care in medically under served areas.

I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical services to patients, including the indigent, for a minimum of forty (40) hours per week within a federally designated Health Professional Shortage Area/Population (HPSA/P) or Medically Underserved Area/Population (MUA/P). Such service shall commence no later than 90 days after I receive notification of approval by both the U.S. Bureau of Citizenship and Immigrant Service (BCIS) and the U.S. Department of Labor and shall continue for a period of at least three (3) years.

I agree to incorporate all the terms of this "State 30 Waiver Procedure Affidavit and Agreement" into any and all employment agreements I enter pursuant to paragraph 4 (above).

I understand and agree that I will comply with all State of New Mexico and United States Federal Tax Laws and Requirements.

I further agree that any employment agreement I enter pursuant to paragraph 4 (above) not contain any provision which modifies or amends any of these terms of this "State 30 Waiver Procedure Affidavit and Agreement"

I understand and agree that my primary medical care services rendered pursuant to paragraph 4 (above) shall be in a Medicare and Medicaid certified site which has an open, non-discriminatory admissions policy and that will accept medically indigent patients.

I have read and fully understand the "J-1 Waiver State 30 Request Procedure", a copy of which is attached hereto and is specifically incorporated by reference.

I expressly understand that the U.S. Bureau of Citizenship and Immigrant Service must ultimately approve this waiver, and I agree to provide written notification of the specific location and nature of my practice to the NMDOH at the time that I commence rendering services and on a periodic basis to the NMDOH thereafter.

State 30 Waiver Procedure Affidavit and Agreement

Continuation

I understand and acknowledge that if I willfully fail to comply with the terms of this "State 30" Waiver Procedure Affidavit and Agreement" the NMDOH will notify U.S. Bureau of Citizenship and Immigrant Service. Additionally, any and all other measures available to the NMDOH will be taken in the event of non-compliance.

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

Signature

Subscribed and sworn to me before

this _____ day of _____, _____.

Notary Public

ATTACHMENT C
Certification Of Arrival To Practice And Report Agreement

I _____, a Physician participating in the New Mexico J-1 Visa Waiver Program certify that I have arrived for work at _____, on _____.

Updated Information:

Home Address: _____

Home Phone: _____ **Business Phone:** _____

Home E-Mail: _____ **Business E-Mail:** _____

New Mexico Medical License Number: _____

My Physician Supervisor will be: _____

Signature Supervising Physician **Date**

Signature Site/Facility Executive Director/CEO **Date**

Location of Medical Practice: _____

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 such site may result in notification by NMDOH to appropriate federal agencies. I have a current New Mexico medical license and have been thoroughly credentialed.

Physician's Signature **Date**

Return Completed Form to:

Gabriel D. Chavez, Jr., Program Coordinator
J-1 Waiver "State 30" Program
New Mexico Department of Health
Office of Primary Care and Rural Health
300 San Mateo Blvd. NE, Suite 900
Albuquerque, New Mexico 87108