

## NEVADA J-1 PHYSICIAN VISA WAIVER APPLICATION INSTRUCTIONS

### Instructions for submitting the application

1. Each candidate must submit an original and one (1) copy of their application in the format described below. For candidates selected for state support, the copy of the application will be retained at the Nevada Division of Public and Behavioral Health (DPBH) and the original will be forwarded to the U.S. Department of State (DOS). For candidates not selected, the copy of the candidate's application will be retained by the DPBH in the event of future need or withdrawal by a selected applicant and the original may be returned to the contact designated in Tab C.
2. All applications must contain separate tabs for items A through M as described in this attachment.
3. Each page of the application must contain the case number assigned by the DOS, in addition to the last name of the candidate.
4. Applications will be accepted throughout the year until all 30 slots are filled, within the Federal Fiscal Year (FFY) starting on October 1<sup>st</sup>.
5. During each FFY, qualifying entities that provide primary care services and/or specialty services in Nevada will be allowed to submit three (3) requests for sponsorship of J-1 Physician Visa Waiver candidates for each clinic site the organization operates. Additional applications will require special review by the DPBH.
6. A fee must be submitted with the application according to the following schedule, as per Nevada Administrative Code Chapter 439A:
  - a. For a primary care provider employed by a health facility in a designated health professional shortage area: \$500
  - b. For a primary care provider employed by a health facility in a flex slot: \$800
  - c. For a primary care provider employed by a third-party contractor in a designated health professional shortage area: \$1,100
  - d. For a primary care provider employed by a third-party contractor in a flex slot: \$1,400
  - e. For a specialist employed by a health facility in a designated health professional shortage area: \$800
  - f. For a specialist employed by a health facility in a flex slot: \$1,100
  - g. For a specialist employed by a third-party contractor in a designated health professional shortage area: \$1,100
  - h. For a specialist employed by a third-party contractor in a flex slot: \$1,400

The fee is required to be paid equally by the employer and the J-1 physician who apply for a letter of support ([NRS 439A.170](#)) at the time of the application. Payment should be made by check to the *Nevada Division of Public and Behavioral Health, Primary Care Office*. If the application fee causes a hardship to the physician, the Administrator may waive the physician's portion of the fee, or partial payment may be accepted at the time of the application submission

and must be accompanied by a letter explaining the hardship and a proposed payment schedule for the remaining balance of the application fee.

7. The Primary Care Office (PCO) encourages physician applicants to review the licensing requirements for the state of Nevada by going to the [Nevada State Board of Medical Examiners \(NSBME\)](#). It is recommended that you submit your application for medical licensure as early as possible or at the latest while **simultaneously** submitting your J-1 Visa Waiver application to the DPBH in order to expedite the process and to be able to start within 90 days of receiving your Visa Waiver. Please see Tab H of the application for further NSBME licensure requirements.

### **Review Process**

8. The estimated time for state application processing from receipt of a **complete application** to a state recommendation to the DOS is 30 to 45 days. This estimate includes application review at a public hearing with the Primary Care Advisory Council. Receipt of an incomplete application will increase processing time. This processing time **does not** include federal DOS and United States Citizenship and Immigration Services processing time.
9. Staff in the PCO will conduct a preliminary review of the application. If any federal or state requirements are not met, staff will notify the official contact for the candidate by fax or email within 14 days of receipt of the application. The DPBH reserves the right to process an incomplete application if it is determined that any missing information can be readily obtained.
10. Within 30 days of receipt of a **complete application**, the Primary Care Advisory Council will hold a public hearing to review staff recommendations and to determine whether the proposed work site meets the requirements for a HPSA, MUA/P, or a flex slot<sup>1</sup> to address the underserved. This determination will remain in place until the physician has completed the waiver obligation. Please inform the PCO if the application requires expedited processing.
11. Recommendations for support of a J-1 Physician Visa Waiver application are based on the needs of the medically underserved in Nevada. A maximum of 70% of the Waiver slots allotted to the state of Nevada may be recommended for support in Clark County. Up to five of the total slots may be reserved for staffing emergencies.
12. Upon determination that the applicant meets all of the appropriate requirements, the assigned number is confirmed, which indicates that the DPBH has accepted the application as one of its allowable thirty (30) waivers. The official contact for the candidate will be notified when the application has been forwarded to the appropriate federal agency for processing.
13. The program will be closed when all the slots are filled and/or held in reserve (up to five).

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<sup>1</sup> Public Law 108-441 extended the Conrad State 30 legislation on May 31, 2009 to improve access of physicians in medically underserved areas. This ruling allows states to place up to ten J-1 Physician Visa Waiver physicians in areas not currently designated by the Secretary of Health and Human Services, as long as the site provides services to the underserved.

## **SPECIAL CIRCUMSTANCES**

**Transfers:** Candidates are normally expected to fulfill their service obligations at the identified location with the employer in their agreement. In the event of practice failure or extraordinary conditions, candidates may apply for a transfer to a different employer, to another location and/or to another discipline in an underserved community within the state. Prior to transfer, the physician must contact the DPBH and submit a J-1 Physician Visa Waiver Program [Change of Status Form](#) with all the required additional documentation as outlined in the form.

For questions regarding the application, please contact the Primary Care Office at 775-684-2232.

## WAIVER APPLICATION COMPONENTS

**Under Nevada Law, all information submitted in support of the J-1 Physician Visa Waiver application, including the employment contract submitted under Tab G, becomes public record and may be released to the public unless otherwise indicated. Those sections of the application that are confidential or contain proprietary information must be stamped as confidential and include the basis for the confidential claim, in order to protect the records. However, a court may conclude that any records submitted in this process should be disclosed upon request.**

**All** applications must contain the components described below, organized within separate tabs.

**Reminder:** Every page of the Nevada state application must include the candidate's last name and the case number assigned by the DOS. To get a case number, you must complete a preliminary [application](#) with the federal DOS.

### Tab A:

- Provide for each practice site:**
  - Practice site name
  - Practice site address (street address, city and zip code)
  - HPSA and/or MUA/P designation number (HRSA HPSA or MUA/P print out)
  - Number of hours the candidate will practice at site to meet the required 40 hours per week.
  - Employer/Administration address (street address, city and zip code)
  
- Federally Qualified Health Centers (FQHC) and Tribal Health Centers must submit their exemption documents from the Centers for Medicare and Medicaid Services, or other federal agency to identify their status and claim their exemption from submitting the documents listed below.
  
- For all other sites, please provide the following information:
  - An attestation that each practice site must accept all patients regardless of ability to pay, accept Medicaid, Nevada Check-Up and Medicare on assignment, and use a sliding-fee scale based on federal poverty guidelines to discount services to low-income uninsured persons.
  - Copy of practice sites' sliding fee scale policy and the sliding fee scale. The sliding fee scale should be based on family size and income. The policy should identify the minimum fee charged at the site for patients at or below 100% of the Federal Poverty Level.
  - Provide posted notice in waiting room that such a policy is in effect, and this policy must apply to the entire medical practice, not simply to those patients treated by the J-1 Visa Waiver physician. These requirements should be in place for at least three months immediately preceding the request for waiver. See the following link for federal poverty guidelines: <https://aspe.hhs.gov/poverty-guidelines>
  - If you are applying for a "flex slot" and are proposing to serve an underserved population from a non-designated site, you will need to provide the following information:

- Percentage of population served who are at or below 200% of poverty
- Wait times for serving this population
- Next nearest provider for this population
- Any other barriers to serve this population

**The prerequisites listed above must be demonstrated before an application will receive further review.**

**Tab B:**

- Submit a letter from the employer, requesting that the DPBH act as an “Interested Government Agency,” to recommend a waiver for the J-1 Physician. The letter must include the following information:
- Name of employment site
  - Name and title of contact person
  - Employment site mailing address
  - Employment site physical address
  - HPSA or MUA/P identification number, unless seeking a flex slot
  - Telephone number
  - Fax number
  - E-mail address for contact person
  - Brief description of how the proposed candidate will satisfy important unmet health care needs within the designated shortage area.

**Tab C:**

- Provide an official contact for the candidate. This contact person will be used for all official contact between the DPBH and the Candidate. If the J-1 Physician Visa Waiver application is approved, the physician will complete the J-1 Physician Visa Waiver [New Arrival Verification Form](#) and provide to the DPBH a current e-mail address in order to receive notices and correspondence from the state within 60 calendar days after beginning to practice medicine in Nevada.
- Full Name
  - Mailing address
  - E-mail address
  - Telephone number

**Tab D:**

- Provide the Candidate information
- Full name
  - Date of birth
  - Place of birth
  - Country of citizenship
  - DOS case number
  - Describe residency training, including specialty, start and completion dates, and specialty training with corresponding time frames.

- Describe the candidate’s qualification for the proposed position and what the general responsibilities would be
- Copy of candidates complete curriculum vitae

**Tab E:**

Complete the table below to document the number and percent of patient visits billed for each category of payment for a twelve-month period, prior to submission of the application. This data should be specific to the practice and the facility in which the doctor works. If you are applying as a specialist to work in a hospital and an outpatient clinic, please complete the table for both inpatient and outpatient clients. Although there is no minimum value required for the percentage of patient visits for the underserved, if the sum percentage of Medicare, Medicaid, NV Check-up, Sliding Fee Scale and Indigent/Charity visits is less than 25%, include a written justification that outlines how the site makes services available to underserved populations.

<b>Time period of report:</b> (e.g. Dec. 1, 2014 – Nov. 30, 2015)		
	Total # of visits for 12 months	% of visits per 12 months
Medicare visits		
Medicaid visits		
NV Check-up		
Sliding Fee Scale		
Indigent/Charity		
Other - Not listed above		
<b>Totals</b>		
*For specialists/hospitalists: # of hospital/medical facility admissions for 6 months for the applicant specialty type	<b>Time period of report:</b> _____	

Please provide the number of providers (Full Time Equivalents, FTE) providing patient services at the practice site.

# of MDs by FTE	
# of PAs by FTE	
# of APNs by FTE	

- Specialists and hospitalists are regular participants in our program and are required to submit additional documentation as outlined below. An application for medical specialists and/or hospitalists must include documentation to justify that there is a critical need for this service in a designated Health Professional Shortage Area (HPSA), Medically Underserved Area or Population (MUA/P) or Flex slot. Information to support critical need should include, but is not limited to, the following:
  - a) Letter of support from hospital/medical facility that outlines the number of vacancies in the specialty/hospitalist positions. Include the total number of specialists that have hospital privileges at the facility.
  - b) For hospitalist positions, please provide documentation of the current physician to patient ratio at the facility where the candidate will work and the optimum physician to patient ratio.
  - c) For specialist physicians: approximate distance and travel time patients would need to travel to obtain the same services at the next closest facility or other access issues noted.

**Tab F:**

- Describe and document the employer’s recruitment and retention efforts. The employer must demonstrate that a suitable physician with US citizenship cannot be found through recruitment or any other means for at least two months prior to the submission of the application. Copies of advertisements, agreements with placement services, etc. must be provided. Employers in rural communities may request a waiver of the two-month recruitment period in cases of emergency, where the previous physician becomes disabled, dies, or leaves the area, and the community would be left with compromised medical coverage.

**Tab G:**

- The Candidate shall demonstrate a bona fide offer of full-time employment at a site located in a HPSA, MUA/P or flex slot. The contract developed between the employer and employee must be a binding contract agreement, outlining employer requirements and stipulations, for not less than a three year term. An offer letter or employment agreement will not suffice as a contract.

A copy of the complete contract must be included, and must specify the following:

- 1) Agreement to practice Primary Care (defined as Family Medicine, General Internal Medicine, Pediatrics, Geriatrics, Obstetrics/Gynecology or Psychiatry) or specialty medicine, a minimum of 40 hours per week excluding travel or “on-call” time at the described site. Candidates are advised to also set maximum limits on the number of hours they are contractually obligated to work per week. **(Note: if the maximum number of hours is not specified in the contract, the PCO has no means of supporting the candidate in the case of future disputes.)**
- 2) The salary for the J-1 Visa Waiver physician specified in the contract shall be equal to, or greater than, the prevailing wage for that area and for physicians of that specialty as reported by the Foreign Labor Certification Center <http://www.flcdatacenter.com>, Department of Labor. The employer shall attach the most current Wage Survey for the specialty and geographic area to the application package.

The employer shall pay the J-1 Visa Waiver physician the contracted salary on a periodic basis (bi-weekly, monthly), as stipulated in the contract. The employer may not reduce the contracted salary amount agreed upon in the contract.

- 3) The contract shall include the amount of time off the J-1 Visa Waiver physician shall receive each year for vacation, sick leave and for Continuing Medical Education. The employer shall maintain records to show the amount of time-off requested by the J-1 Visa Waiver physician and the amount of time actually taken.
- 4) Contracts may not contain a “non-compete” clause that would prohibit the J-1 Visa Waiver physician from beginning a new practice site or working in any practice site upon completing their three year commitment.
- 5) The contract must identify conditions for termination of the contract, for both the physician and employer. No-cause termination is not allowed.
- 6) The contract must contain reasonable liquidated damages (suggested to be under \$50,000) if the physician or employer terminates the contract before three years. If a contract includes liquidated damages that exceed the suggested amount of \$50,000 for a physician, submit a financial breakdown and justification of the costs that would be incurred because of early contract termination.
- 7) Agreement to begin employment at the stated practice site within 90 days of receiving a waiver from the United States Citizenship and Immigration Services (USCIS). During the 90 days, the physician must obtain the required licenses from the Nevada State Board of Medical Examiners (NSBME), the Drug Enforcement Agency, the State Board of Pharmacy, and any other licenses as may be required for the physician to practice medicine in Nevada.
- 8) The contract must include a statement that the physician agrees to meet the requirements set forth in section 214 (l) of the [Immigration and Nationality Act](#).
- 9) Any amendment to the contract must be submitted to the DPBH for approval.

#### Tab H:

- The Candidate shall supply a copy of the letter produced by the NSBME acknowledging that the Board has approved the Candidate's application for medical licensure. The letter **must** state that an investigation has been conducted by the NSBME into the applicant's background, education and training and that the NSBME will issue a license upon receipt of documentation and verification from the U.S. Department of State and USCIS that the applicant is lawfully entitled to remain and work in the United States. The NSBME letter may not contain any “exceptions.”

For candidates who are still completing their residency, the NSBME verifies that all core credentials have been met, except the last year of training, before a letter (as described above) is issued.

**Note:** The NSBME does not issue a medical license until the physician receives an H1-B Visa from the USCIS.

**Please note:** To receive this NSBME letter, candidates must submit their application for medical as soon as possible or at the latest while **simultaneously** submitting the J-1 Visa Waiver application to the DPBH in order to expedite the process and to be able to start within 90 days of receiving the Visa



Waiver. You can review the licensing requirements for the state of Nevada by going to the [Nevada State Board of Medical Examiners \(NSBME\)](#).

The NSBME encourages international medical graduates (IMG's) to utilize the [Federation Credentials Verification Service \(FCVS\)](#) through the Federation State Medical Boards (FSMB). This permanent repository of primary-source verified examination and educational credentials is for physicians. This service assists in helping to reduce the licensure verification processing time and decrease duplication of effort. Contact the NSBME if you have any questions or concerns pertaining to the licensure process by calling (775) 688-2559.

**Tab I:**

- Provide INS Form G-28, or a letter from a law office if the candidate has an attorney, or a statement that the applicant does not have an attorney.

**Tab J:**

- Provide copies of all DS 2019 "Certificate of Eligibility for Exchange Visitor (J-1 Physician Visa Waiver) Status" (formerly 1AP-66) forms for the Candidate, U.S. Customs and Border Protection form(s) I-94 for the candidate and any family members, and proof of passage of examinations required by USCIS. Include transcripts for all 3 sections of United States Medical Licensing Examinations (USMLE) and certification from Educational Commission for Foreign Medical Graduates (ECFMG).

**Tab K:**

- Provide a copy of the "no objection" letter from the home government, if applicable, or a statement signed by the candidate that the letter is not necessary because the home government did not provide financial support. This letter is pursuant to Public Law 103-416. The Waiver Review Branch will require this document from DPBH if the candidate received funding from the home country.

**Tab L:**

- The candidate shall complete and sign the [Nevada J-1 Visa Waiver Physician Affidavit and Agreement form](#).
- The employer shall complete and sign the [Nevada J-1 Visa Waiver Employer Affidavit and Agreement form](#).

**Tab M:**

- The request shall contain a copy of the DOS J-1 Physician Visa Waiver Review [Application Form DS-3035](#) completed by the candidate.

Omission of any component described above will result in an incomplete application, the original of which may be promptly returned to the candidate, requiring a "new" application. The DPBH will retain the copy of the incomplete application until the close of the FFY for which it was submitted.

Submit the original waiver request (or a "new" application), when required, with one tabbed original and one copy of the entire application package to:

Primary Care Office  
4150 Technology Way, Suite 300  
Carson City, NV 89706-2009