

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(1), (3)a and 11(8)  
(16 Del.C. §122(1), (3)a and 11(8))

### PROPOSED

### PUBLIC NOTICE

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

The Department Health and Social Services is proposing amendments to the State of Delaware Regulations Governing the Conrad State 30/J-1 Visa Waiver Program. Originally adopted on January 11, 2000, these regulations set forth requirements and procedures for an international medical graduate (IMG) requesting State support for a J-1 visa waiver.

#### NOTICE OF PUBLIC HEARING

Health Systems Management Section, under the Division of Public Health, Department of Health and Social Services (DHSS), will hold a public hearing to discuss the proposed revisions to the State of Delaware Regulations Governing the Conrad State 30/J-1 Visa Waiver Program. The public hearing will be held on February 23, 2007, at 2:00 p.m. in the Felton-Farmington Room, located in the Delaware Department of Transportation Building, 800 Bay Road, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the Health Systems Management Section at (302) 741-2960.

Anyone wishing to present his or her oral comments at this hearing should contact Mr. David Walton at (302) 744-4700 by February 22, 2007. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by March 2, 2007 to:

David Walton, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901  
Fax 302-739-6659

#### Summary of Changes to Regulations Governing the Conrad State 30/J-1 Visa Waiver Program

- Institution of application fees in accordance with Delaware law.
- Requirement for letters of support from community members without financial interest in approval of the application - one from an elected public official, one from a medical professional and one from an individual representing the patient population. Removal of the requirement that applicants submit letters of support from a local public health official.
- Prohibition of non-complete/restrictive covenant clauses in employment contracts.
- Changes in the timelines for receipt and review of applications to more closely coincide with the provider recruitment process as it pertains to the recruitment of medical residents and to reduce the wait time between approval of a physician application and the employment start date.

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

##### 1.0 Purpose

This document will specify the procedures to be used by the Delaware Health and Social Services (DHSS) in administering the Conrad State 30/J-1 Visa Waiver Program (Program).

## 2.0 Authority

16 Del.C., Ch. 1, Sec. 122, Public Law 103-416 United States Code

## 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 country of nationality for at least two 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, recommend that the U.S. Citizenship and Immigration Services (UCIS) waive the home residence requirement for up to thirty (30) J-1 physicians annually (this includes five J-1 flex waivers to 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. Additionally, a J-1 physician may apply directly to the United States Department of Agriculture (USDA) for a J-1 visa waiver. In order to receive a letter of support for the J-1 physician applicant from DHSS, however, applications must first meet requirements, described herein.

## 3.0 Policy Statements

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 and local public health officials and/or 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 on behalf of 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 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 in all instances. 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 Bureau of Health Planning and Resources Management within 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  
Health Systems Development Branch  
655 South Bay Road, Suite 206  
Blue Hen Corporate Center  
Dover, Delaware 19901

3.8 DHSS reserves the right to bar sites and/or physicians found to be non-compliant with program policies 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.

#### **4.0 DHSS Duties and Responsibilities**

The Health Systems ~~Development Branch~~ Management Section of 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.

#### **5.0 Applicability**

5.1 These procedures apply to the following:

- All J-1 physicians seeking a J-1 visa waiver under PL 103-416 for employment in Delaware.
- All sponsoring sites seeking approval to hire a J-1 physician under the J-1 Visa Waiver program.
- All DHSS employees processing J-1 visa waivers under 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

6.1.1.1 **Sponsoring Site:** Provide the name, address, county, telephone number, fax number and the e-mail address of site requesting approval to hire a J-1 physician. Also, 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 and county of actual practice site(s) 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 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 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 for the uninsured/under insured such as the Community Healthcare Access Program (CHAP), the VIPII provider network, and, if appropriate other charitable programs. Sponsoring sites must verify that they will enroll in the VIPII Program within 30 days of site approval (if they are not already network members). To enroll in the program, call Wheeler and Associates at 302-335-1560.

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) by the days of the week. 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). Include the number of hours (with start and end times) and the location (hospital/practice site(s)). The schedule must indicate the amount of time the J-1 physician is actually providing services; do not include travel or on-call time.

##### 6.1.2 Needs Assessment

Sponsoring sites are encouraged to work with their local hospital to complete the needs assessment. A comprehensive, 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), hospitals, clinics, urgent care centers and any other available outpatient care facilities. Also include the location of the nearest available source of 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. Using public transportation as the mode of travel, indicate the distance and travel time to that site.

6.1.2.3 Documentation that the sponsoring site's service area is located within a Health Professional Shortage Area (HPSA) or a Medically Underserved Area (MUA). Please indicate the following: HPSA Type(s), HPSA Service Area Number, HPSA FIPS State/County Code and the sponsoring site's primary service area (by 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.

- Provide statistics demonstrating the need for a specialty and/or sub-specialty in the sponsoring site's service area.
- Document that the specialty and/or sub-specialty is not available to the underserved population in the service area.
- 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***, written documentation of plans to retain the J-1 physician in the service area upon completion of the three-year practice obligation. Specifically, this plan must include short 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 malpractice insurance, partnership opportunities, if applicable, annual and sick leave, competitive salary and salary increases and a health and/or benefits package. The employment contract may not contain any Restrictive Covenants or Non-Compete Clauses.

#### 6.1.4 **Contract**

6.1.4.1 The employment contract that will be offered to the J-1 physician(s) 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 days per week or more than 12 hours in a 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 weekends). Travel and on-call time can not 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 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 years.

6.1.4.2 The employment contract may not include a restrictive covenant or non-compete clause.

#### 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*** the past six 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, medical journal and newspaper advertisements, letters to medical residency programs and/or medical schools, etc. Please state any attempts to gain recruitment support from the hospital within the practice site's geographic service area, and if applicable, indicate effort to use the Delaware State Loan Repayment Program, the National Rural

Recruitment and Retention Network (3R Net), and the National Health Service Corp. to recruit a US citizen.

6.1.6 Letters of Support

The sponsoring site must submit at least three letters of support. ~~Two must be obtained from community members and/or leaders in the practice site's service area. One must be obtained from a local public health official (see Appendix B for an approved contact list).~~ 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 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 must also be signed and dated to include the title of the applicant official.

6.1.8 Signature

The director or applicant official of the sponsoring site must provide an original, dated application with a live signature (using blue ink). This signature binds the site to the information provided and verifies that the form has been 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  
Health Systems Development Branch  
655 South Bay Road, Suite 206  
Blue Hen Corporate Center  
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 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). 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). 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.

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

The director of a pre-approved sponsoring site must submit a letter requesting a Delaware Health and Social Services (DHSS) recommendation to the U.S. Department of State, Bureau of Consular Affairs Waiver Review Division (DOS) (or other 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 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 participates in or applied to participate in the VIPII Program. J-1 physicians must apply to participate in the

program within 30 days of executing an employment contract with a sponsoring site. To enroll in the program, call Wheeler and Associates at 302-335-1560. Once enrolled, the VIPII program manager will 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 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).

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 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 and at a minimum, include the following:

- Name and address of the sponsoring site.
- 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 days per week or more than 12 hours in a 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 weekends). Travel and on-call time can not 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 on-call).
- 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 years.
- The employment contract may not contain any Restrictive Covenants or Non-Compete Clauses.
- It must include a competitive salary.
- Personal time such as 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 include a restrictive covenant or non-complete clause.

### 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 home country for medical education or training in the United States. The Certification Regarding Contractual Obligation to Home County (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 of 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:

US Department of State  
Waiver Review Division  
Post Office Box 952137  
St. Louis, MO 63195-2137

If Sending Via Courier Service:

US Department of State  
Waiver Review Division (Box 952137)  
1005 Convention Plaza  
St. Louis, MO 63101-1200

6.2.6 J-1 Visa Waiver Statements  
Statements.' The J-1 physician applicant must sign and include the enclosed 'J-1 Physician Waiver

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

6.2.8 J-1 Visa Waiver Application Checklist:  
The enclosed checklist 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 packet.

6.2.9 Non-refundable \$250 processing fee

6.2.9.1 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 and mailed to the following address:

Conrad State 30 Program Manager  
Delaware Division of Public Health  
Health Systems Development Branch  
655 South Bay Road, Suite 206  
Blue Hen Corporate Center  
Dover, Delaware 19901

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

## 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 member from each hospital ~~in the state~~ located in an underserved area of the state or serving patients from such areas, the Medical Society of Delaware, the Delaware Health Care Commission 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 1) the sponsoring site is located within a HPSA/MUA and 2) that the following required documentation is completed:

- Sponsoring Site Application
- Detailed Needs Assessment
- Strategy for Long-term and Short-term Retention
- Proof of Failed Recruitment Attempts
- Letters of Support
- Sponsoring Site Waiver Agreement
- Template of the Employment Contract that will be offered
- A non-refundable processing fee of \$200

7.2.2 The preliminary review will be conducted for the purpose of determining the completeness of the application; the specific content provided in each of the components will not be considered. Incomplete applications, as well as applications from a site not located in a HPSA/MUA, will be returned to the sponsoring site ~~immediately~~. A checklist identifying the missing information will be included. Completed applications may be resubmitted at any time prior to ~~the first Monday in December~~ June 30.

### 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.

7.3.2 Using the Site Application Evaluation (see Appendix D for the form) as a guide, Board members must assign a score to each of the elements on the Site Application Evaluation form.

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

#### Review Point Scale

Site Application Data	25
Needs Assessment	35
Retention	15
Proof of Failed Recruitment Attempts	15
Letters of Support	10
<hr/> Total	<hr/> 100

7.3.4 The scores from the review elements will be averaged to reach an overall total score for each Board member. The total scores received from 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) is achieved on the Needs Assessment component.

#### 7.4 Timelines

Pre-approved sponsoring sites (whose applications were received by June 30) (~~whose applications were received by the first Monday in December~~) will be eligible to make a contractual offer to a J-1 physician for the following federal fiscal year (beginning October 1<sup>st</sup> of each year). However, if not all thirty 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 ~~December~~ 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 ~~the reasons~~ that documents why the application was not submitted by June 30 ~~the first Monday in December~~. If not all thirty 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 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 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 rather than six months of recruitment efforts. All other recruitment efforts as set forth in these regulations apply.

#### 7.6 Notice of Approval/Disapproval

7.6.1 For those applications received by the ~~first Monday in December~~ by June 30, DHSS will provide written notification of the Site Application's approval or disapproval by ~~February 15<sup>th</sup>~~ September 15<sup>th</sup> of each year.

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

### 8.0 Timeframes

8.1 Site Application Submission DHSS will accept Site Applications Forms each year through the end of the business day on June 30 ~~the first Monday in December~~. Site Applications submitted after June 30 ~~the first Monday in December~~ 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.)

8.2 Site Notification DHSS will notify sponsoring sites in writing of the decision to approve or disapprove their site by September 15<sup>th</sup> ~~no later than February 15<sup>th</sup>~~ of each year. Inquiries regarding the status of pending applications will not be accepted at any time prior to ~~February 15<sup>th</sup>~~ September 15<sup>th</sup>.

8.3 J-1 Visa Waiver Request Submission J-1 Visa Waiver Requests may be submitted with the start of each Federal fiscal year, October 1<sup>st</sup>.

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

Conrad State 30 Program Manager  
Delaware Division of Public Health  
Health Systems Development Branch  
~~P.O. Box 637~~  
655 South Bay Road, Suite 206  
Blue Hen Corporate Center  
Dover, Delaware 19901 49903

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

If the J-1 visa waiver request is approved, a cover letter to DOS is prepared by DHSS identifying the J-1 physician applicant and recommending a waiver of the two-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 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) days of notice of approval from DOS.

## 12.0 Reporting Requirements

12.1 An **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 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) 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) 741-2960. The annual reporting forms must be submitted for each year of practice obligation. Failure to submit the forms render the sponsoring site non-compliant.

12.2 ~~DHSS will forward an Annual Practice Form (see Appendix E for a sample form) to the sponsoring site within thirty (30) days of the anniversary of the J-1 physician's start date. The sponsoring site must forward the signed, completed Annual Reporting Form to DHSS. An annual reporting form must be submitted for each year of practice obligation.~~

12.2 Notification of waiver status and commencement of employment contract must be submitted to DHSS upon receipt of written notification of approval from INS. This notification must include the date the three-year obligation commences.

12.3 Contract changes which result in the termination of a contract, a change in practice scope, and/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) days prior to the change. All reporting requirements, changes in practice location and/or scope must be submitted to the following:

Conrad State 30 Program Manager  
Delaware Division of Public Health  
Health Systems Development Branch  
~~P.O. Box 637~~  
655 South Bay Road, Suite 206  
Blue Hen Corporate Center  
Dover, Delaware 19901 49903

## 13.0 Exit Interview

Each J-1 physician practicing in Delaware must complete an exit interview within ninety (90) days of completion of his/her three-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 the exit interview, which will concentrate on the J-1 physician's experiences in Delaware and their future plans for practicing medicine at the current, or another location.

## 14.0 J1 Visa Waiver Application Glossary

**Department of State, Bureau of Consular Affairs Waiver Review Division (DOS)** 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.

<b><i>Emergent Need</i></b>	An emergent need is one that demonstrates an unusual and critical need for the placement of a J-1 physician, <u>such as the death, unexpected departure, or sudden retirement of a clinical physician providing a majority of medical care needs at the sponsoring site.</u> An emergent need includes, but is not limited to, the following: <del>departure, death or retirement of a clinical physician providing a majority of medical care needs.</del>
<b><i>Health Professional Shortage Area (HPSA)</i></b>	An area defined by the Department of Health and Human Services as having a shortage of health care providers.
<b><i>J-1 Physician</i></b>	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>
<b><i>Medically Underserved Area</i></b>	An area, as defined by the Department of Health and Human Services, as not having an adequate supply of health care providers.
<b><i>Practice Site</i></b>	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.
<b><i>Primary Care Fields</i></b>	The following four fields are identified as primary care: family practice, general internal medicine, general pediatrics and obstetrics/gynecology.
<b><u>Processing Fees</u></b>	<u>The Bureau of Health Planning and Resources Management within 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.</u>
<b><i>Recruitment Contact</i></b>	Primary point of contact to be used by Delaware Health and Social Services Conrad State 30 Program Manager.
<b><i>Service Area</i></b>	Geographic area in closest proximity to the practice site, from which the majority of patients are derived.
<b><i>Sponsoring Site</i></b>	Medical practice through which the J-1 physician will provide medical services (i.e. the hiring organization).

The appendices for this regulation are found at the following website:  
[www.state.de.us/research/register/February2007/J-1Appendices.pdf](http://www.state.de.us/research/register/February2007/J-1Appendices.pdf)

10 DE Reg. 1221 (02/01/07) (Prop.)