



## IMMIGRATION POLICY BRIEF CONRAD 30 J-1 Visa Waiver Program

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### *Introduction*

The fate of America's rural and underserved health systems remains precarious. The estimated shortfall of 90,000 physicians by 2025 will leave already doctor-strapped rural America without critical health care resources, thereby worsening the United States' health care crisis.<sup>1</sup>

The rural health crisis is something that the U.S. can ameliorate in part by making the Conrad waiver more attractive to foreign doctors. Now, more than ever, addressing this issue is urgent, as more and more rural doctors retire, and fewer replace them.

The Conrad program, and programs like it, can provide real options for states to fill physician needs if they're given the support they require. Congress should act to reduce burdens on foreign physicians to provide healthcare to Americans, to ensure better community involvement, and to encourage foreign doctors to work and live more permanently in rural areas by reforming the Conrad 30 J-1 Visa Waiver program.

While there is incredible demand for H-1B visas, there is much less demand for Conrad waivers. Between 800 and 1,000 J-1 Conrad waivers are issued every year—well below the 1,500 available spots. It is a trend that has remained relatively unchanged for the better part of a decade, because it is becoming increasingly difficult to find physicians willing to take the jobs for some areas.

A Rural Health Research Center report shows that a major factor in low application and retention rates of medical professionals is that they don't integrate well, either because they are not

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<sup>1</sup>IHS Inc., *The Complexities of Physician Supply and Demand: Projections from 2013 to 2025*. Prepared for the Association of American Medical Colleges. 2015. Available at: [https://www.aamc.org/download/426242/data/ihsreportdownload.pdf?cm\\_mmc=AAMC-\\_-ScientificAffairs-\\_-PDF-\\_-ihsreport](https://www.aamc.org/download/426242/data/ihsreportdownload.pdf?cm_mmc=AAMC-_-ScientificAffairs-_-PDF-_-ihsreport).

accepted by the community, or because they don't adapt well to the rural lifestyle.<sup>2</sup> Ultimately, when the program ends, so does their stay. The same study says overstretched state health officials who run these programs do not have the time to maintain adequate relationships with the doctors, further contributing to their poor retention rates. This lack of communication, support, and oversight can lead to abuse of the physicians by employers.<sup>3</sup>

For these reasons, the alternative H-1B visa is growing in popularity among international medical graduates (IMGs), despite the H-1B being harder to obtain. This visa allows companies or universities in the U.S. to sponsor a highly skilled immigrant with temporary status for up to six years—including physicians hired to complete their medical residency—thereby siphoning physicians out of the designated J-1 applicant pool. However competitive H-1B visas are, physicians who secure the H-1B can be sponsored by employers in more desirable areas than rural areas and offer a declaration of dual intent, not available to non-Conrad J-1 holders.

The rural health crisis is something that the U.S. can ameliorate in part by making the Conrad program more attractive to foreign doctors; the practical policy question is how to do it efficiently, effectively, and equitably.

## *Current Policy*

The Conrad 30 Waiver program allows J-1 medical doctors to apply for a waiver for the 2-year residence requirement upon completion of the J-1 exchange visitor program.

### *J-1 Visa for Medical Doctors*

Many foreign doctors use the J-1 nonimmigrant exchange visa program to train in U.S. residency programs. As is true with most exchange visa programs, the visa is designed only for the purpose of teaching and research, rather than immigration.

As such, most physicians using the J-1 visa program are subject to significant limitations. All J-1 visa applicants must demonstrate non-immigrant intent—the intent to return to their home country when their visa expires—in order to qualify for the visa and the program. For example, when they complete their training, all medical doctors are required to return to their country of

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<sup>2</sup> Patterson DG, Keppel G, Skillman SM. Conrad 30 Waivers for Physicians on J-1 Visas: State Policies, Practices, and Perspectives. Final Report #157. Seattle, WA: WWAMI Rural Health Research Center, University of Washington, Mar 2016. Available at:

[http://depts.washington.edu/fammed/rhrc/wp-content/uploads/sites/4/2016/03/RHRC\\_FR157\\_Patterson.pdf](http://depts.washington.edu/fammed/rhrc/wp-content/uploads/sites/4/2016/03/RHRC_FR157_Patterson.pdf).

<sup>3</sup> National Association of Community Health Centers. *Nevada's J-1 Visa Waiver Program: Problems and Solutions for a Critical Source of Primary Care Physicians*. Emerging Issues #3. January 2010. Available at:

[http://dphh.nv.gov/uploadedFiles/dphhgov/content/Programs/PCO/Nevada%20J-1%20Visa%20Waiver%20Program%20problems%20and%20solutions%202010\(2\).pdf](http://dphh.nv.gov/uploadedFiles/dphhgov/content/Programs/PCO/Nevada%20J-1%20Visa%20Waiver%20Program%20problems%20and%20solutions%202010(2).pdf).

nationality or last residence for at least two years; this is known as the “two-year foreign residence requirement.” Accompanying spouses and children—J-2 visa recipients—are subject to the same two-year foreign residence requirement.<sup>4</sup>

Further, a J-1 medical doctor cannot adjust their status to any other nonimmigrant visa prior to fulfilling the two-year foreign residence requirement.<sup>5</sup>

### *Conrad Visa Waiver Program*

In 1994, Senator Kent Conrad of North Dakota highlighted severe physician shortages occurring in rural America, and devised the Conrad Visa Waiver Program to address those shortages.

Pursuant to the Conrad program, each state could sponsor up to 20 IMGs with a J-1 visa. Sponsorship allowed a J-1 physician to bypass the two-year foreign residency requirements in exchange for serving in a rural or underserved population in the state for at least 3 years.<sup>6</sup>

The program generally targets physicians who practice family medicine, general obstetrics, general pediatrics, general internal medicine, and general psychiatry. In 2003, the Conrad program was reauthorized and expanded, increasing the number of state sponsored waivers to 30, thus the name Conrad 30. In December 2004, Congress enacted legislation allowing states to use five of their 30 slots for physicians in specialty fields.<sup>7</sup>

Since its enactment, each state has developed its own application, participation rules, and guidelines that apply to all J-1 visa medical doctors and Conrad program participants.

Once the Conrad 30 waiver recipient has fulfilled all of the terms and conditions imposed on the waiver, including the three-year period of employment with the healthcare facility, he or she (and his or her spouse and/or child) is eligible to apply for:

- An immigrant visa;
- Permanent residence; or an
- H (high-skilled) or L (intracompany transfer) nonimmigrant visa.

If a waiver recipient fails to fulfill the terms and conditions imposed on the waiver, he is again subject to the two-year foreign residence requirement.

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<sup>4</sup> Immigration and Nationality Act §212(e).

<sup>5</sup> Immigration and Nationality Act §248(a)(2).

<sup>6</sup> Immigration and Nationality Act § 214(l). The rural or underserved area must be designated by U.S. Department of Health and Human Services (HHS) as a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP).

<sup>7</sup> Conrad 30 Waiver Program. USCIS. Available at:

<https://www.uscis.gov/working-united-states/students-and-exchange-visitors/conrad-30-waiver-program>.

## *Proposed Changes to Current Policy*

Earlier this year, Senators Amy Klobuchar (D-MN), Susan Collins (R-ME), and Heidi Heitkamp (D-ND) reintroduced bipartisan legislation<sup>8</sup> to extend and expand the Conrad 30 programs.<sup>9</sup>

Changes include expanding the program beyond 30 slots, creating new slots for academic medical centers, and better aligning visa terms with residency training and physician practice. The bill was referred to the Judiciary Committee, but is not expected to advance through the legislative process due to competing priorities.

Improvements to the recently reauthorized Conrad 30 program should extend beyond those included in the bipartisan legislation introduced earlier this year to include:

- Making the Conrad 30 program permanent, i.e., no re-authorization necessary;
- Defining “shortage of healthcare professionals” terminology used by the Secretary of Health and Human Services (HHS). States interpret shortage criteria for designation as a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP) differently, making the application process extremely inefficient and confusing for applicants, particularly “Flex” applicants;<sup>10</sup>
  - Requiring regular database updates that reflect saturated or fully-served areas previously designated as an HPSA, MUA, or MUP, to avoid applications to areas that cannot accept applicants;
- Extending a physician applicant’s status for up to 9 months to allow waiver applicants flexibility to apply in an alternative states;
- Allowing physicians to switch employers while awaiting a decision on a pending application;
- Requiring all contracts to include malpractice insurance as a safeguard for medical facilities, physicians, and patients;
- Allowing states to recapture unused waiver slots;
- Changing allotment numbers to meet the actual needs of states, as opposed to offering the same number of slots to every state, regardless of need;
- Increasing local involvement with physicians and their families; and

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<sup>8</sup> S.898 - Conrad State 30 and Physician Access Reauthorization Act. Available at: <https://www.congress.gov/bill/115th-congress/senate-bill/898/text>.

<sup>9</sup> Press Release. Senator Heidi Heitkamp. April 10, 2017. Available at: <https://www.heitkamp.senate.gov/public/index.cfm/2017/4/klobuchar-collins-heitkamp-introduce-bipartisan-legislation-to-increase-number-of-doctors-in-rural-and-other-medically-underserved-areas>.

<sup>10</sup> States may fill up to 10 “flex slots,” where physicians may be selected to work in an area that is not a HPSA or Medically Underserved Area (MUA), yet still serves residents in underserved areas.

- Providing additional incentives for physicians to practice in rural areas, including housing incentives, employment placement services for J-2 visa holders, and/or other incentives to remain long-term.

## *Conclusion*

Providing for more attractive options for foreign-born physicians to work and live in rural areas in the U.S. is one pathway to effectively address the critical healthcare shortages in America. Reforming and making permanent an already existing pathway to encourage more cooperation and participation, as well as flexibility in the Conrad program, is a simple, straightforward way to tackle an urgent physician shortage.