

**STATE OF MONTANA
PHYSICIAN NATIONAL
INTEREST WAIVER (NIW)**

REQUEST APPLICATION



**Montana Primary Care Office
Department of Public Health and Human Services
1625 11th Avenue, PO Box 4210
Helena, MT 59620-4210**

MontanaPCO@mt.gov

STATE OF MONTANA PHYSICIAN NATIONAL INTEREST WAIVER (NIW)

Overview

Federal legislation, titled The Nursing Relief for Disadvantaged Areas Act of 1999, established a national interest waiver pathway to permanent residence exclusively for foreign national physicians. Section 203 (b)(2) of the Immigration and Nationality Act provides governance around the Employment-Based Second Preference (EB-2) Immigrant Visa Category. The employment-based category (EB-2) allows for the immigration of persons who are members of professions holding advanced degrees or are of exceptional ability. The United States Attorney General is permitted to waive the job offer requirement placed on EB-2 applicants when it is determined that the services of the immigrant are in the national interest. Such waivers are called National Interest Waivers (NIW). These waivers relieve the petitioner from fulfilling the labor certification requirement as administered by the Department of Labor. In 1999 the Act was amended to add special rules for requests that are filed by or on behalf of physicians who are willing to work in areas designated by the Secretary of Health and Human Services as having a shortage of healthcare professionals (Primary Care Health Professional Shortage Area, Medically Underserved Area, Medically Underserved Population, or Mental Health Professional Shortage Area), or at a Veterans Affairs facility.

NIW applicants must obtain a letter from a federal agency or a state department of public health that determines the immigrant physician's work in such an area or at such a facility is in the public interest. The Montana Primary Care Office located within the Montana Department of Public Health and Human Services acts as the supportive agency for such National Interest Waivers.

NIW physicians must practice primary or specialty care, full-time (at least 40 hours per week) for a total of five years. Time spent in H1-B status to fulfill the NIW obligation does count toward the five-year commitment. NIW petitions may be filed before the completion of the J-1 Waiver, but the aggregate time must still be five years. Permanent residence visa status is not permitted until the physician's five years of obligatory service in a health professional shortage area has been fulfilled.

There is no limit on the number of NIW applicants a state may support in a year.

Montana Waiver Review Process

The State of Montana is committed to assisting all residents of Montana with improved access to high quality, affordable healthcare. The Primary Care Office will consider National Interest Waiver (NIW) requests on behalf of physicians if the following conditions are satisfied.

The physician must:

- Work at a clinical practice located in a federally designated shortage area (HPSA, MUA/P, or MHPSA)
- Practice at least 40 hours per week for a contracted five year term in a primary care specialty (Internal Medicine, Family Practice, Pediatrics, OB/Gyn) or General Psychiatry,

with certain conditions being met (including a competitive salary, and specifying why the specialty is in short supply in the service area having a shortage)

- Practice in the public interest (provide care to the Medicaid, Medicare, and uninsured populations in the service area)
- If a current Conrad State 30 J-1 Visa Waiver holder, applicant must meet all program requirements and be considered in good standing.

Requests for an NIW must be submitted by a physician or the physician's legal counsel, with evidence of support by their employer. The application must also show the entire practice, in which the physician is working, be able and willing to serve the underserved population of the service area (patients on Medicaid, Medicare, and the uninsured). Applications are reviewed in order of receipt. Consideration is given to the need in the community, the completeness of the application, the healthcare facility's letter of support, and the degree to which the physician's training matches the community's needs.

Submission of a complete waiver request package does not ensure that the waiver will be supported. The PCO reserves the right to support or decline any waiver request.

The NIW application is only one step in the process of obtaining permanent residency. Permanent residence visas are not available to the physician until the five-year service obligation is complete. A physician may want to seek legal counsel to assist with the preparation and submission of all required immigration forms and documentation. The Montana Primary Care Office cannot provide legal advice to physician applicants or employers.

Use the checklist on the following page to compile an application submission. Please email the Montana Primary Care Office with questions at MontanaPCO@mt.gov.

Applications should be mailed to:

J-1 Coordinator, Primary Care Office
Montana Dept. of Public Health & Human Services
1625 11th Avenue, PO Box 4210
Helena, MT 59620-4210

Semiannual Reporting Requirements

The Waiver Physician and the Chief Executive Officer or Administrator of the employing entity must provide the MT PCO a semiannual report which verifies the Physician's employment at the practice site. Reports must be submitted by the end of each six-month increment (January to June and July to December) following the contract execution date, with a final report due upon completion of the initial three-year commitment.

Failure on the part of the Waiver Physician to submit accurate and truthful semiannual reports will delay confirmation of the physician's service toward completion of the obligation or service to credit toward the National Interest Waiver (Green Card.). Failure on the part of the Chief Executive Officer or Administrator of the employing entity to submit accurate and truthful semiannual reports may jeopardize future eligibility for J-1 visa waivers.

National Interest Waiver Request Required Application Documents

- **Complete National Interest Waiver Request Physician Face page**
- **Letter of support from Healthcare Employer**
 - Employer Statement must be on official letterhead and clearly outline how the physicians' qualifications and future responsibilities will help satisfy the areas shortage and improve access to care and how a denial of the NIW support letter form the State of Montana will negatively impact the community.
- **Fully executed Employment Contract outlining:**
 - Fulltime equivalent employment (>40 hour per week); and
 - Employment term no fewer than five years or documentation of five years cumulative time spent; and
 - Description of the primary care to be provided by physician and the proration of time spent providing direct patient care; and
 - Contract **may not** contain a non-compete clause
- **Updated Physician Curriculum Vitae**
- **Copy of physicians Montana Medical License**
- **Statement from Physician including:**
 - Physician has no other waiver requests pending with another government agency
 - Physicians' commitment to comply with program requirements for the full duration of participation

Montana National Interest Waiver Request Application Face Page

Applicant Full Name: _____

Physical Montana Address: _____

City: _____ State: _____ Zip: _____ MT County: _____

Home Phone: _____ Work Phone: _____

Personal Email: _____ Professional Email: _____

Country of Origin: _____

Birth Date: _____ How do you identify your gender? _____

DOS Case Number: _____

Provider Type: _____ Specialty: _____

Montana Medical License Number: _____ National Provider Identifier (NPI): _____

School Attended: _____ Degree: _____

Dates attended from: _____ to: _____

City: _____ State: _____ Country: _____

Residency Program: _____

Dates attended from: _____ to: _____

City: _____ State: _____ Country: _____

Sponsoring Facility: _____

Contact Name: _____ Contact Email: _____ Phone: _____

Practice Location: _____

City: _____ State: _____ MT County: _____

Employment Contract Start Date: _____

Signature: _____ **Date:** _____

(Please sign your full name, in ink)

Printed Name: _____

Montana National Interest Waiver Request Application Face Page

Statement of Commitment to Comply with Program Requirements

It is understood that the purpose of the Montana National Interest Waiver program is to increase access to healthcare for medically underserved populations. I agreed that I will provide such services in exchange for the support of the Montana Primary Care Office in making a waiver request on my behalf. I agree to comply with all National Interest Waiver program requirements of the Montana Primary Care Office including:

- Fulfilling and agreeing to a five-year commitment to serve full-time (at least 40 hours/week) at the healthcare facility named in the waiver application OR continuing to fulfill the required period of clinical medical practice in Montana for an aggregate total of 5 years
- Agreeing to continue work in an area designated as a Health Professional Shortage Area (HPSA)
- Notifying the MT PCO of any changes to the personal or professional address, email address and/or phone number
- Submitting a copy of the USCIS approval notice to the MT PCO
- Submitting of semi-annual reports to the MT PCO
- Completing semi-annual and end of service retention surveys
- Cooperating with periodic site visits and other program monitoring and program sustaining activities
- Seeking approval in writing from the MT PCO prior to any changes in practice location or scope

Signature

Name (Print)

Date