

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3) (16 Del.C. §122(3))  
16 DE Admin. Code 4104

### PROPOSED

### PUBLIC NOTICE

#### 4104 Delaware Conrad State 30/J-1 Visa Waiver Program

Pursuant to 16 Del.C. §122(3), the Department of Health and Social Services, Division of Public Health has the legal authority to promulgate regulations. The Division of Public Health is proposing revisions to Regulation 4104 Delaware Conrad State 30/J-1 Visa Waiver Program and intends to hold them open for public comment per Delaware law. The revisions include the addition of a definitions section, updated forms, and technical changes that will bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

Copies of the proposed regulation are available for review in the March 1, 2025 issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at (302) 744-4951.

Public comments will be accepted until 4:30 p.m. on April 1, 2025. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901

#### 4104 Delaware Conrad State 30/J-1 Visa Waiver Program

#### 1.0 Purpose and Scope

- 1.1 This document will specify the procedures to be used by the Delaware Department of Health and Social Services (DHSS) in administering the Conrad State 30/J-1 Visa Waiver Program (Program).
- 1.2 DHSS is committed to ensuring that quality health care is available to all residents of the State of Delaware. To ensure adequate medical services are provided in underserved areas, DHSS has elected to take advantage of the Conrad State 30/J-1 Visa Waiver Program.
- 1.3 Under this Program, DHSS established state-specific procedures that require sponsoring sites to submit a Site Application. This application consists of:
  - 1.3.1 Needs assessment;
  - 1.3.2 Proof that the sponsoring site has unsuccessfully attempted over a 3-month period to hire a physician with United States citizenship;
  - 1.3.3 Strategy for long-term and short-term retention;
  - 1.3.4 Sponsoring site waiver agreement; and
  - 1.3.5 A Site Application form.
- 1.4 The needs assessment must establish and document that a particular need exists within the sponsoring site's service area before the site will be approved to hire a J-1 physician under the Conrad State 30/J-1 Visa Waiver Program. The onus to establish the need rests solely with the sponsoring site.
- 1.5 The Site Application will be reviewed and approved or disapproved by a Conrad 30, J-1 Physician Visa Waiver Board. DHSS will provide written notice to the site of the application's approval/disapproval. A J-1 Visa Waiver Application for a J-1 physician may not be submitted until the sponsoring site has been approved. J-1 Visa Waiver applications will only be accepted from J-1 physicians who have signed a contract with a pre-approved site.
- 1.6 DHSS will submit recommendations to the Delaware Department of State on behalf of qualified J-1 physician applicants who agree to practice medicine full-time at a pre-approved sponsoring site for a minimum of 3 years in a federally designated health professional shortage area or a medically underserved area of Delaware, or other underserved area using a flex slot, with a pre-approved site.

- 1.7 DHSS participation in the Conrad State 30/J-1 Visa Waiver Program is completely discretionary and voluntary. DHSS may elect not to participate in the Program at any time. The submission of a complete waiver package does not ensure DHSS will recommend a waiver. No more than 30 applications will be approved each federal fiscal year. DHSS reserves the right to recommend or decline any request for a waiver.
- 1.8 Utilizing Additional J-1 Visa Waiver Routes/Resources: If a physician appears to qualify for the U.S. Department of Health and Human Services' Exchange Visitor Program, DHSS will contact that physician's attorney with a recommendation to utilize the HHS Program. The applying site is not required to follow the recommendation. The Conrad 30, J-1 Visa Waiver Application will be processed as received without penalty if the site chooses to move forward with processing the Conrad physician application. The Program manager will provide technical assistance to any provider who qualifies for either of these programs.
- 1.9 DHSS reserves the right to bar sites or physicians found to be non-compliant with Program policies or have a high turnover rate of J-1 physicians from future Program participation.
- 1.10 This requirement applies in full to any waiver submitted on behalf of a J-1 physician to be employed in Delaware.

## 2.0 Background

International medical graduates (IMG) completing their graduate medical education in the United States under a J-1 Visa are required to return to ~~their~~ the country of nationality for at least ~~two~~ 2 years before reentering the United States. Acting as an interested state agency, DHSS may make a recommendation to the U.S. Department of State, Bureau of Consular Affairs Waiver Review Division (DOS) ~~to, in turn, to~~ recommend that the U.S. Citizenship and Immigration Services (UCIS) waive the home residence requirement for up to ~~thirty (30)~~ 30 J-1 physicians annually ~~(this annually. This includes 10 J-1 flex waivers which may be used in areas that are not federally designated as a Health Professional Shortage Area (HPSA)), but nevertheless have been identified by the state as being underserved. In order to state. To~~ receive a letter of support for the J-1 physician applicant from DHSS, applications must meet requirements, described herein.

**17 DE Reg. 233 (08/01/13)**

## 3.0 Policy Statements Definitions

- 3.1 ~~DHSS is committed to ensuring that quality health care is available to all residents of the State of Delaware. In an effort to ensure adequate medical services are provided in underserved areas, DHSS has elected to take advantage of the Conrad State 30/J-1 Visa Waiver Program.~~
- 3.2 ~~Under this program, DHSS has established state-specific procedures that require sponsoring sites to submit a Site Application. This application consists of 1) a needs assessment, 2) proof that the sponsoring site has unsuccessfully attempted over a six month period to hire a physician with United States citizenship, 3) three letters of support from community leaders without financial interest in the practice site who reside in the practice site's service area, 4) strategy for long term and short term retention, 5) sponsoring site waiver agreement, 6) non-refundable processing fee of \$200, and 7) a site application form.~~
- 3.3 ~~The needs assessment must establish and document that a particular need exists within the sponsoring site's service area before the site will be approved to hire a J-1 physician under the Conrad State 30/J-1 Visa Waiver Program. The onus to establish the need rests solely with the sponsoring site.~~
- 3.4 ~~The Site Application will be reviewed and approved or disapproved by a Board. DHSS will provide written notice to the site of the application's approval/disapproval. A J-1 visa waiver application for a particular J-1 physician may not be submitted until the sponsoring site has been approved. J-1 visa waiver applications will only be accepted from J-1 physicians who have signed a contract with a *pre-approved* site.~~
- 3.5 ~~DHSS will submit recommendations to the DOS on behalf of qualified J-1 physician applicants who agree to practice medicine full time at a pre-approved sponsoring site for a minimum of three years in a federally designated Health Professional Shortage Area (HPSA) or a Medically Underserved Area (MUA) of Delaware, or other underserved area using a flex slot, with a *pre-approved* site.~~
- 3.6 ~~DHSS participation in the Conrad State 30/J-1 Visa Waiver Program is completely discretionary and voluntary. DHSS may elect not to participate in the Program at any time. The submission of a complete waiver package does not ensure DHSS will recommend a waiver. No more than 30 applications will be approved each fiscal year. DHSS reserves the right to recommend or decline any request for a waiver.~~
- 3.7 ~~The Delaware Division of Public Health shall charge a non-refundable processing fee of \$200 to each sponsoring site submitting a Site Application at the time the application is submitted. A non-refundable processing fee of \$250 shall be charged to each pre-approved site to process the waiver request application for each J-1 physician that the site plans to employ. The check is to be made payable to the State of Delaware, and mailed to the attention of the Bureau at the following address:~~

Conrad State 30 Program Manager  
Delaware Division of Public Health  
417 Federal Street, Jesse Cooper Building  
Dover, Delaware 19904

3.8 ~~DHSS reserves the right to bar sites and/or physicians found to be non-compliant with program policies and/or to have a high turnover rate of J-1 physicians from future program participation.~~

3.9 ~~This policy applies in full to any waiver submitted on behalf of a J-1 physician to be employed in Delaware.~~

The following words and terms, when used in this regulation, have the following meaning:

**"Board"** means the Delaware Conrad State 30/J-1 Visa Waiver Program Sponsoring Site Application Review Board.

**"DHSS"** means the State of Delaware Department of Health and Social Services.

**"DPH"** means the State of Delaware Department of Health and Social Services Division of Public Health.

**"Emergent need"** means a need that demonstrates an unusual and critical urgency for the placement of a J-1 physician, such as the death, unexpected departure, or sudden retirement of a clinical physician providing many medical care needs at the sponsoring site.

**"Health professional shortage area" or "HPSA"** means an area defined by the federal Department of Health and Human Services as having a shortage of health care providers.

**"J-1 physician"** means an international medical graduate physician completing graduate medical education in the United States under a J-1 Visa. These physicians are required to return to the country of nationality for at least 2 years before reentering the United States unless a J-1 Visa waiver is granted.

**"Medically underserved area" or "MUA"** means an area, as defined by the Department of Health and Human Services, under the National Health Service Corps in 1970 as not having an adequate supply of health care providers.

**"Practice site"** means the physical location at which the J-1 physician will provide medical services. This location can be different from the sponsoring site location if, for example, a satellite office is used.

**"Primary care fields"** means the following four fields: family practice, general internal medicine, general pediatrics, and obstetrics/gynecology.

**"Processing fee"** means the non-refundable \$500 fee that Delaware Division of Public Health shall charge to each sponsoring site submitting a Physician Application at the time the application is submitted. The check should be made payable to the State of Delaware.

**"Program"** means the Delaware Division of Public Health Conrad State 30/J-1 Visa Waiver Program.

**"Public Law" or "PL"** means federal statute that governs affairs between individuals and government, between different institutions within a state, and between the branches of government.

**"Recruitment contact"** means the primary point of contact to be used by the Delaware Department of Health and Social Services Conrad State 30 Program Manager.

**"Screening for Life Health Care Connection"** means a program that assists uninsured Delaware residents who meet specific financial requirements to obtain preventative healthcare, as well as medical services at an affordable cost.

**"Service area"** means the geographic area in closest proximity to the practice site, from which many patients are derived.

**"Sponsoring site"** means the medical practice through which the J-1 physician will provide medical services.

**"U.S. Department of State, Bureau of Consular Affairs Waiver Review Division"** means the federal agency that reviews the recommendations submitted by interested state agencies on behalf of J-1 physician applicants. In turn, they submit recommendations to the Immigration and Naturalization Service for final determination of approval/disapproval.

**"VIP"** means the voluntary initiative program, which represents the network of contributing physicians, allied health practitioners and ancillary service providers throughout the state that serve the uninsured residents of Delaware who are enrolled in the Health Care Connection program through the Department of Public Health.

17 DE Reg. 233 (08/01/13)

#### 4.0 DHSS Duties and Responsibilities

The Delaware Division of Public Health (DPH) has primary responsibility within DHSS for processing J-1 visa waivers. DHSS serves as the "interested state agency" with the Director of Public Health having the authority

to sign the recommendations. Applications must be processed in the best interest of the health care needs of Delawareans.

**17 DE Reg. 233 (08/01/13)**

**5.0 Applicability**

5.1 These procedures apply to the following:

~~5.1~~ 5.1.1 All J-1 physicians seeking a J-1 visa waiver under PL Public Law (PL) 103-416 for employment in Delaware.

~~5.2~~ 5.1.2 All sponsoring sites seeking approval to hire a J-1 physician under the J-1 Visa Waiver ~~program~~ Program.

~~5.3~~ 5.1.3 All DHSS employees processing J-1 visa waivers under PL Public Law (PL) 103-416.

**6.0 Application Process**

6.1 Sponsoring Site Pre-Approval Application Requirements. The Site Application (~~see Appendix A for Application forms~~) must, at a minimum, include the following:

6.1.1 Site Application Form (Appendix A of this regulation)

6.1.1.1 **Sponsoring Site:** Provide the name, address, county, telephone number, ~~fax number~~ and the e-mail address of the site requesting approval to hire a J-1 physician. ~~Also, the~~ The site must specify whether it is a for-profit or not-for-profit business.

6.1.1.2 **Practice Site:** Provide the name, ~~address~~ address, and county of the actual practice ~~site(s)~~ site where the requested J-1 physician would practice, if different from the primary location of the sponsoring site.

6.1.1.3 **Recruitment Contact:** Provide the name, address, county, telephone number, ~~fax number~~ and e-mail address of the individual responsible for physician recruitment.

6.1.1.4 **Site Data Regarding Active Clients:** Provide the total number of active patients at the practice site in the previous calendar year. Indicate total patients, as applicable, for primary care, specialty ~~care~~ care, and mental health services. Provide pro-rated or estimated annual totals if the site was not operational for the entire previous calendar year. For new sites, estimate the number of patients anticipated for the next year. Of the total number of patients, provide the percentage of all current patients, broken out by given age groups, making payment by conventional insurance plans, Medicare, ~~Medicaid~~ Medicaid, or on a sliding fee scale. A copy of the sliding fee scale must be submitted.

6.1.1.5 Sites approved to participate in the Conrad State 30/J-1 Visa Waiver Program must also participate in state programs designed to ~~increased~~ increase access to care for the uninsured/under insured such as the ~~Community Healthcare Access Program (CHAP)~~ Screening for Life Health Care Connection, the ~~VIP#~~ VIP provider network, and, if appropriate other charitable programs. Sponsoring sites must ~~verify that they will~~ enroll in the ~~VIP#~~ VIP Program within 30 days of site approval (~~if if they are not already network members~~). members. To enroll in the VIP program, call the Medical Society of Delaware at 302-224-5190 (select option 1). To enroll in ~~CHAP~~, ~~please call 2-1-2 or~~ Screening for Life Health Care Connection, call 302-744-1040.

6.1.1.6 **Staffing Levels:** Provide the total number of budgeted full-time equivalent providers currently on staff. Also include the number of J-1 physicians requested, by specialty, and the projected hire date of each.

6.1.1.7 **Practice Site Hours of Operation:** Indicate the normal operating hours of the practice ~~site(s)~~ site by the days of the week. ~~If~~ Specify if hours of operation vary by practitioner, ~~please specify~~.

6.1.1.8 **Proposed J-1 Physician Weekly Work Schedule:** Indicate the proposed weekly work schedule of the proposed J-1 ~~physician(s)~~ physician. Include the number of hours (with start and end times) and the location (hospital/practice ~~site(s)~~ site). The schedule must indicate the amount of time the J-1 physician is ~~actually providing services; do not include~~ services, not including travel or on-call time.

6.1.2 Needs Assessment. Sponsoring sites are encouraged to work with ~~their local hospital and their community~~ local hospitals and communities to complete the needs assessment. A comprehensive, ~~data-driven~~ data-driven needs assessment must be completed, which, at a minimum, includes the following:

6.1.2.1 Description of the service area in which the sponsoring site's patients are located.

6.1.2.2 Geographic Service Area Health Resource Inventory. Description of the other health care resources located within the same service area including physicians (~~by specialty~~) by specialty, hospitals, clinics, urgent care ~~centers~~ centers, and any other available outpatient care facilities. Also include the location of the nearest available source of ~~outpatient-based~~ outpatient-based

- services, which offers a sliding fee scale to patients with limited financial resources and that provides services similar to those that are being provided by the requested J-1 physician. Indicate the distance to that site.
- 6.1.2.3 Documentation of whether the sponsoring site's service area is located within a ~~Health Professional Shortage Area (HPSA) or a Medically Underserved Area (MUA)~~ health professional shortage area or a medically underserved area. If in a HPSA or MUA, please indicate the following: HPSA Type(s) Type, HPSA Service Area Number, ~~HPSA FIPS State/County Code~~ state/county code, and the sponsoring site's primary service area (by ~~City/County~~ city/county).
- 6.1.2.4 Documentation of a shortage in the defined service area for the ~~particular~~ physician specialty being requested under the J-1 Visa Waiver Program.
- 6.1.2.4.1 Provide statistics demonstrating the need for a specialty ~~and/or or~~ sub-specialty in the sponsoring site's service area.
- 6.1.2.4.2 Document that the specialty ~~and/or or~~ sub-specialty is not available to the underserved population in the service area.
- 6.1.2.4.3 Describe how a J-1 physician would be used to meet the needs of the underserved population in the service area. Indicate if unique qualifications, such as cultural match or experience with the service area's underserved population, are sought to meet a particular need.
- 6.1.3 Retention. The sponsoring site must provide ~~thorough~~ thorough, written documentation of plans to retain the J-1 physician in the service area upon completion of the ~~three-year~~ 3-year practice obligation. Specifically, this plan must include ~~short~~ short-term and long-term strategies that will not only keep the physician in the service area, but also will encourage the physician to continue to practice the specialty for which ~~he/she was hired including but not limited to~~ the physician was hired. This includes malpractice insurance, partnership opportunities, ~~if applicable~~, annual and sick leave, a competitive ~~salary and salary increases~~ salary, salary increases, and a health ~~and/or~~ benefits package, ~~if applicable~~.
- 6.1.3.1 Non-compete language ~~and/or or~~ clauses in employment contracts are strictly prohibited.
- 6.1.3.2 Imposing financial penalties or prohibiting a physician from establishing a competing practice when the employment arrangement ends is considered a barrier to the ~~program's~~ Program's purposes of the recruitment and the retention of a physician to a medically underserved area.
- 6.1.3.3 The employment contract may not contain any ~~Restrictive Covenants or Non-Compete Clauses~~ restrictive covenants, non-compete clauses, or similar language, regardless of how ~~they~~ the stipulations may be labeled.
- 6.1.4 Contract
- 6.1.4.1 The employment contract that will be offered to the J-1 ~~physician(s)~~ physician must be submitted for review to the J-1 Board and at a minimum, include the following:
- 6.1.4.1.1 Name and address of the sponsoring site.
- 6.1.4.1.2 Name and address of the location of the sponsoring site's practice. If the J-1 physician will work at more than one site, include the days and hours of practice at each site and a breakdown in the amount of time the physician will practice at each site.
- 6.1.4.1.3 A statement that the J-1 physician will work not less than ~~four~~ 4 days per week or more than 12 hours in a ~~24-hour~~ 24-hour period. The hours must be performed during normal office hours or hours which best meet the needs of the community (e.g. evenings ~~and/or or~~ weekends). Travel and on-call time cannot be included.
- 6.1.4.1.4 A statement that the site will employ the physician on a full-time basis (minimum of 40 hours per week, not including time spent in travel ~~and/or or~~ on-call).
- 6.1.4.1.5 A statement that the J-1 physician will commence practice within 90 days of receiving a waiver and will practice on a full-time basis for at least ~~three~~ 3 years.
- 6.1.4.2 ~~Non-compete language and/or clauses are strictly prohibited. The employment contract may not include a restrictive covenant or non-compete clause. Please see 6.1.3 above.~~
- 6.1.5 Proof of Failed Recruitment Attempts. The sponsoring site must provide proof that attempts have been made to hire a physician with United States citizenship ~~throughout~~ throughout the past ~~six~~ 3 months to no avail. This section must include a written description of the failed attempts to recruit as well as back up documentation including, ~~but not limited to, either a medical journal and or newspaper advertisements, and letters to medical residency programs and/or or medical schools, etc. Please state schools. State any attempts to gain recruitment support from the hospital within the practice site's geographic service area, and if applicable, indicate efforts to use the Delaware State Loan Repayment Program, the National Rural Recruitment and Retention Network (3R-Net at www.3RNet.org 3RNET at www.3RNET.org), and the National Health Service Corp. Corps to recruit a US U.S. citizen.~~

~~6.1.6 Letters of Support. The sponsoring site must submit at least three letters of support from community members without financial interest in the practice site who reside in the site(s) service area. Each letter must indicate the benefits of, or need for, the placement of a J-1 physician with the sponsoring site. At least one letter must be from an elected public official. At least one letter must be from a medical professional. At least one letter must be from an individual representing the patient population.~~

~~6.1.7~~ 6.1.6 Sponsoring Site Waiver Agreement. The director or applicant official of the sponsoring site must initial each of the statements indicating agreement to comply with requirements of the Delaware Conrad State 30/J-1 Visa Waiver Program. The form Sponsoring Site Waiver Agreement must also be signed and dated to include the title of the applicant official.

~~6.1.8~~ 6.1.7 Signature. The director or applying official of the sponsoring site must provide an original, dated application with a live signature (using blue or black ink). This signature binds the site to the information provided and verifies that the form ~~has been~~ was completed with accurate and current information.

~~6.1.9 Non-refundable processing fee of \$200~~

~~6.1.9.1 The director or applying official of the sponsoring site must provide a non-refundable processing fee of \$200 at the time the application is submitted. The check will be made payable to the State of Delaware and mailed to the following address:~~

~~Conrad State 30 Program Manager  
Delaware Division of Public Health  
417 Federal Street, Jesse Cooper Building  
Dover, Delaware 19901~~

~~6.1.9.2 Without payment of the processing fee the application will be deemed incomplete and will not be processed.~~

## 6.2 J-1 Physician Application Requirements

~~6.2.1 J-1 Physician Application forms are available in Appendix C of this regulation. Applications will only be accepted from J-1 physician applicants who already have an employment contract with a pre-approved sponsoring site (see section IV above Section 4.0 of this regulation). The completed application must include the original application package and two complete copies. Applicants are also encouraged to submit a complete application in electronic format (CD or e-mail). 1 complete copy. No more than 30 physician applications will be approved each federal fiscal year (October 1 to September 30). DHSS reserves the right to recommend or decline any request for a waiver.~~

~~6.2.2 The J-1 Physician Application (see Appendix C for application forms) must, at a minimum, include the following:~~

~~6.2.2.1 Letter from the Director of the Sponsoring Site Site. The director of a pre-approved sponsoring site must submit a letter requesting a Delaware Department of Health and Social Services (DHSS) recommendation to the U.S. Department of State, Bureau of Consular Affairs Waiver Review Division (DOS) (or other Federal federal approving agency) that a J-1 physician be given a waiver of the requirement to return to their country of nationality. The letter must include, or attach, each of the following:~~

~~6.2.2.1.1 Description of the J-1 physician's qualifications, proposed responsibilities and how his/her the physician's employment will meet the unmet health care needs of the medically underserved community.~~

~~6.2.2.1.2 If the J-1 physician will be practicing in a HPSA or MUA that is based on a population group, the employer must provide adequate documentation of the medical care that will be provided to this group of patients.~~

~~6.2.2.1.3 Confirmation that the sponsoring site and the J-1 physician participate in or have applied to participate in the CHAP or VIP Screening for Life Health Care Connection or VIP Program. J-1 physicians must apply to participate in the program Program within 30 days of executing an employment contract with a sponsoring site. To enroll in the VIP program, call the Medical Society of Delaware at 302-224-5190 (select option 1). To enroll in CHAP, please call 2-1-1 or 302-744-1040. Once enrolled, the physician must notify the J-1 Program manager.~~

~~6.2.2.1.4 Certification that the J-1 physician will provide medical care services to Medicare, Medicaid Medicaid, and medically underserved patients, without discrimination based upon ability to pay for such services (i.e. self-pay, sliding fee scale, charity care). Enclose a copy of the sliding fee scale or policy for discounting charges.~~

- 6.2.2.1.5 Completed Physician Data Sheet (~~copy enclosed~~ available in the Appendices, Site Application Forms, J-1 Physician Application Forms).
  - 6.2.2.1.6 Copy of the J-1 physician's curriculum vitae (CV).
  - 6.2.2.1.7 Evidence of eligibility for a Delaware medical license.
  - 6.2.2.1.8 At least ~~three~~ 3 letters of recommendation from persons familiar with the J-1 physician's work.
  - 6.2.2.1.9 A signed statement from the J-1 physician agreeing to the contractual requirements set forth in Section 214 (k)(1) (B) and (C) of the Immigration and Nationality Act.
  - 6.2.2.1.10 Copies of all IAP-66 forms issued to the J-1 physician seeking the waiver.
- 6.2.3 Employment Contract
- 6.2.3.1 The employment contract must be submitted for review to the J-1 ~~Board~~ Program and at a minimum, include the following:
    - ~~Name~~ The name and address of the sponsoring site.
    - ~~Name~~ The name and address of the location of the sponsoring site's practice. If the J-1 physician will work at more than one site, include the days and hours of practice at each site and a breakdown in the amount of time the physician will practice at each site.
    - A statement that the J-1 physician will work not less than ~~four~~ 4 days per week or more than 12 hours in a ~~24-hour~~ 24-hour period. The hours must be performed during normal office hours or non-traditional hours that best meet the needs of the community (e.g. evenings ~~and/or~~ or weekends). Travel and on-call time ~~can not~~ cannot be included.
    - A statement that the site will employ the physician on a full-time basis (minimum of 40 hours per week, not including time spent in travel ~~and/or~~ or on-call).
    - ~~Statement~~ A statement that the J-1 physician will commence practice within 90 days of receiving a waiver and will practice on a full-time basis for at least ~~three~~ 3 years.
    - ~~The employment contract may not contain any Restrictive Covenants or Non-Compete Clauses or similar language, regardless of how they may be labeled.~~
    - ~~It must include a~~ The competitive salary amount requested.
    - ~~Personal~~ Specific personal time requirements including vacation and sick leave ~~must be specified.~~
    - A breakdown of all proposed benefits ~~must be provided.~~
  - 6.2.3.2 The employment contract may not contain any restrictive covenants, non-compete clauses, or similar language, regardless of how they may be labeled.
- 6.2.4 Letter of No Objection from Home Country
- 6.2.4.1 A statement that the physician's home country has no objection to the physician receiving a waiver of the foreign residence requirement must be included if the J-1 physician received funding from ~~his or her~~ the physician's home country for medical education or training in the United States. The Certification Regarding Contractual Obligation to Home Country (HD1061F) letter must be submitted directly to the following address by the J-1 physician applicant:
 

Waiver Review Division  
 Department of State  
 Bureau of Consular Affairs, Visa Office  
 CA/VO/L/W Room, L603  
 2401 E Street, NW  
 Washington, DC 20522-0106
  - 6.2.4.2 A copy of this letter must be included in the application packet.
- 6.2.5 ~~Submission of Payment of the Department of State 'User Fee Required for Waiver Processing'~~
- 6.2.5.1 ~~The J-1 physician applicant must provide proof that the \$215.00 processing fee has been sent to the DOS. A copy of the payment (i.e. check or money order) is considered sufficient proof. DHSS will not handle the submission of this fee. The fee must be mailed directly to the DOS at the time the J-1 Visa Waiver Application packet is submitted to DHSS. The submission of the fee must adhere to the following requirements:~~
    - 6.2.5.1.1 ~~A copy of the Physician Data Sheet and two self-addressed, stamped, legal-size envelopes must accompany the \$215.00 DOS user fee. The applicant's full name, date of birth and social security number must be included on the check or money order, which must be drawn on a~~

bank or other institution located in the United States and made payable to the United States DOS in U.S. currency. If the applicant resides outside the U.S. at the time of application, remittance may be made by bank international money order or foreign draft drawn on an institution in the U.S. and made payable to the United States DOS in U.S. currency. The envelopes will be used to inform the applicant of 1) the case number, which must be included on all future correspondence with DOS, and 2) the approval determination.

- 6.2.5.1.2 The address to which you must submit these items follows, depending on whether the United States Postal Service or a Courier Service is selected:

If Sending Via United States Postal Service:		If Sending Via Courier Service:
US Department of State		US Department of State
Waiver Review Division		Waiver Review Division (Box 952137)
Post Office Box 952137		1005 Convention Plaza
St. Louis, MO 63195-2137		St. Louis, MO 63101-1200

6.2.6 ~~6.2.5~~ J-1 Visa Waiver Statements. The J-1 physician applicant must sign and include the enclosed 'J-1 J-1 Physician Waiver Statements.' Statement and Affidavit and Agreement with the application.

6.2.7 ~~6.2.6~~ J-1 Visa Waiver Affidavit and Agreement. The J-1 physician applicant must include a notarized 'J-1 J-1 Visa Waiver Affidavit and Agreement.' Agreement. The document must contain the J-1 physician applicant's live, notarized signature (in blue or black ink).

6.2.8 ~~6.2.7~~ J-1 Visa Waiver Application Checklist. The enclosed checklist (available in the Appendices) must accompany the application. The J-1 physician applicant must initial each item on the checklist as proof and assurance that each item is included in the ~~waiver application~~ J-1 Visa Waiver Application packet.

6.2.9 ~~6.2.8~~ Non-refundable \$250 \$500 processing fee

~~6.2.9.1~~ ~~6.2.8.1~~ A non-refundable processing fee of ~~\$250~~ \$500 shall be charged to each pre-approved site to process the waiver request application for each J-1 physician that the site plans to employ. The check will be made payable to the State of Delaware and mailed to the following address:

Conrad State 30 Program Manager  
Delaware Division of Public Health  
417 Federal Street, Jesse Cooper Building  
Dover, Delaware 19901

~~6.2.9.2~~ ~~6.2.8.2~~ Without payment of the processing fee fee, the application will be deemed incomplete and will not be processed.

**17 DE Reg. 233 (08/01/13)**

## 7.0 Site Application Evaluation Process

7.1 The Delaware Conrad State 30/J-1 Visa Waiver Program Sponsoring Site Application Review Board (Board) will review and approve or disapprove each Site Application based on its individual merits. Board members must not serve on the review panel for applications submitted by sponsoring sites with which they have either a personal or employment-related conflict of interest. The Board will be comprised of, ~~at least, one of at least 1~~ member from each hospital located in an underserved area of the state or serving patients from such areas, the Medical Society of Delaware, and DHSS representatives. Additional members may be included at the discretion of the Board.

7.2 Sponsoring Site Application Preliminary Review

7.2.1 A preliminary review of each application will be conducted by the Conrad State 30 Program manager to determine if if:

~~7.2.1.1~~ ~~1) the~~ The sponsoring site is located within a ~~HPSA/MUA or not HPSA/MUA; and~~

~~7.2.1.2~~ ~~2) that~~ That the following required documentation is completed:

~~7.2.1.1~~ ~~7.2.1.2.1~~ Sponsoring Site Application Application;



~~7.2.1.2~~ 7.2.1.2.2 Detailed Needs Assessment ~~needs assessment~~;

~~7.2.1.3~~ 7.2.1.2.3 Strategy for Long-term and Short-term Retention ~~long-term and short-term retention~~;

~~7.2.1.4~~ 7.2.1.2.4 Proof of Failed Recruitment Attempts ~~failed recruitment attempts~~;

~~7.2.1.5~~ Letters of Support

~~7.2.1.6~~ 7.2.1.2.5 Sponsoring Site Waiver Agreement ~~Agreement~~;

~~7.2.1.7~~ 7.2.1.2.6 Template of the Employment Contract ~~employment contract~~ that will be ~~offered~~ offered.

~~7.2.1.8~~ Non-refundable processing fee of \$200

7.2.2 The preliminary review will be conducted ~~for the purpose of determining~~ to determine the completeness of the application; the specific content provided in each of the components will not be considered ~~during this review~~. Incomplete applications, as well as applications from a site not located in a HPSA/MUA, will be returned to the sponsoring site. A checklist identifying the missing information will be included. Completed applications may be resubmitted at any time prior to June 30. Correspondence noting which items the application is deficient in will be made with the site if it has been determined that the application is incomplete.

### 7.3 Sponsoring Site Application Review

7.3.1 The Board will convene ~~during the month of August or early September to review the applications submitted before June 30~~ quarterly to review the applications submitted.

7.3.2 Using the Site Application Evaluation Form (see available in Appendix D ~~for the form of this regulation~~) as a guide, Board members must assign a score to each of the elements on the Site Application Evaluation form Review Point Scale.

7.3.3 The following point scale ~~has been assigned to each unique element~~:

#### Review Point Scale

<del>Site Application Data</del> <u>application data</u>	25
<del>Needs Assessment</del> <u>assessment</u>	35
<del>Retention</del>	<del>45</del> <u>20</u>
<del>Proof of Failed Recruitment Attempts</del> <u>failed recruitment attempt</u>	<del>45</del> <u>20</u>
<del>Letters of Support</del>	40
Total	100

7.3.4 The scores from the review elements will be averaged to reach ~~an overall~~ a total score ~~for each Board member~~. The total scores ~~received from~~ of each Board member will then be averaged to determine the final score for each site.

7.3.5 Sites will be approved only if:

7.3.5.1 All criteria are met,

7.3.5.2 A final score not lower than a 70 is achieved, and

7.3.5.3 An overall score of at least a ~~twenty-five (25)~~ 25 is achieved on the Needs Assessment component.

7.4 Timelines. Pre-approved sponsoring sites ~~(whose applications were received by June 30)~~ will be eligible to make a contractual offer to a J-1 physician for the following federal fiscal year (beginning October 4<sup>th</sup> 1 of each year). However, if not all ~~thirty~~ 30 Conrad State 30/J-1 Visa Waiver slots have been used for the current federal fiscal year, pre-approved sponsoring sites may make a contractual offer to a J-1 physician for the current fiscal year ~~and the physician may submit a J-1 visa waiver application packet (see Appendix C for forms) immediately.~~

### 7.5 Guidelines for Review of Applications ~~Submitted After June 30~~

7.5.1 Applications received ~~after the June 30 deadline~~ will be reviewed to determine if an emergent need (see Glossary for definition of emergent examples) for the placement of a J-1 physician is demonstrated. The application must include a detailed explanation of that documents why the application was not submitted by June 30. If not all ~~thirty~~ 30 Conrad State 30/J-1 Visa Waiver slots have been used for the current fiscal year, sponsoring sites deemed by the J-1 Board to have sufficiently demonstrated a true emergent need may make a contractual offer to a J-1 physician immediately upon approval and the physician may submit a J-1 visa waiver application packet (see Appendix C for forms) for the current fiscal year. If all ~~thirty~~ 30 Conrad State 30/J-1 Visa Waiver slots have been used, then approved sponsoring sites must wait until the

~~following federal fiscal year (beginning October 1<sup>st</sup> of each year) to submit a J-1 physician waiver application.~~

- 7.5.2 Sponsoring sites clearly demonstrating a an emergent need (~~see definitions section~~) that will significantly jeopardize access to care for the applicant site's existing patient population of the applicant site need to document four 2 rather than six months of failed recruitment efforts. All other recruitment efforts as set forth in ~~these regulations~~ this regulation apply.

7.6 Notice of Approval/Disapproval Approval/Disapproval.

- ~~7.6.1~~ For those applications received ~~by June 30~~, DHSS will provide written notification of the Site Application's approval or disapproval ~~by September 15<sup>th</sup> of each year~~ within 30 days after the Conrad 30 / J-1 Visa Waiver Board meeting.

- ~~7.6.2~~ For applications submitted after June 30, DHSS will attempt to provide written notification of the Site Application's approval or disapproval within 45 days from the date of receipt of the application by DHSS.

**17 DE Reg. 233 (08/01/13)**

## 8.0 Timeframes

- 8.1 Site Application ~~Submission~~ Submission. DHSS will accept Site Applications ~~Forms~~ each year through the end of the business day on June 30. Site Applications submitted after June 30 will be eligible to receive approval only if 1) DHSS has not used the allotted thirty recommendations for the year and 2) an emergent need for the placement of a J-1 physician is clearly demonstrated. (~~Please see definitions section of the regulations for definition of emergent need.~~) federal fiscal year. Site Applications need to be received no later than 30 days prior to the upcoming quarterly Conrad 30 / J-1 Visa board meeting.
- 8.2 Site ~~Notification~~ Notification. DHSS will notify sponsoring sites in writing of the decision to approve or disapprove their site by September 15<sup>th</sup> of each year. Inquiries regarding the status of pending applications will ~~not be accepted at any time prior to September 15<sup>th</sup>~~ the site within 30 days after the Conrad 30 / J-1 Visa Waiver Board meeting.
- 8.3 J-1 Visa Waiver Request ~~Submission~~ Submission. J-1 Visa Waiver Requests may be submitted with the start of each ~~Federal~~ federal fiscal year, October 4<sup>th</sup> 1.

## 9.0 Completed Site Applications, Associated J-1 Applications And and Processing Fees Must Be Sent To:

Conrad State 30 Program Manager  
Delaware Division of Public Health  
417 Federal Street, Jesse Cooper Building  
Dover, Delaware 19901

**17 DE Reg. 233 (08/01/13)**

## 10.0 Submitting J-1 Physician Waiver Recommendation To DOS

If the J-1 visa waiver request is approved, DHSS prepares a cover letter to DOS ~~is prepared by DHSS identifying that identifies the J-1 physician applicant and recommending a waiver of the two-year~~ recommends waiving the 2-year home residence requirement ~~be granted~~. Upon receipt of the DHSS approval request, DOS will review the application.

## 11.0 J-1 Physician Applicants Receiving A a J-1 Waiver

J-1 physician applicants receiving approval of a J-1 Waiver request must begin work at the sponsoring site within ~~ninety (90)~~ 90 days of notice of approval from ~~DOS~~ USCIS.

## 12.0 Reporting Requirements

- 12.1 An ~~annual reporting process~~ annual reporting process is utilized for each J-1 physician practicing under a waiver to ensure the J-1 physician continues to practice in an underserved area of Delaware for the required ~~three 3~~ 3 years. Included in this application is a copy of the Annual Practice Forms. The sponsoring site must deliver to DHSS a completed, signed form within ~~thirty (30)~~ 30 days of the anniversary of the J-1 physician's start date. Additional forms may be requested by contacting the J-1 program manager at (302) 744-4555. The annual reporting forms must be submitted for each year of practice obligation. **Failure to submit the forms render the sponsoring site non-compliant.** Failure to submit the forms render the sponsoring site non-compliant.

- 12.2 Notification of waiver status and commencement of employment contract must be submitted to DHSS upon receipt of written notification of approval from USCIS. This notification must include the date the ~~three-year~~ 3-year obligation commences.
- 12.3 Contract changes which result in the termination of a contract, a change in practice scope, ~~and/or~~ or relocation from a site approved in the application request to a new site must be presented in writing to DHSS at least ~~thirty (30)~~ 30 days prior to the change. All reporting requirements, changes in practice ~~location and/or~~ location, or scope must be submitted to the following:

Conrad State 30 Program Manager  
 Delaware Division of Public Health  
 417 Federal Street, Jesse Cooper Building  
 Dover, Delaware 19901  
**17 DE Reg. 233 (08/01/13)**

### 13.0 **Exit Interview Survey**

Each J-1 physician practicing in Delaware must complete an exit interview survey within ~~ninety (90)~~ 90 days of ~~completion of his/her three-year~~ completing the J-1 physician's 3-year obligation, or at such point that the employment contract is terminated by either the sponsoring site or the J-1 physician. DHSS will ~~conduct~~ send the exit interview survey, which will concentrate on the J-1 physician's experiences in Delaware and their future the physician's plans for practicing medicine at the current, or ~~another~~ another, location.

### 14.0 **J1 Visa Waiver Application Glossary**

<del>Department of State, Bureau of Consular Affairs Waiver Review Division (DOS)</del>	<del>The Federal agency that reviews the recommendations submitted by interested state agencies on behalf of J-1 physician applicants. In turn, they submit their own recommendation to the Immigration and Naturalization Service for final determination of approval/disapproval.</del>
<del>Emergent Need</del>	<del>An emergent need is one that demonstrates an unusual and critical need for the placement of a J-1 physician, such as the death, unexpected departure, or sudden retirement of a clinical physician providing a majority of medical care needs at the sponsoring site.</del>
<del>Health Professional Shortage Area (HPSA)</del>	<del>An area defined by the Department of Health and Human Services as having a shortage of health care providers.</del>
<del>J-1 Physician</del>	<del>An international medical graduate physician completing graduate medical education in the United States under a J-1 Visa. These physicians are required to return to their country of nationality for at least two years before reentering the United States <i>unless a J-1 Visa waiver is granted.</i></del>
<del>Medically Underserved Area</del>	<del>An area, as defined by the Department of Health and Human Services, as not having an adequate supply of health care providers.</del>
<del>Practice Site</del>	<del>Actual physical location(s) at which the J-1 physician will provide medical services. This location can be different from the sponsoring site location if, for example, a satellite office is used.</del>
<del>Primary Care Fields</del>	<del>The following four fields are identified as primary care: family practice, general internal medicine, general pediatrics and obstetrics/gynecology.</del>

<b>Processing Fees</b>	The Delaware Division of Public Health shall charge a non-refundable processing fee of \$200 to each sponsoring site submitting a Site Application at the time the application is submitted. A non-refundable processing fee of \$250 shall be charged to each pre-approved site to process the waiver request application for each J-1 physician that the site plans to employ. The check will be made payable to the State of Delaware.
<b>Recruitment Contact</b>	Primary point of contact to be used by Delaware Health and Social Services Conrad State 30 Program Manager.
<b>Service Area</b>	Geographic area in closest proximity to the practice site, from which the majority of patients are derived.
<b>Sponsoring Site</b>	Medical practice through which the J-1 physician will provide medical services (i.e. the hiring organization).

10 DE Reg. 1619 (04/01/07)  
17 DE Reg. 233 (08/01/13)  
28 DE Reg. 654 (03/01/25) (Prop.)

[http://regulations.delaware.gov/AdminCode/title16/Department of Health and Social Services/Division of Public Health/Family Health Services/J-1Appendices.pdf](http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Family%20Health%20Services/J-1Appendices.pdf)  
[Conrad State 30/J-1 Visa Waiver Site Application Forms](#)

#### APPENDIX A

##### Site Application Forms

[http://regulations.delaware.gov/register/march2025/proposed/Appendix A Site Application Forms.pdf](http://regulations.delaware.gov/register/march2025/proposed/Appendix%20A%20Site%20Application%20Forms.pdf)

#### APPENDIX B

##### J-1 Physician Application Forms

[http://regulations.delaware.gov/register/march2025/proposed/Appendix B J-1 Physician Application Forms.pdf](http://regulations.delaware.gov/register/march2025/proposed/Appendix%20B%20J-1%20Physician%20Application%20Forms.pdf)

#### APPENDIX C

##### Site Application Evaluation Worksheet

[http://regulations.delaware.gov/register/march2025/proposed/Appendix C Site Application Evaluation Worksheet.pdf](http://regulations.delaware.gov/register/march2025/proposed/Appendix%20C%20Site%20Application%20Evaluation%20Worksheet.pdf)

#### APPENDIX D

##### Annual Practice Report

[http://regulations.delaware.gov/register/march2025/proposed/Appendix D Annual Practice Report.pdf](http://regulations.delaware.gov/register/march2025/proposed/Appendix%20D%20Annual%20Practice%20Report.pdf)