



## Wisconsin Guidelines for State Recommendations of J-1 Visa Waivers

### Wisconsin Department of Health Services

#### **J-1 Visa Waivers:**

Wisconsin participates in the J-1 visa waiver program to help communities, which have shortages of primary care physicians, recruit and retain qualified foreign medical graduates to provide primary care for three years. Federal immigration law (Public Laws 103-416 and 107273) authorizes each state to request waivers of the two-year home residence requirement on behalf of 30 J-1 visa physicians each year. State health departments can recommend up to 10 J-1 visa waivers per year for physicians to be employed in non-designated areas, if they will serve populations in surrounding shortage areas and if exceptional need and public interest can be demonstrated. Wisconsin's J-1 waiver program can also consider recommending a J-1 visa waiver for foreign physicians in other medical specialties when exceptional need and public interest can be demonstrated.

The Wisconsin Division of Public Health (DPH) is the designated state health agency that can submit recommendations for J-1 visa waivers to the US Department of State (USDOS). The USDOS reviews state recommendations and submits its recommendation to the US Citizenship and Immigration Services (USCIS), which makes the final decision. Once a J-1 visa waiver is granted, the sponsoring employer petitions USCIS for an H-1b (work) visa in order for the foreign physician to begin employment. The entire process can take up to 6 months.

Starting on October 1st of each year, the Wisconsin Division of Public Health will begin accepting applications for the next federal cycle that starts October 1<sup>st</sup>. Requests for a state recommendation must be submitted by the health care employer or the employer's agent. Applications are reviewed and decisions made (see requirements below) on a first-come, first-served basis until all 30 slots are used. For federal updates and more information on the U.S. Department of State J-1 visa waiver program, see the USDOS web site at:  
[http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

#### **US Dept. of State User Fee:**

J-1 visa physicians or their attorneys are responsible for submitting the USDOS "user fee" and a completed "J-1 visa waiver review application" directly to the U.S. Department of State. This should be done before the rest of the application is submitted to DPH. Please note: a Wisconsin State-30 "slot" will not be assigned until DPH has received, reviewed and approved a complete application from the employer, including their USDOS case file number. Please see the USDOS web site for detailed instructions on the USDOS "user fee" and the "J-1 visa waiver review application": [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

### **Physician Vacancies:**

Wisconsin does not maintain a list of vacancies for J-1 visa physicians or provide a placement service. Many physicians search through private recruiters or employment ads. Internet sites that might be helpful include the federal National Health Service Corps Job Opportunities list (vacancy list used primarily for federal loan repayment for U.S. physicians practicing in HPSAs), and the National Rural Recruitment and Retention Network (membership-based private non-profit placement service):

<http://nhscjobs.hrsa.gov/>

<http://www.3rnet.org/>

### **Eligible Shortage Areas:**

The lists of federally designated shortage areas, Health Professional Shortage Areas (HPSAs) are updated on an ongoing basis. The Division of Public Health will consider making recommendations in HPSAs of all status. This includes HPSAs which have been converted to “proposed for withdrawal.” HPSAs which have been officially withdrawn in a Federal Register Notice are no longer recognized as designated or eligible shortage areas. Physicians must provide care in a primary care HPSA or Medically Underserved Area/Population (MUA/MUP), and psychiatrists must provide care in a mental health HPSA. A current listing of HPSAs and MUA/MUPs respectively, are maintained at the following federal web sites:

<http://hpsafind.hrsa.gov/>

<http://muafind.hrsa.gov/>

Also see the DPH web site for more information on shortage areas:

<http://dhs.wisconsin.gov/health/primarycare/ShortageDesignation.htm>

### **Federal and State Requirements for Waiver Recommendations:**

- The applicant physician must agree to provide full-time primary care for three years (40 hours per week, with at least 32 hours in direct patient care). Wisconsin’s J-1 waiver program can also consider recommending a J-1 visa waiver for foreign physicians in other medical specialties when exceptional need and public interest can be demonstrated.
- The applicant physician must begin working for the employer at a site that is physically located in a federally designated Health Professional Shortage Area (HPSA) or Medically Underserved Area/Population (MUA/MUP).
- State health departments can recommend up to 10 J-1 visa waivers per year for physicians to be employed in non-designated areas, if they will serve populations in surrounding shortage areas and if exceptional need and public interest can be demonstrated. At least 40% of a clinician’s patients must come from surrounding shortage areas.
- The applicant physician must have completed a residency in the U.S. in the specialty associated with the applicant’s employment agreement (e.g., family medicine, internal medicine, pediatrics, obstetrics, psychiatry, or other subspecialty).

- The physician and employer must provide care to clients eligible for Medicaid and Medicare and for medically indigent clients.
- The physician must begin working for the employer within 90 days of the effective date of the J-1 visa waiver (after completion of the residency program).
- The employer must provide evidence of unsuccessful efforts to recruit U.S. physicians for the position.
- The employment agreement must demonstrate the employer's commitment to recruit and retain the physician for at least three years.

### **Requesting an H-1b Work Visa:**

Once the US CIS has approved the J-1 visa waiver, the next steps are for the sponsoring employer (attorney) to petition for an H-1b (work) visa. The Division of Public Health does not have a formal role in employer petitions for H-1b visas.

Again, thank you for your interest in increasing access to primary care in Wisconsin. If you have any questions concerning Wisconsin's implementation of the Wisconsin J-1 visa waiver program, please contact Traici Brockman at (608) 267-1440 or [traici.brockman@dhs.wisconsin.gov](mailto:traici.brockman@dhs.wisconsin.gov)

## **STATE OF WISCONSIN J-1 VISA WAIVER PROGRAM GUIDELINES (Revised October 2012)**

The J-1 visa waiver program allows communities, which have shortages of primary care physicians, to recruit and retain qualified foreign medical graduates to provide medical care for three years. Federal immigration law (Public Laws 103-416 and 107-273) authorize each state to request waivers of the two-year home residence requirement for 30 J-1 visa physicians each year.

The State of Wisconsin is committed to assisting all residents of Wisconsin to have access to quality, affordable primary health care, and participates in the J-1 visa waiver program to help increase access to primary care physicians in rural and urban areas with shortages of physicians. The Wisconsin Division of Public Health will consider, under certain conditions, recommending a waiver of the home residence requirement for foreign medical graduates with J-1 visas, to help employers who are committed to recruiting and retaining primary care physicians in designated shortage areas.

“No Objection” statement: Federal immigration law (Public Laws 103-416 and 107-273) and U.S. Department of State (USDOS) rules require that some foreign physicians will need a “No Objection” statement from their home government to qualify for a J-1 visa waiver. For more information on when a “No Objection” statement is required and where to send the statement, see the “Frequently Asked Questions” on the USDOS web site at: [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

## DESCRIPTION OF THE WAIVER REVIEW PROCESS

Starting on October 1st of each year, the Wisconsin Division of Public Health will begin accepting J-1 visa waiver applications for the next federal cycle that starts October 1st. Requests for a state recommendation must be submitted directly to the Wisconsin Division of Public Health by the health care employer or the employer's agent.

Applications are reviewed and decisions made (see requirements below) on a first-come, first-served basis until all 30 slots are used. In most instances, the Wisconsin Division of Public Health will act on the request for a waiver recommendation and inform the employer of its action within 14 working days. Employer applications received after the 30 state waiver recommendations have been submitted, will be returned.

The submission of a complete waiver application to the Wisconsin Division of Public Health does not ensure the Wisconsin Division of Public Health will recommend a waiver. In all instances, the Wisconsin Division of Public Health, in its sole discretion, reserves the right to recommend or not recommend any request for a waiver.

All application materials must be submitted in a single package to the Wisconsin Division of Public Health with documents presented in the order set forth in the Wisconsin Application Instructions. Waiver requests that do not comply with these requirements will not be considered, except as noted.

J-1 visa physicians or their attorneys are responsible for submitting the USDOS "user fee" and the "J-1 visa waiver review application" directly to the US Department of State. This should be done before the rest of the application is submitted to the Wisconsin Division of Public Health. Please note: a Wisconsin State-30 "slot" will not be assigned until DPH has received, reviewed and approved an otherwise complete application from the employer, including the USDOS case file number.

DPH will then submit the completed J-1 visa waiver application and state recommendation to the USDOS. The USDOS reviews all applications and notifies the J-1 visa physician, attorney, and the state health department of its recommendation to the USCIS. The USCIS reviews all applications, makes the final waiver decision, and notifies the J-1 visa physician and attorney. The entire waiver review process by the USDOS and US CIS can take several months.

Once USCIS notifies the foreign physician that their J-1 visa home residence requirement is waived, the next part of the employment process is for the sponsoring employer to submit an H1B work visa petition to the USCIS. The Division of Public Health does not have a formal role in employer petitions for H-1b visas.

Information resources related to petitioning for an H1-b work visa:

- Prevailing Wage Request through the Wisconsin Department of Workforce Development, see the DWD web site at: [http://www.dwd.state.wi.us/er/prevailing\\_wage\\_rate/default.htm](http://www.dwd.state.wi.us/er/prevailing_wage_rate/default.htm)

- U.S. Citizenship and Immigration Services for an H1-b visa (temporary work visa) for the foreign medical graduate:

[http://www.travel.state.gov/visa/temp/types/types\\_1271.html](http://www.travel.state.gov/visa/temp/types/types_1271.html)

A list of attorneys who have successfully worked with the Division of Public Health on recruitment of foreign physicians is available upon request to Traici Brockman at (608) 267-1440 or [traici.brockman@dhs.wisconsin.gov](mailto:traici.brockman@dhs.wisconsin.gov)

## **FAILURE TO COMPLY WITH IMMIGRATION REQUIREMENTS & STATE-30 REQUIREMENTS**

“If the international medical graduate obtains a waiver under Public Law 103-416 and thereafter fails to fulfill the terms of his or her employment contract with the health care facility named in the waiver application, then he or she becomes ineligible to apply for an immigrant visa, permanent residence, or any other change of nonimmigrant status until the two-year foreign residence requirement has been met.” [8 U.S.C. 1184 (I)]

If an employer fails to make reasonable effort to retain the J-1 visa waiver physician for at least three years, the Wisconsin Division of Public Health reserves the right to deny future requests from the employer for state recommendations for J-1 visa waiver physicians.

## **DESCRIPTION OF WISCONSIN APPLICATION REQUIREMENTS**

The Wisconsin Division of Public Health will consider submitting a recommendation to the USDOS to waive the J-1 visa home residence requirement for a foreign physician, if the physician and employer comply with all applicable federal and state requirements, including:

### **Federal requirements:**

1. The applicant physician and employer must agree that the applicant physician will provide full-time medical care for the employer at a site located in a geographic area that is federally designated as a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA) or Medically Underserved Population (MUP) for at least three years. State health departments can recommend up to 10 J-1 visa waivers per year for physicians to be employed in non-designated areas, if they will serve populations in surrounding shortage areas and if exceptional need and public interest can be demonstrated. See state requirements.
2. The applicant physician will begin working for the employer within 90 days of the effective date of the J-1 visa waiver (after completion of training program).
3. The applicant physician agrees to the contractual requirements for J-1 visa waivers set forth in federal immigration law (Public Laws 103-416 and 107-273).
4. The employer must provide documentation of the need for additional primary/medical care providers in the community and documentation of past efforts to recruit physicians (e.g., ads in journals or papers, contract with recruiter).
5. The J-1 visa waiver applicant (physician) must submit the USDOS “user fee” and “J-1 visa waiver review application” for USDOS to process the waiver application.

**State requirements:**

1. The applicant physician and employer must agree that the applicant physician will provide full-time primary care for at least three years. Full-time is defined as providing Primary/Medical care at least 40 hours per week, with at least 32 hours in direct patient care. Primary Care is defined as practice in family medicine, general pediatrics, general internal medicine, general obstetrics/gynecology or general psychiatry. Applications for other subspecialties will be considered when the applicant can document exceptional need and public interest for the specialty care.
2. The applicant physician and employer must agree that the applicant physician will provide the full-time care in a geographic area that is federally designated as a HPSA, MUA or MUP. If the application is for the physician to practice in a non-designated area, the application must document that the physician's practice will serve populations in surrounding federally designated areas (HPSAs, MUAs or MUPs) and must document exceptional need and public interest for the non-designated practice address. For physicians (primary care or specialists) practicing in a non-designated area, the facility must document that 40 % of the total number of primary care or applicable specialty patients in the past year be from surrounding designated areas, there is exceptional need and public interest.
3. The employment agreement must demonstrate the employer's commitment to retaining the physician for at least three years, an employment package that is competitive for the service area and the physician's qualifications/performance (e.g., wage and benefit package, work schedule, other practice supports).
4. The employer and applicant physician must agree to provide care to Medicaid and Medicare eligible patients, as well as medically indigent patients.
5. The applicant physician must have completed a residency in the U.S. in the specialty associated with the applicant's employment agreement (e.g., family medicine, general internal medicine, general pediatrics, general obstetrics or general psychiatry). Other subspecialties will be considered when exceptional need and public interest can be demonstrated.
6. The employer hiring the applicant physician, or the employer's authorized agent, must submit a complete J-1 visa waiver request case file to the Division of Public Health as specified below in the Wisconsin Application Instructions.

## **WISCONSIN APPLICATION INSTRUCTIONS**

J-1 visa physicians or their attorneys are responsible for submitting the USDOS "user fee" and a completed "J-1 visa waiver review application" directly to the U.S. Department of State. This should be done before the rest of the application is submitted to DPH. Please note: a Wisconsin State-30 "slot" will not be assigned until DPH has received, reviewed and approved a complete application from the employer, including the USDOS case file number. Please see the USDOS web site for detailed instructions on the "user fee" and a blank copy of the USDOS "J-1 visa waiver review application": [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

An employer's application to the Wisconsin Division of Public Health for a state recommendation for a J-1 visa waiver must include all of the following documentation. It is helpful if the documentation is provided in the order that follows:

1. Copy of the USDOS J-1 visa waiver application, USDOS case file number, and the USDOS bar code page if available.
2. Statement by applicant physician why they want to stay in US
3. Signed employment agreement that includes:
  - Street address for the applicant physician's practice location.
  - Term of agreement must be valid for at least three years.
  - Agreement must specify full time employment providing primary care or other approved specialty care (40 hours primary/medical care per week, with at least 32 hours in direct patient care per week).
  - Wage & benefit offer designed to retain applicant physician (competitive for service area and can be based on prevailing wage or other information).
4. Copies of all DS 2019 or IAP-66 forms (documentation of J-1 status while a student).
5. Employer application letter with documentation of need and recruitment efforts:
  - describe the need for additional primary care providers or subspecialty provider in the community (e.g., loss of physicians due to retirement/relocation and/or increased demand in community/wait times for appointments), and
  - describe efforts to recruit a U.S. physician in past 6 months (e.g., ads, contract with recruiter).
6. The name of the federally designated shortage area (HPSA or MUA/MUP) where the applicant physician's practice will be located (official documentation of the designation status is provided by the Wisconsin Division of Public Health), or documentation for how a non-designated practice address will serve populations in surrounding shortage areas and will address exceptional need/public interest. For physicians practicing in a non-designated area, the facility must document that 40 % of the total number of primary care or specialty patients in the past year be from surrounding designated areas, there is exceptional need and public interest.
7. A copy of the applicant physician's curriculum vitae
8. A signed copy of the Applicant Physician Assurances Form F-43005 (available from web site).
9. Explanation of any time "out of status" if applicable
10. G-28s (attorney representation for applicant physician and employer)
11. Copy of the I-94 departure record (front and back).
12. No objection statement from foreign government if applicable. If a "No Objection" statement is required by the USDOS, see the USDOS web site for more information on how to obtain the statement and where to send it: [http://travel.state.gov/visa/temp/info/info\\_1296.html](http://travel.state.gov/visa/temp/info/info_1296.html)

13. Evidence of a valid professional license to practice medicine in Wisconsin; or a copy of the physician's application to the Wisconsin Department of Safety and Professional Services.
14. Evidence of the applicant physician's completion of a U.S. residency in a primary care or other specialty as defined previously, or a letter from the residency director indicating the applicant's current status in a residency or fellowship program.
15. Three letters of recommendation for the applicant physician from professionals in health care.
16. A signed Health Care Employer Assurances Form F-43006 (available from web site).

**COMPLETED APPLICATIONS AND QUESTIONS SHOULD BE FORWARDED TO:**

By U.S. mail:

Traici Brockman  
Primary Care Office  
Wisconsin Division of Public Health  
1 W Wilson St, PO Box 2659  
Madison WI 53701-2659

By courier service:

Traici Brockman  
Primary Care Office  
Wisconsin Division of Public Health  
1 W Wilson Street, Rm 250  
Madison WI 53702

By Phone: (608) 267-1440

By E-mail: [traici.brockman@dhs.wisconsin.gov](mailto:traici.brockman@dhs.wisconsin.gov)