New Mexico J-1 Visa Waiver (State 30) Program

For Foreign Physicians Holding J-1 Visas

APPLICATION ACCEPTANCE DATE: SEPTEMBER 1, 2021

INTRODUCTION

The New Mexico J-1 Visa Waiver Program (State 30 Program) allows foreign medical graduates to obtain a waiver of their 2-year foreign residence requirement in exchange for a commitment to practice in underserved areas of New Mexico after the completion of their training. Under the State 30 Program, the New Mexico Department of Health (NMDOH) may support the requests of up to 30 candidates per federal fiscal year for these waivers.

APPLICATION PROCESSING INFORMATION

Participation in the NMDOH J-1 Visa Waiver process is completely discretionary, voluntary, and may be modified at any time. The submission of a complete waiver package does not ensure that a waiver will be recommended. The NMDOH may implement criteria and procedures at any time that are more detailed than the Federal Regulations and reserves the right to recommend or decline any request.

ELIGIBLE EMPLOYER AND SUPERVISOR

Health care facilities, hereafter referred to as "site(s)", are eligible to be employers of State 30 Program physicians. The site must have a written policy stating that it accepts all patients regardless of their ability to pay; for example, a sliding fee schedule, policy and procedure. The site must accept Medicare assignments and participate in the New Mexico Medicaid program. Examples of such sites include hospitals and primary care or community/migrant health centers whether for profit or not-for-profit.

All J-1 Waiver physician candidates must have an **on-site physician supervisor** identified in the application. Sites at which the Candidate would be the sole physician medical provider present are not eligible under the program criteria for the State of New Mexico. Current NM J-1 Waiver Physicians are not allowed to supervise other J-1 Waiver Physicians during their 3-year 40 hour per week obligation.

CANDIDATE ELIGIBILITY

Candidates who have residency or fellowship training in disciplines recognized by the NMDOH to significantly improve the health care delivery system within the geographic area of request are eligible to participate in the New Mexico J-1 Visa Waiver Program. Primary Care specialties include Primary Care physicians working in the out-patient setting:

- Family Practice
- General Internal Medicine
- OB/GYN
- Pediatrics
- Psychiatry

Specialty practices include: Specialty Training in addition to General Internal Medicine or other Primary Care specialties (Examples: Hospitalist, Gastroenterology, Endocrinology, Nephrology, General Surgery, Anesthesiology, Pain Management). The NMDOH may identify other specialty areas of needs and consider applications for such.

ELIGIBLE UNDERSERVED AREAS

Candidates who are physicians with primary care specialties must seek employment opportunities within federally designated Health Professional Shortage Areas (HPSA) boundaries.

Candidates who are board eligible or board certified in Specialty Practice must seek employment opportunities within federally designated Medically Underserved Areas/Populations (MUA/P). Candidates who have specialty training must demonstrate the need for that specialty in the area consistent with NMDOH identification of such need. Such Candidates must practice that specialty as their primary specialty.

Health care facilities that are Federally Qualified Health Centers (FQHC) are automatically eligible for State 30 Program placements regardless of location.

[New Mexico Requirement] The J-1 Candidate can only work at one practice location during their 3-year, 40 hour per week J-1 Waiver obligation (this does not refer to making rounds in a hospital).

NON-DESIGNATED UNDERSERVED AREAS

The NMDOH is permitted to recommend up to 10 waiver requests each year for physicians located in non-designated areas as long as they serve patient populations from designated medically underserved areas. Physicians must comply with all other Federal and State J-1 Visa Waiver Program requirements. **Physicians must provide direct patient services**. Teaching, research, or administrative positions are not eligible.

The practice location must provide a substantial amount of medical services to patients who reside in HPSAs or MUA/Ps. The facility must demonstrate that there is a significant shortage of specialty physicians and that there is an unmet need for this specialty among its patients.

APPLICATION ACCEPTANCE DATE

The NMDOH will begin accepting new applications on September 1, 2021. Applications will be accepted continuously until all Waivers have been filled. New Mexico is a first come, first serve program.

ACCOUNTABILITY

The NMDOH may monitor the obligated service of the J-1 Visa Waiver Physician by letter, survey, report, phone calls, e-mails or visits at any time during the required 3-year obligation period to confirm compliance with State of New Mexico and Federal Requirements. J-1 Visa Waiver Physicians will be asked to submit an Exit Survey after completing their 3-year obligation.

In addition, a **Certification of Arrival to Practice and Report Agreement Form** must be filed with the Program (see Attachment C). The certification form confirms that the Physician has arrived and is capable of fulfilling their service obligations as a Physician participating in the J-1 Visa Waiver Program.

APPLICATION COMPLETENESS

It is a NMDOH requirement that NM J-1 Waiver Application(s) submittals are complete so they may be reviewed in a timely manner.

Application(s) with missing components will not be processed until all components are received. NMDOH staff will work with the applicant submitter to achieve completeness to continue the review process.

Waiver slots will not be reserved.

It is the responsibility of the application(s) submitter to assure completeness and conformity to Federal and State of New Mexico requirements.

WAIVER APPLICATION COMPONENTS

All application components described below must be included in the order presented. Please use the following as a checklist, use page markers and indicate references (e.g., 1.A.).

STATE REQUIREMENTS

Provide in this order:

1. A letter, with supporting attachments, from the Chief Executive Officer of the facility at which the Candidate will be employed to include:

   A. A request that the NMDOH act as an interested government agency and recommend a waiver for the Candidate.

   B. A description of the Candidate's qualifications, proposed responsibilities, schedule (e.g., hours per week, leave), and name of **on-site physician** supervisor.

   C. A **narrative** describing how the proposed employment will satisfy unmet health care needs within the HPSA or MUA/P, as well as, describing how the Candidate will:

   ☐ Improve the delivery of local health care services;
   ☐ Impact the local health care system, and whether the continuation of that system would otherwise be threatened without placement of the candidate; and
   ☐ Enhance the local health care system's ability to meet the needs of the entire community, including elderly, underserved and low-income populations.

For a non-designated area, this narrative **must also include** that the candidate: ☐ Will provide direct patient services full-time. ☐ Will serve residents from designated HPSA or MUA/P service areas.

   D. A **narrative** assuring that the facility or practice accepts Medicare, Medicaid eligible patients and medically indigent patients, regardless of their ability to pay, and assuring that the Candidate accepts Medicare assignments and participates in the Medicaid program. This must include:

   ☐ **Percentages** of enrolled Medicaid and Medicare for the area or facility. (ex: 70% Medicaid, 20% Medicare, 10% Private payer)
   ☐ A copy of the practice site's written policy.

For a non-designated area, this narrative **must also include** that the eligible facility: ☐ Provides a substantial amount of medical services to patients who reside in geographic areas designated HPSAs or MUA/Ps. ☐ Is in an area of significant shortage for the medical specialty to be practiced by the Candidate physician. ☐ Will serve an unmet need of the patients from designated and non-designated areas.

   E. A **narrative** describing the recruitment efforts undertaken specific to the eligible site. It must be **clearly demonstrated and stated** that extensive efforts to recruit a suitable U.S. physician were not successful. Recruitment efforts must be for **at least 6 months or longer prior** to submitting the application. This must include:

   ☐ Copies of **site-specific** recruitment advertising (not general advertising). Posts to message and/or job boards are insufficient.
   ☐ Copies of agreements with placement services, etc. Internet searches are insufficient.
   ☐ Practice site's long-range plans/outline for retention of the physician beyond the 3-year obligation.

F. A **narrative** describing the extent of support from local medical professionals and major health facilities for placement of the Candidate.

G. A **narrative** describing the nature and extent of medical services available at the facility.

H. A list of practicing physicians with the same specialty as the State 30 Program Candidate in the HPSA or MUA/P service area.

2. Attachment C: Certification of Arrival to Practice and Report Agreement to be filled out with the Candidate's name, supervisor's name, and location of medical practice.

3. At least three (3) letters **of community support** that indicate a need for the physician in the area. Letters from community members, such as a city official, local health department, school board members, realtor, etc. within the HPSA or MUA/P are strongly encouraged.

   The letters of support **must** state:
   ☐ Willingness to accept the Candidate
   ☐ This is a stable practice opportunity for a 3-year minimum duration

   Form letters are not accepted. Letters from people residing outside of the community are not acceptable.

4. At least three (3) letters of recommendation from individuals with personal knowledge of the Candidate's ability.

5. Copy of a current New Mexico Medical License or confirmation that the State of New Mexico Medical License application process has been initiated.

6. Copy of a current photo of the Candidate.

7. Pre-paid envelope addressed to:

   U.S. Department of State
   CA/VO/DO/W
   600 19th Street, NW
   SA-17, 11th Floor
   Washington, DC 20522-1707

   Please ensure that envelope can properly fit Candidate's application packet for mailing.

FEDERAL REQUIREMENTS

Provide in this order:

8. Copies of all IAP-66/DS-2019 Forms "Certificate of Eligibility for Exchange Visitor (J-1) Status" for the Candidate, CBCIS forms I-94 for the candidate and spouse, if appropriate.

9. Proof of **passage** of USMLEs Steps 1, 2, and 3; and ECFMG Certifications.

10. An affirmation by the Candidate and the employing site documenting that the Candidate has language competency consistent with the community to be served.

11. Tracking number issued by the U.S. Department of State on each page in the lower right corner.

12. Copy of the Candidate's current Curriculum Vitae.

13. Attachment A: Candidate Data Sheet to be completed by the Candidate.

14. Attachment B: State 30 Waiver Procedure Affidavit and Agreement to be signed and notarized.

15. Evidence that the practice site address is in the HPSA or MUA/P service area in the form of a printout from the federal website. Refer to "Find Shortage Area by Address": https://data.hrsa.gov/tools/shortage-area/by-address

16. Copy of the signed employment contract. The **contract must clearly state and specify**, or be amended, to meet the following requirements:

    A. Physician to work no less than three years at the stated practice site.

    B. Physician to practice medicine a minimum of 40 hours per week at the stated practice site.

    C. Physician to begin employment at the stated practice site within 90 days of receiving a waiver.

    D. Physician will receive a guaranteed annual base salary during their J-1 Waiver obligation. This annual base salary cannot decrease during their J-1 Waiver obligation, and annual base salary must be appropriate for the type of discipline and location of the Candidate. (New Mexico requirement)

    E. In the event of Candidate default, the physician's monetary penalty to the employing site can be any amount, but not exceeding $250,000.

    F. May not contain non-compete clause(s) or their equivalents. (New Mexico requirement)

    G. The street address of the practice location where the Candidate will be located during their J-1 Waiver obligation. (New Mexico requirement)

17. Letter of Assurance that all contract requirements (16. A. B. C. D. E. F. and G.) have been incorporated within the employment contract between the J-1 Waiver Physician candidate and the employer. The Letter of Assurance must be signed by both the J-1 Waiver Physician candidate and the employer.

18. Letter of Assurance that the name of the Employer as specified in the J-1 Waiver Physician Application will be the same on all payments to the J-1 Waiver Physician during their obligation.

Submit waiver request with one (1) original and one (1) copy of the entire application package to:

Jasmin Hendrickson, Program Coordinator
J-1 Visa Waiver Program
Office of Primary Care and Rural Health
5301 Central Ave. NE, Suite 800
Albuquerque, New Mexico 87108-1531

Britt Levine 06/29/21

Approved Date

Britt Levine, Bureau Chief
Population and Community Health Bureau
New Mexico Department of Health

ATTACHMENTS

Please provide the attachments in this order. You may use additional pages to fully respond to questions. Please reference the attachments (for example Attachment A. 9.)

ATTACHMENT A

Candidate Data Sheet to be filled out at time of application
Type or clearly print your answers

1. Full Name (as appears on passport): _____

2. Date of Birth: _____ Country of Birth (City, Country): _____

3. Country of nationality of last legal permanent residence: _____

4. Date and place of issuance of original exchange-visitor (J-1) visa: _____

   Current address (to send correspondence) and immigration district:

   _____

5. Home phone #: _____ Business phone #: _____

   Home e-mail: _____ Business e-mail: _____

6. **List the exchange-visitor programs in which you participated in this application. Provide the program number and include field of specialization.**

7. Alien registration number if known: _____

8. **If your exchange-visitor program includes U.S. government funds, funds from your own government or from an international organization, please give a full description of the funding in this application.**

9. **If your spouse has applied for a waiver, please include information about his/her case in this application (name, date of birth, country of birth and case number).**

10. **Does this application include any J-2 dependents? Please include information about these dependents in this application (name, date of birth, country of birth and relationship**).

11. **Please include copies of all IAP-66/DS-2019s issued during your stay in this country**.

12. HPSA and/or MUA/P number and location: _____

13. Attorney/Preparer of Application: _____

    Address: _____

    Phone #: _____ Fax #: _____

    E-mail: _____

I certify that I have read and understood all the questions set forth in this application and the answers I have furnished are true and correct to the best of my knowledge and belief. I understand that any false or misleading statement may result in the refusal of a waiver recommendation.

_____ _____

Physician Candidate Signature Date

ATTACHMENT B

STATE 30 WAIVER PROCEDURE AFFIDAVIT AND AGREEMENT

I_____, being duly sworn, hereby request the New Mexico Department of Health (NMDOH) to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless the State of New Mexico, the NMDOH, any and all State of New Mexico employees, agents and assigns from any action or lack of action made in connection with this request.

I further understand and acknowledge that the entire basis for the consideration of my request is the NMDOH's discretion to improve the availability of primary health care or specialty care in medically underserved areas.

I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical services to patients, including the indigent, for a minimum of forty (40) hours per week within a federally designated Health Professional Shortage Areas (HPSA) or Medically Underserved Area/Population (MUA/P). Such service shall commence no later than 90 days after I receive notification of approval by both the U.S. Citizenship and Immigration Services (USCIS) and the U.S. Department of Labor and shall continue for a period of at least three (3) years.

I agree to incorporate all the terms of this "State 30 Waiver Procedure Affidavit and Agreement" into any and all employment agreements I enter pursuant to paragraph 4 (above).

I understand and agree that I will comply with all State of New Mexico and United States Federal Tax Laws and Requirements.

I further agree that any employment agreement I enter pursuant to paragraph 4 (above) not contain any provision which modifies or amends any of these terms of this "State 30 Waiver Procedure Affidavit and Agreement".

I understand and agree that my primary medical care services rendered pursuant to paragraph 4 (above) shall be in a Medicare and Medicaid certified site which has an open, non-discriminatory admissions policy and that will accept medically indigent patients.

I have read and fully understand the "J-1 Waiver State 30 Request Procedure", a copy of which is attached hereto and is specifically incorporated by reference.

I expressly understand that the U.S. Citizenship and Immigration Services must ultimately approve this waiver, and I agree to provide written notification of the specific location and nature of my practice to the NMDOH at the time that I commence rendering services and on a periodic basis to the NMDOH thereafter.

State 30 Waiver Procedure Affidavit and Agreement

Continuation

I understand and acknowledge that if I willfully fail to comply with the terms of this "State 30" Waiver Procedure Affidavit and Agreement" the NMDOH will notify U.S. Citizenship and Immigration Services. Additionally, any and all other measures available to the NMDOH will be taken in the event of non-compliance.

I declare under the penalties of perjury that the foregoing is true and correct.

_____

Signature

Subscribed and sworn to me before

this _____ day of _____, _____.

_____

Notary Public

ATTACHMENT C

Certification of Arrival to Practice and Report Agreement

I, _____ , a Physician participating in the New Mexico J-1 Visa Waiver Program certify that I have arrived for work at _____ , on _____

Updated Information:

Home Address: _____

Home Phone: _____ Business Phone: _____

Home Email: _____ Business Email: _____

New Mexico Medical License Number: _____

My Physician Supervisor Name: _____

_____ _____

Supervising Physician Signature **Date**

_____ _____

Site/Facility Executive Director/CEO Signature **Date**

Location of Medical Practice: _____

Street

_____

City State Zip

_____

Telephone Number

I hereby certify that I, the undersigned, will provide primary health care or specialty services at the above stated address a minimum of 40 hours per week for 3 years. Deviation from such site may result in notification by NMDOH to appropriate federal agencies. I have a current New Mexico Medical License and have been thoroughly credentialed.

_____

Physician's Signature **Date**

Return Completed Form to:

Jasmin Hendrickson, Program Coordinator
J-1 Visa Waiver Program
Office of Primary Care and Rural Health
5301 Central Ave. NE, Suite 800
Albuquerque, New Mexico 87108-1531