

### J-1 PHYSICIAN VISA WAIVER APPLICATIONS

All applications must contain the components as described in the following outline along with the application fee of \$500, to be paid equally by the employer and the J-1 physician. This fee is authorized under Nevada Administrative Code, currently available online at the following site: <http://leg.state.nv.us/register/2010Register/R138-10A.pdf>. Each component of the Nevada J-1 Physician Visa Waiver application must be included with tabs corresponding to those items listed below. Each page of the application must contain the number assigned by the Department of State, in addition to the last name of the candidate.

1. Applications will be accepted for each Federal Fiscal Year starting on November 1 and continuing until all slots are filled, or until September 10 of the following calendar year, whichever comes first. Please submit Attachment A as the application to the program.
2. A fee of \$500 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 State Health Division, Primary Care Office*. If the application fee causes hardship to the physician, partial payment will 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.
3. A determination of whether the proposed work site meets the Health Professional Shortage Area (HPSA) or Medically Underserved Area/Population (MUA/P) designation will be made at the time the application is reviewed by the Primary Care Advisory Council. This determination will remain in place until the physician has completed his J-1 Physician Visa Waiver requirement and/or his National Interest Waiver requirement.
4. During each Federal Fiscal Year, qualifying entities that provide primary care services and 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. Applications in excess of the three applications will be reviewed and considered for approval by NSHD.
5. Non-designated slots (Flex Slots): 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.
6. Specialists will be considered on a case-by-case basis. Specialist placements are limited to physicians that have American Board of Medical Specialist certification (ABMS). The employer/physician must be prepared to specify on the application where the physician will work. Please see the Medical Specialist section for the additional information that will be required for a specialist application.
7. Should the applicant not meet all Federal and State requirements, the NSHD will notify both the applicant and the sponsoring employer by fax or email within 14 days of receipt of the application. The NSHD reserves the right to process an incomplete application if it is determined that any missing information can readily be obtained.
8. Upon determination that the applicant meets all of the appropriate requirements and the application is deemed complete, an application number will be assigned to the application which indicates that the NSHD has accepted the application as one of its allowable thirty (30) waivers. A letter will be sent to the sponsoring employer that the application has been forwarded to the appropriate federal agency for processing.

For questions regarding NIW support, please contact Barbara Heywood at 775-684-4047 or Email to [bheywood@health.nv.gov](mailto:bheywood@health.nv.gov).

Letters may be addressed to:

Barbara Heywood  
Nevada State Health Division  
Bureau of Health Planning and Statistics  
Primary Care Office  
4150 Technology Way, Suite 104  
Carson City, NV 89706

### **SPECIAL CIRCUMSTANCES**

Transfers: A candidate is normally expected to fulfill their service obligation in the identified location in their agreement. In the event of practice failure or extraordinary conditions, an individual may apply for a transfer to another location in an underserved community within the state. The physician must contact the NSHD prior to transfer and outline the reasons for transfer. The State must be provided with a Verification of Status Form; a copy of the new contract before the transfer is made; and a matrix of the number of Medicaid, Nevada Check-up and charity cases served in the previous three months by the new practice site.

### **PRIMARY CARE REVIEW OF APPLICATIONS**

The Health Division has adopted a set of prerequisites for the practice site requesting a waiver and a scoring scale (see following table) for the J-1 Physician Visa Waiver Candidate. An application sponsored by a Tribal Health Center (THC), Federally Qualified Health Center (FQHC), Rural Health Clinic (RHC), or Primary Care Clinic affiliated with a rural hospital located in a HPSA automatically satisfies the prerequisites required for sites. All other applications will be reviewed to confirm whether the site satisfies the prerequisites.

Every application will be scored for candidate criteria based upon the information received in the application. Every application including those from a FQHC, THC, or Rural Hospital Primary Care Clinic must contain the information requested in the "Waiver Application Components." An application from a FQHC or RHC must include a copy of a currently active notice of acceptance as a FQHC by Centers for Medicare and Medicaid Services or as a RHC by the Secretary of the Department of Health and Human Services. Submit a copy of the applicable notice under Tab A of the waiver application components.

After the Primary Care Office reviews the application for completeness, candidates who have complete applications will be scored. Those candidates whose applications receive the highest scores as defined in the following table may be recommended for approval to the U.S. Department of State. The state of Nevada will give priority consideration to the primary care needs of Nevada in selecting applicants. When application scores tie, Health Professional Shortage Area (HPSA) scores will be considered for the candidate's proposed practice site. The candidate contracted at the site with the highest HPSA score will be given preference. In the event both the application and HPSA scores are equal, the candidate with the oldest visa will be selected to receive the state of Nevada's support.

J-1 Physician Visa Waiver recommendations may be recommended for support in relation to the needs of the medically underserved in Nevada. A maximum of 70% of the J-1 Physician Visa Waiver slots allotted to the state of Nevada may be recommended for support in Clark County. Up to five (5) of the total slots may be reserved for staffing emergencies.

The program will be closed when all the slots are filled and/or held in reserve (up to five). Each candidate must submit two (2) complete copies of their application in the format described below. For candidates selected for state support, one copy of the application will be retained at the Health Division and one copy will be forwarded to the U.S. State Department. For candidates not selected, one copy of the candidate's application will be retained by the Health Division for contact in the event of future need or withdrawal by a selected applicant and the other application may be returned to the contact designated in Tab C.

### **MEDICAL SPECIALISTS**

An application for medical specialists and/or hospitalist must include documentation to justify there is a critical need for this service in designated underserved area (HPSA or MUA/P). Information to support critical need should include, but not limited to, the following:

- 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 and how far their office practice is located from the facility to allow patient access upon discharge from hospital. Please indicate if these specialists accept Medicare assignment, Medicaid, Nevada Check-Up, and the medically indigent. Also, if the facility is located in an area with a large ethnic population, then indicate if any of the specialists are fluent in the language of this ethnic group
- Number of hospital/medical facility admissions each month for the past six months for services that would be provided by this group of specialists.
- Indicate whether the specialist and/or hospitalist position is affiliated with and/or to be employed by an education and training program in the State of Nevada.
- For hospitalist positions, please provide documentation on current physician to patient ratio. What does the hospital consider the optimum physician to patient ratio?
- 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.

**Attachment A**

- Application Fee made out to *Nevada State Health Department Primary Care Office*.
- Employer Check #: \_\_\_\_\_ Amount \$ \_\_\_\_\_
- Physician Check #: \_\_\_\_\_ Amount \$ \_\_\_\_\_
- Hardship Letter with proposed application fee payment schedule.

The following prerequisites must be satisfied for sites that are not Federally Qualified Health Centers, Rural Health Clinics, Tribal Health Centers, or Primary Care Clinics in Rural Hospitals.

**NEVADA J-1 PHYSICIAN VISA WAIVER PREREQUISITES**

Section V. Waiver Application Components Tab A describes required documentation in relation to satisfying the following prerequisites.

Yes <input type="checkbox"/>	No <input type="checkbox"/>	Evidence that the practice site accepts Medicare, Medicaid assignments, and Nevada Check-Up.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Site policy and evidence that the site offers a sliding fee scale and minimum fee based on family size and income.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Site policy stating all patients, regardless of their ability to pay for services, will receive treatment.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	The practice site(s) must be located in a federally designated Primary Care Health Professional Shortage Area (HPSA), Medically Underserved Area or Population (MUA/P) or a site approved by the state as a geographic exception.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unless the state has granted an exception, the candidate must agree to provide primary care services for 40 hours each week of his/her three-year waiver obligation.

**Criteria for Scoring**

<b>Candidate Criteria:</b>	<b>Number of Points</b>	<b>Total</b>
Has the candidate completed a fellowship in a specialty care discipline (other than Geriatrics)?	If no = 1	
Did the candidate complete his/her residency in the state of Nevada?	If yes = 2	
Has the candidate either completed a residency in a primary care discipline or will he/she be finished with a primary care residency program by the following June?	If yes = 3	
	<b>Total</b>	

**WAIVER APPLICATION COMPONENTS**

**NOTE: Every page of the application is required to be identified with the number assigned by the Department of State (DOS) for the candidate.**

**Tab A:**

- Federally Qualified Health Centers and Rural Health Clinics must provide a copy of their federal designation notice. Tribal Health Centers and Primary Care Clinics in Rural Hospitals must identify their status and claim their exemption from submitting the documentation listed below.
- For all sites that are not Federally Qualified Health Centers, Rural Health Clinics, Tribal Health Centers, or Primary Care Clinics in Rural Hospitals:

The following **PREREQUISITES** must be satisfied before an application will receive further consideration:

1. Provide a copy of information requested for the table provided in Tab G to document the following requirement. Evidence that the practice site accepts Medicare, Medicaid assignments, and Nevada Check-Up. Include provider identification number used for billing for Medicare and Medicaid.
2. Provide a copy of the practice site's sliding fee scale policy. 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.
3. Provide a copy of the policy and the notice displayed in the waiting room of the practice site to document that all patients, regardless of their ability to pay for services, will receive treatment.
4. Provide the name and address of the practice site to include the physical street address, city, and zip code. Indicate the practice site(s) HPSA number or the MUA/P number for each practice site where the J-1 Physician Visa Waiver candidate will practice to accomplish the required minimum 40 hours per week of primary care.

**The prerequisites listed above must be demonstrated before an application will receive further review except for practice sites specifically exempted from the requirements.**

**An exempted practice site must provide documentation reflecting the appropriate federal designation/recognition of its status.**

**ALL APPLICATIONS**

**All** applications must contain the components as described in the following outline. Each component of the J-1 Physician Visa Waiver application must be included with tabs corresponding to those listed below. **Under Nevada Law, all information submitted in support of the J-1 Physician Visa Waiver application, including the employment contract submitted under Tab I, becomes public record and may be released to the public unless otherwise indicated. Those sections of the J-1 Physician Visa Waiver application that are confidential or contains 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.**

The Candidate/Director at employment site shall supply the following components in the application packet:

**Tab B:**

A request that the Health Division forward the J-1 Physician Visa Waiver application to the U.S. Department of State as a State Health Agency request, per form DS-3035; 03-2005 (Tab Q). Provide the name and title of a person to contact at the prospective employment site including a telephone number, fax number, and e-mail address for questions or concerns using the following format:

- Name of Employment Site
- Name and title of contact person at the Employment Site
- Employment Site mailing address
- Telephone number
- Fax number
- E-mail address for contact person

**Tab C:**

Provide an official contact for the candidate. Include the contact's name, mailing address, e-mail address, telephone and facsimile number. This contact person will be used for all official contact between the State Health Division and the Candidate. If the J-1 Physician Visa Waiver application is approved, the physician will provide to the State Health Division 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.

**Tab D:**

Provide the Candidate's full name, date of birth, place of birth, and country of citizenship. Identify the Candidate's Department of State case number. State the name and physical address of the proposed practice site and provide the appropriate HPSA or MUA/P identification number assigned to the practice site's location.

Describe the Candidate's training. Indicate residency training specialty. Provide date residency training started and completion date or date completion anticipated. List any specialty training with corresponding time frames.

**Tab E:**

- A description of the Candidate's qualifications, proposed responsibilities and how this employment will satisfy important unmet health care needs within the designated shortage area.

**Tab F:**

- Provide documentation the practice site accepts Medicaid/Medicare/Nevada Check-up and that they have a sliding fee scale. The site must post a notice in the waiting room of each facility where the J-1 Physician Visa Waiver / NIW Physician works. The notice must indicate that the site accepts individuals with Medicaid/Medicare/Nevada Check-up, and that the facility will provide a sliding fee scale for individuals unable to pay full price.

**Tab G:**

- Provide documentation from the practice site to demonstrate the number and percentage of patient visits billed to Medicare, Medicaid, Nevada Check-Up and Sliding Fee Scale for a three-month period prior to the application deadline and the total number of patient visits for the twelve months prior to the submission of the Application. Please include the number of physicians (Full Time Equivalents, FTE) providing patient services at the practice site.

	Month 1 (Identify, i.e. Nov.09)	Month 2	Month 3	Total # of visits per 3 months	% of visits per 3 months	Total # of visits for 12 months	% of visits per 12 months
Total # of pt. visits							
Medicare visits							
Medicaid visits							
NV Check-up							
Sliding Fee Scale							
Indigent/Charity							
Other - Not listed above							
Totals							

Health Care Providers

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

**Tab H:**

- Describe and document the recruitment/retention efforts by the Site seeking to employ the Candidate. The Employer must demonstrate that a suitable physician with US Citizenship cannot be found through recruitment or any other means for at least six months prior to the submission of the application by copies of advertisements, agreements with placement services, etc. that must be provided. Employers in rural communities may request a waiver of the six 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.

**Provide an outline describing the practice site's long-range plans for retention of the physician beyond the three-year obligation.**

**Tab I:**

- The Candidate shall demonstrate a bona fide offer of full-time employment at a site located in a designated shortage area. A copy of the complete contract must be included. The contract must specify the following:
  1. 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. Please refer to the sample contract on the Primary Care Office (PCO) website.
  2. Agreement to practice Primary Care (defined as Family Medicine, General Internal Medicine, Pediatrics, Obstetrics/Gynecology, and 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.
    - a. For all Primary Care practitioners and specialists, except OB/GYN providers, at least 32 hours of the minimum 40 hour work week must be spent providing clinical services during normally scheduled clinic hours in the ambulatory care office setting (location specified in the J-1 Visa Waiver Employer/Physician contract and approved by the State). The remaining hours must be spent providing inpatient care to patients of that practice site and/or in practice-related administrative activities.
    - b. For OB/GYN providers, 21 hours of the minimum 40 hour work week must be spent providing clinical services during normally scheduled clinic hours in the ambulatory care office setting (location specified in the J-1 Visa Waiver Employer/Physician contract and approved by the State). The remaining hours must be spent providing inpatient care to patients of that practice site and/or

performing practice-related administrative activities, with administrative activities not to exceed 8 hours of the 40 hour work week.

3. 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, Department of Labor. The employer shall attach the most current Wage Survey regarding the area and application to the application package.  
<http://www.flcdatacenter.com>  
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.
4. 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.
5. 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 a practice site in that particular designated shortage area upon completing their three year J-1 Physician Visa Waiver commitment.
6. The contract must identify conditions for termination of the contract, for both the physician and employer. No-cause termination is not allowed.
7. The contract must contain reasonable liquidated damages (suggested to be under \$50,000) in the event that the physician or employer terminates the contract before three years.
8. Agreement to begin employment at the stated practice site within 90 days of receiving a waiver from the Bureau of Citizenship and Immigration Services (BCIS), formerly known as Immigration and Naturalization Service (INS). During the 90 days, the physician must obtain the required licenses from the Nevada State Board of Medical Examiners, 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. The employer/physician will notify the State Health Division of the date the physician commences work at the practice site, using the Verification of Status Form (Attachment C).
9. The contract must include a statement that the physician agrees to meet the requirements set forth in section 214(k) of the Immigration and Nationality Act, 8 USC 1184(k).
10. Any amendment to the contract must be submitted to the Health Division for approval.

**Tab J**

- The Candidate shall supply a copy of the letter produced by the State Board of Medical Examiners (BME) 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 BME into the applicant's background, education and training and that the BME is allowed to issue a license upon receipt of documentation and verification from the United States Department of State and the U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services that the applicant is lawfully entitled to remain and work in the United States. The BME letter may not contain any "exceptions."

Physicians, who have completed a primary care residency and are eligible to receive a BME letter, must include a BME letter in their application. If a candidate who is eligible for a BME letter does not submit a BME letter, the application is incomplete and cannot receive further consideration.

Per NRS 630.160, the BME requires that J-1 Visa Waiver physicians complete a residency before a BME letter (as described above) is issued, an applicant who will not complete the residency requirement until the following June is ineligible to obtain a BME letter until then. In this case, the application may be held pending receipt of the BME letter. When the state of Nevada places an application in reserve, the application must satisfy all the prerequisites delineated in this policy and the candidate must meet all specified criteria as evidenced by the inclusion of all required documentation with the exception of the BME letter. The BME letter will complete the application and must be received by the Health Division on or before September 15 in the year the residency is completed.

**Note:** The Board of Medical Examiners does not issue a medical license until the physician receives an H1-B Visa from the Bureau of Citizenship and Immigration Services (BCIS).

**Tab K:**

- Provide the Candidate's complete *curriculum vitae*.

**Tab L:**

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

**Tab M**

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

**Tab N:**

- The request shall include 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.

**Tab O:**

- The Candidate and the Sponsor shall complete and sign the Nevada J-1 Physician Visa Waiver Affidavit and Agreement form. (Attachment B).

**Tab P:**

- The Employer will complete and sign Verification of Status Form, when the physician begins employment and with any change in assignment. (Attachment C)

**Tab Q:**

- The request shall contain a copy of the U.S. Department of State's J-1 Physician Visa Waiver Review Application (DS—3035; 03-2005) completed by the Candidate.

**Each page of the J-1 PHYSICIAN VISA WAIVER request application must include the US Department of State number assigned to the candidate and the candidate's last name.**

Omission of any component described above will result in an incomplete application, a copy of which may be promptly returned to the Candidate, requiring a "new" application. The Health Division will retain one copy of the incomplete application until the close of the Federal Fiscal Year (FFY) for which it was submitted. The Health Division may not supplement incomplete applications with the exception of the Board of Medical Examiner's letter when it is issued and only for candidates who are in the process of completing their residency and, therefore, ineligible for the BME letter when the application was initially 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:

Barbara Heywood  
Health Resource Analyst II  
Primary Care Office  
4150 Technology Way, Suite 104  
Carson City, NV 89706

## LETTER OF NO OBJECTION FROM THE HOME GOVERNMENT

The Waiver Review Branch will require this document from state health departments if the Candidate received funding from the home country.

If applicable, include a copy of a "No Objection" letter from the Candidate's home government. This is a letter from the Candidate's home government stating there is no objection to the Candidate remaining in the United States to practice medicine. Include the "No Objection" letter or the Candidate's signed statement that the letter is not required in Tab N.

If applicable, the Candidate needs to contact his/her home government embassy in the United States and request that they write a letter of "No Objection," on their behalf to the address indicated on the U.S. Department of State's website – <http://www.travel.state.gov>.

The Candidate should request a copy of the "No Objection" letter and must include a copy of that document with the other waiver request documentation required.

The Waiver Review Branch requests that the "No Objection" letter contain the following (reference Public Law 103-416, i.e., pursuant to Public Law 103-416) the government of (Name of Country) has no objection to (Name of Candidate, Date of Birth, and candidate's address) remaining in the United States to practice medicine.

**Nevada State Health Division  
Primary Care Office (PCO)  
National Interest Waiver (NIW) Request Procedure**

The Nevada State Health Division will respond routinely to requests for an attestation in support of a National Interest Waiver (NIW) only for those physicians who have previously been recommended for a J-1 Physician Visa Waiver under the Nevada J-1 Physician Visa Waiver Program. The Bureau of Citizenship and Immigration Service (BCIS) regulations require that the entity determining that the physician's work is in the public interest has knowledge of the physician's skills and experience in making similar attestations.

Whereas the Health Division does not possess such knowledge for physicians who have not previously been recommended for a waiver, attestations cannot be made by the state until the physician and employer submit information to the State similar to an initial J-1 Physician Visa Waiver application for support. This would apply to those J-1 Visa Waiver physicians who received support from the United States Department of Agriculture (USDA) or entity other than the state of Nevada. For the above described J-1 Physician Visa Waiver's who desire National Interest Waiver support from the state, please contact the PCO office to discuss your situation and identify yourself as receiving initial support from the USDA or source other than the state of Nevada.

To request NIW attestation, please submit a letter to the Health Division including the physician's name, country of birth, date of birth, and the facility that employs the physician. Provide documentation indicating the date employment commenced and account for all the subsequent employment time frames prior to the NIW request. Provide the employing practice site's physical address to include street address, city name, and zip code. Identify the practice site as a Health Professional Shortage Area (HPSA) or Medically Underserved Area / Population (MUA/P) and provide the shortage area federal Identification number, if known. Include a signed copy of the portion of the employment contract documenting that the length of work at the practice site in the underserved area will be extended to a total of five years. This information may be faxed to the PCO office at 775-684-5915.

For questions regarding NIW support, please contact Barbara Heywood at 775-684-4047 or E-mail to [bheywood@health.nv.gov](mailto:bheywood@health.nv.gov) .

Letters may be addressed to:

Barbara Heywood  
Nevada State Health Division  
Bureau of Health Planning and Statistics,  
4150 Technology Way  
Primary Care Office, Suite 104  
Carson City, NV 89706