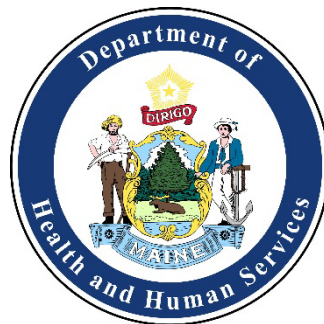


Immigration Pathways for Physician Recruitment

What You Need to Know, and How To Apply
August 22, 2024



Agenda

- Overview
- HHS Program
- TN Program
- J-1 Visa Waiver
- NBRC Waiver
- Resources
- Q&A



Overview

- Foreign Trained Providers can be a great resource for facilities who are struggling to recruit a US Born Provider
- There are multiple avenues that facilities can take for recruiting these providers:
 - HHS Program – Only Primary Care Physicians
 - TN Program – Canadian and Mexican Nationals
 - J-1 Visa Program – Any physician specialty (not including dental)
 - NBRC Waiver – Expands the J-1 Visa Waiver

HHS Exchange Visitor Program

- Eligible for facilities located in a HPSA with a score of **7** or greater who are recruiting primary care physicians or psychiatrists who have completed their primary care or psychiatric residency programs no more than 12 months before the start of their employment contract with your facility
 - Primary Care specialties include:
 - Family Medicine
 - General Internal Medicine
 - General Pediatrics
 - OGBYN
- If your facility's HPSA is currently proposed for withdrawal, your application will not be found eligible.
- NOTE: If you have your opportunity posted on the NHSC opportunities list, you may only offer that position to a J-1 visa physician if your posting remains unfilled by an NHSC scholar or loan repayment eligible physician at the end of the NHSC Placement cycle
- Full Details: <https://www.hhs.gov/about/agencies/oga/about-oga/what-we-do/exchange-visitor-program/index.html>

HHS Exchange Visitor Program Required Documents

- Physician Requirements:
 - Department of State Data Sheet (2 copies)
 - Readable copies of J-1's IAP-66 and/or DS 2019 forms for each year in J-1 Status
 - IMG Physician Statement – Must be in the exact format listed on the HHS website
 - Current CV (Do not include any Social Security Numbers)
 - Credentials –
 - Diplomas, licenses/license applications
 - Must show completion of residency in one of the accepted specialties within the last 12 months

HHS Exchange Visitor Program Required Documents

- Employer Requirements:
 - Completed HHS Application Form HHS 426 (linked on HHS Website)
 - Submitter's Cover Letter and G-28 (link to G-28 on the website)
 - Letter of need from the medical facility, signed and dated by the director of the medical facility on the facility's letterhead
 - HPSA or MUA Identifier number of the area(s) where the physician will be practicing must be included
 - The letter must state that the facility:
 - Treats all patients regardless of ability to pay
 - Accepts Medicare, Medicaid, and S-CHIP Assignment
 - Uses a sliding fee scale
 - May charge no more than the usual and customary rate prevailing in the geographic area in which the services are provided.

HHS Exchange Visitor Program Required Documents

- Employer Requirements Continued:
 - Three letters of community support for the hire of this physician (including contact information)
 - State health department support/acknowledgement letter
 - Our office can help provide this letter for you
 - Copy of Executed contract signed by the head of the medical facility, and the physician, dated and notarized. Must include:
 - Term of three years
 - Obligate the physician to begin work within 3 months of receiving a waiver approval
 - Obligate the physician to work 40 hours a week providing primary care or psychiatric services
 - Specify the site(s) in which the provider will practice
 - Include a clause that the contract can only be terminated for cause until completion of the three-year commitment.
 - Contracts may not contain a non-compete cause or restrictive covenant

HHS Exchange Visitor Program Required Documents

- Employer Requirements Continued:
 - Prevailing wage information
 - Evidence of the employer's regional and national recruitment efforts, including names of non-foreign physicians applying and/or interviewed and reasons why they were not hired.
 - Proof of facility's existence

HHS Exchange Visitor Program Package Information

- All Applications must be submitted by private or non-federal institutions, organizations, or agencies, or by components of HHS
- Submit one unbound paper version and one identical scanned copy stored on a CD in PDF Format
 - The transmittal letter must include a statement confirming content in the CD and on paper are identical
- Your materials must clearly state that the application is for the J-1 waiver and no other immigration action
- You **MUST** obtain a case number from the DoS before HHS can submit an approved application to DoS

HHS Exchange Visitor Program Conclusion

- Submit all completed applications for Clinical Care Waivers to:
 - Heber Willis, Executive Secretary
C/O Michael Berry
HRSA/Bureau of Health Workforce
Parklawn Building, Room 11W-56
5600 Fishers Ln.
Rockville, MD 20857
- For questions on the program, please contact Heber Willis at heber.willis@hhs.gov or visit the HHS.gov website.
- Note: If you are hiring a physician whose specialty is primary care and your HPSA score is above a 7, you must use the HHS Program over the J-1 Program
 - Unless you can show evidence of a delay in processing of over 3 months or can show a denial letter

TN Waiver Program

- NAFTA created special economic and trade relationships for the US, Canada, and Mexico
- The TN Waiver program allows for a long list of professionals to seek admission into the US
- Providers may be eligible if:
 - They are a citizen of Mexico or Canada
 - The profession qualifies under the regulations
 - The position in the US requires a NAFTA professional
 - They have a prearranged full or part time job with a US Employer (not self-employment)
 - They have qualifications to practice in the specified profession
- Full Details: <https://www.uscis.gov/working-in-the-united-states/temporary-workers/tn-nafta-professionals#:~:text=The%20TN%20nonimmigrant%20classification%20permits,activities%20at%20a%20professional%20level.>

TN Waiver Program

- To be eligible a provider must practice in one of the following specialties:
 - Dentist
 - Dietitian
 - Medical Laboratory
 - Medical Technologist
 - Nutritionist
 - Occupational Therapist
 - Pharmacist
 - Physiotherapist/Physical Therapist
 - Psychologist
 - Recreational Therapist
 - Registered Nurse
 - Veterinarian
- Physicians can use this waiver, but it can only be for teaching or research positions

TN Waiver Program

Canadian Citizens

- Do not have to apply at a US Consulate
- May establish eligibility for TN Classification at the time they seek admission by presenting required documentation to a US Customs and Border Protection(CBP) officer at certain ports of entry
- They must present:
 - Proof of Canadian citizenship
 - Letter from their prospective employer detailing items such as the capacity in which they will work in the US, the purpose of their employment, their length of stay, and their educational qualifications
 - Credentials evaluation (if applicable) and any applicable fees

TN Waiver Program

Canadian Citizens

- A prospective TN employer can choose to file on behalf of a Canadian citizen who is outside the US by submitting the Form I-129, Petition for Nonimmigrant Worker to USCIS (Form is on the USCIS website)
- If the USCIS approves, the prospective worker may then apply to CBP for admission into the US at designated ports/pre-flight inspection station with the following documents:
 - Proof of Canadian citizenship
 - Approval notice from USCIS for form I-129 along with the I-129 form and the entire application that was submitted to the USCIS
 - Be prepared to pay any fees
- If the CBP officer finds the provider eligible, they will be admitted into the US as a TN nonimmigrant.

TN Waiver Program

Mexican Citizens

- Must obtain a visa to enter the US as a TN nonimmigrant
 - Apply for a TN Visa directly at a US Embassy or consulate in Mexico
- Once approved, the provider can apply for admission at designated ports/pre-flight inspection stations
- If a CBP officer finds the provider eligible, they will be admitted into the US as a TN nonimmigrant

TN Waiver Program

Dependents of the TN Provider

- Dependents are not permitted to work while in the US but they can study
- They are granted TD status but for no longer than the period of time granted to the principal TN nonimmigrant
- If they are a Canadian Citizen, they don't need a visa but they should have copies of the TN nonimmigrant's documents as well as something that proves their spousal/parent-child relationship, and proof that the TN nonimmigrant is maintaining their status
- Mexican Citizens must apply for a TD nonimmigrant visa at an American embassy or consulate
- If they are not citizens of Canada or Mexico, they should check with the DoS to determine if they need a Visa and determine any other requirements

TN Waiver Program Conclusion

- The initial period of stay for a TN provider is up to 3 years
- If the provider wishes to stay without departing from the US, they must seek an extension of stay and their employer may file Form I-129 on the provider's behalf
- Otherwise, the provider must depart the US before their visa expires, and then can reapply at a CBP Port or Pre-Flight inspection station using the same application and documentation procedures as the first time
- One of the easiest pathways – HR professionals should be able to fill out the forms

J-1 Conrad 30 Visa Waiver Program

- 2 Year Home Requirement
- History
- Flex Slots
- Cycles start on 10/1 of every year and don't close until all 30 state slots are filled
- From 10/1 to 10/31 of every cycle, facilities are limited to 9 spots
- After 11/1, if there are spots available, facilities are welcome to send additional applications

J-1 Conrad 30 Visa Waiver Program Application Requirements

- Facility Information:
 - Facility Letter
 - A description of the health care facility (10 page limit)
 - Designation Status of All Health Care Facility and Employment Locations
 - Sliding Fee Scale
 - Meaningful Letter of Support
 - Six months of Recruitment and Retention Efforts
 - Retention Plan

J-1 Conrad 30 Visa Waiver Program Application Requirements

- Physician's Information
 - An Endorsed Contract and Addendum
 - Proof of USMLE or the Federal Licensing Examination Passage
 - Residency Information
 - Licensure Information – Must come from ALMS
 - A No Objection Letter
 - Immigration Documentation
 - Current CV and Three Letters of Recommendation
 - Statement of No Other Applications

J-1 Conrad 30 Visa Waiver Program Submission Information

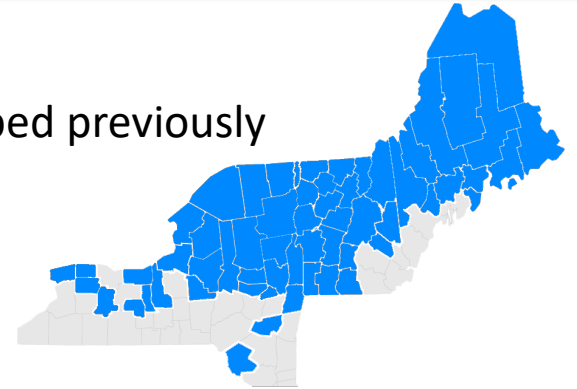
- An electronic form opens to facilities at 9:00 AM on 10/1
 - A separate form for each physician must be submitted
 - Contact the RHPCP for access to the form
- After review, the RHPCP request the two paper copies via FedEx or UPS
- The RHPCP, once applications are complete, will send the application and a letter of support to the DoS for additional review and approval

J-1 Conrad 30 Visa Waiver Program Application Format

- Submit one original and one copy
- 8 ½ x 11” paper size
- No staples, paper clips, tabs, or two sided documents
- Sections can be separated by one piece of colored paper
- Case numbers from the DOS must be on the corner of every sheet
- Submit in checklist order
- Do not include documentation that is not required by the DoS or the RHPCP

NBRC Waiver

- Process is very similar to the J-1 Waiver Process described previously
- Additional 5 Slots Per Facility Per Year
- Some additional required documents
- Only available in the NBRC Service Area (See image)
- There are no Flex Slots – All applicants must work in either a Primary Care HPSA or MUA or a Mental Health HPSA (depending on their specialty)
- Requests must be Sponsored by the State – Maine CDC Reviews and Provides State Sponsorship Letter signed by the DHHS Commissioner and Forwards the full application onto the NBRC
- Must be requested by the employing health care facility or an acting attorney on their behalf
- The NBRC guidelines are minimum requirements, and the State can add additional requirements as they wish.



NBRC Application Requirements

See the Guidelines for All Requirements

- **Signed Employment Letter – Full Guidelines in the NBRC Guide**
 - Special Population HPSA/MUA – Must document the sponsor’s record and intent to continue serving that population.
 - Federal Information Processing Standards County Code and Census Tract or Blocked Numbering Area Number
 - Assigned by the Bureau of Census
 - OR – the 9-digit zip code of the area(s) in which the provider will be practicing
- **Signed Employment Contract –**
 - Must Contain/Incorporate
 - NBRC J-1 Visa Waiver Liquidated Damages Clause
 - Cannot Contain
 - Restrictive Covenant or Non-Compete Clause
 - A non-solicitation Clause longer than the three year term
 - A no cause termination clause
- **Evidence of 6 Months Unsuccessful US Doctor Recruitment**
 - Must include the dates posted
 - Include copies of the postings
- **Signed and Notarized J-1 Visa Waiver Affidavit and Agreement**
- **Copy of the Sliding Fee Scale up to 200% FPL**

NBRC Requirements Continued

- A Current CV
- Copy of the Physician's Work Schedule – If there is more than one Site.
- Evidence that the facility(ies) are located in a Primary Care HPSA/MUA or a Mental Health HPSA.
- A Signed Statement saying that the facility will cooperate with all reporting requests from the NBRC and/or the RHPCP and that all material changes will be reported to the NBRC and the RHPCP within 10 days of the change.
 - May include:
 - Proposed Contract Changes
 - Proposed Employment Location Changes
- Immigration Documents including:
 - DS-2019s for all years in training
 - DS-3035 including the waiver review division bar code page, the third-party bar code and IGA
- G-28 Notice of Appearance of Attorney

RHPCP Requirements

See the Guidelines for Full Requirements

- Signed Letter from the Facility
- Brief Description of the Health Care Facility (10-page limit)
- Community Letter of Support
- Detailed Recruitment and Retention Strategy
- Addendum to the Physician's Contract
- Proof that the Physician passed all parts of the USMLE or the Federation Licensing Examination
- Evidence of Current Status or Completion of a Residency Program
- Evidence of Pending or Active Maine Licensure
- No Objection Letter or Signed Statement from Physician
- Copies of the Physician's I-94 Arrival and Departure Records
- Three Different Signed Letters of Recommendation

Submission Requirements

- **Format**
 - 8.5” x 11” paper
 - Do not use Staples, paperclips, tabs, or Two-sided documents
 - Sections can be separated by a piece of colored paper
 - Should be submitted in checklist order (see the guide for the complete checklist)
 - Do not include extra documents that are not requested by the NBRC or RHPCP
- **Selection Order**
 - First-come, First-served basis
 - Pre-selection form on Smart-Sheets (link included in the Guide)
 - The RHPCP will request two copies of the application once the pre-selection has been reviewed.
 - If required documents are not included or does not meet guidelines, the application will be returned to the applicant.

Application Process

- Once requested, the application will be sent to the RHPCP for review
- If the RHPCP approves your request, they will send a request to the DHHS Commissioner to provide a State Letter.
- Once the State Letter is procured, the RHPCP will send your request to the NBRC.
- The NBRC will notify you of their receipt.
- If all information requested is received, the applicant can expect a determination within 60 days.
- If approved, a recommendation will be sent from the NBRC Federal Co-Chair to the US Department of State (DOS) for consideration.
- NBRC and the applicant will be notified by the US DOS if the waiver recommendation is approved and being sent to USCIS.
- The Applicant will receive notice from USCIS of the final determination.
- Applicants must notify the NBRC and the RHPCP once they receive their official determination from USCIS.

Resources

- Is your facility located in a HPSA or MUA/P?
 - <https://data.hrsa.gov/tools/shortage-area/hpsa-find>
 - <https://data.hrsa.gov/tools/shortage-area/mua-find>
 - <https://data.hrsa.gov/tools/shortage-area/by-address>
- [NBRC Website](#)
- [RHPCP Website](#)
- [3RNET](#) (Recruitment and Retention Resources)
- [HHS Information](#)
- [TN Information](#)
- [J-1 Program](#)
- The NBRC and J-1 Guides for Maine will be sent at the conclusion of this presentation and are also located on the RHPCP website

Questions?

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