

**STATE OF MONTANA
CONRAD STATE-30 J-1 VISA WAIVER
PROGRAM GUIDELINES**



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Department of Public Health and Human Services
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STATE OF MONTANA
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For questions, please contact the Montana Primary Care Office
via email at MontanaPCO@mt.gov

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I. BACKGROUND

Federal law requires that International Medical Graduates (IMGs) who are not United States (U.S.) citizens but are accepted to pursue graduate medical education or residency training in the U.S., must obtain a J-1 exchange visitor visa. The J-1 visa allows the IMGs to remain in the U.S. until they complete their studies. Upon completion of their studies, the IMGs on J-1 visas (“J-1 Physician”) must return to their home country for at least two years before they can return to the U.S.

Under certain circumstances, a J-1 Physician may request the U.S. Bureau of Citizenship and Immigration Services (BCIS) to waive the “two-year home country physical presence requirement.” The waiver may be requested under any one of the following four circumstances:

1. Extreme hardship to his/her spouse or children who are citizens or permanent residents of the U.S.;
2. Persecution if forced to return to his/her home country;
3. A U.S. government agency makes a request for the waiver on the basis that the J-1 Physician's work is in the national and/or public interest; and/or,
4. A state department of health makes a request for the waiver on the condition that the physician agrees to practice in an area having a shortage of health care professionals. This provision allows state departments of health to request a recommendation for a waiver for up to thirty J-1 physicians per federal fiscal year (October 1 - September 30) under the Conrad State-30 program.

II. PURPOSE

Improving access to health care in medically underserved areas is an important goal of the Montana Department of Public Health and Human Services (MT DPHHS). The purpose of Montana’s J-1 Visa Waiver Program is to improve access by recommending J-1 Physicians who agree to serve in medically underserved areas of the State for the waiver of the “two-year home country physical presence requirement” (the “J-1 visa waiver”). The State’s participation in the Conrad State-30 program enables MT DPHHS to act on behalf of the State and recommend waivers for eligible J-1 Physicians. MT DPHHS may act as an interested state agency to recommend up to thirty J-1 visa waivers per year.

III. POLICY

Given the need for improving access to primary health care, preference for J-1 visa waiver recommendations is given to physicians trained in the specialties of Family Practice, Internal Medicine, Pediatrics, and Obstetrics/Gynecology. Psychiatrists who fill a documented community health care need may also, with appropriate documentation, be considered for J-1 visa waivers. There is likewise a preference given to J-1 Physicians being recruited for placement in Health Professional Shortage Areas (HPSAs) over Medically Underserved Areas (MUAs) or Medically Underserved Populations (MUPs). The priority of applications includes J-1 Visa holders currently completing a residency program in the State of Montana. The J-1 Physicians who wish to receive waiver recommendation must meet both the federal eligibility

criteria and MT DPHHS qualifications for J-1 visa waivers. Prioritizing applications for waiver recommendations is at the discretion of MT DPHHS.

IV. ELIGIBILITY AND QUALIFICATIONS FOR EMPLOYERS

Employers of J-1 Physicians must meet the following requirements:

1. The practice site must be physically located in an area with a current federal designation as a Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP) for primary care. Other federally approved designations include a Mental Health Professional Shortage Area (MHPSA) for mental health care, a federally designated HPSA for a specific facility designation (e.g. state hospital or correctional institution), or instances where the employing facility is a Federally Qualified Health Center (FQHC) such as a community health center. Also eligible are special population HPSA's for low income, Medicaid, or American Indian populations.
2. The practice site must have attempted unsuccessfully to recruit a U.S. citizen or a permanent resident physician for a period of at least six months.
3. An employer or owner of the practice site is not eligible if the owner or site has previously defaulted on a J-1 visa waiver contract.
4. The J-1 Physician may not submit an application as an employer on his/her own behalf.

Compensation offered to the J-1 Physician must be at least equal to the local prevailing wage for the position or the employer's actual wage for similarly employed U.S. workers, whichever is higher. (Prevailing wage information is available by contacting the Montana Department of Labor and Industry.)

V. ELIGIBILITY AND QUALIFICATIONS FOR J-1 PHYSICIANS

To meet the eligibility and qualifications for visa waivers, J-1 Physicians must:

1. Have begun year 3 of their residency in a primary care specialty (Internal Medicine, Family Practice, Pediatrics, OB/Gyn) or General Psychiatry in order to get preference for waiver;
2. Agree to begin practicing within 90 days of receiving the J-1 Visa Waiver from the U.S. Department of State and the U.S. Bureau of Citizenship and Immigration Services (BCIS);
3. Agree to practice for a period of not less than three years in a federally designated shortage area (HPSA, MUA/P, or MHPSA); and;
4. Either have a Montana license to practice medicine or have applied for one.

If the Physician is contractually obligated to return to his or her home country upon completion of graduate medical education or training, a written statement of no objection to the visa waiver must be provided by the home country.

VI. APPLICATION PROCESS FOR NEW J-1 VISA WAIVERS

The Montana J-1 visa waiver application process consists of the following steps:

- A. Obtain a J-1 visa waiver case number from the U.S. Department of State;
- B. Identify practice sites in Montana eligible to employ J-1 Physicians;
- C. Secure an employment contract (contingent on securing the J-1 visa waiver); and
- D. Submit an application to MT DPHHS.
- E. When MT DPHHS recommends approval of a J-1 visa waiver, the application and recommendation letter will be overnighted to the U.S. Department of State, which will review the application and recommend approval or denial to U.S. Bureau of Citizenship and Immigration Services (BCIS).

A. Obtaining an Employment Contract

The application process involves obtaining an employment contract. The J-1 Physician will obtain an employment contract with an approved practice site. The contract must:

1. Be for a period of three years or longer;
2. Include the full street addresses and telephone numbers of all the sites where the J-1 Physician will practice;
3. Indicate the schedule and the number of hours per week that the J-1 Physician will practice (must be at least 40 hours per week for at least 4 days not including travel and/or on-call time);
4. Include the fixed salary;
5. The contract may not include a non-compete clause or restrictive covenant preventing or discouraging the J-1 Physician from continuing to practice in any federally designated shortage area after the period of obligation has expired; and
6. Include language that sets forth that the employment contract can be terminated only for just and proper cause, not simply for the mutual convenience of the parties.

B. Applying to the Montana Department of Public Health and Human Services

The application process involves submitting two copies (one original and one copy) of completed applications to MT DPHHS that meets all the requirements for a J-1 visa waiver. The applicant or the applicant's lawyer must submit an original and a copy of the application. MT DPHHS will not review faxed or electronically delivered applications.

Note: If an Employer's attorney assists with the application process, it is recommended that the J-1 Physician contract with their own attorney in order to avoid possible conflicts of interest.

i. Requirements for the Employer

The employer must provide:

1. A letter from the facility that indicates a desire to hire the physician and requests MT DPHHS act as an "interested government agency" and recommend a waiver on behalf of the J-1 Physician. The letter must also include:
 - the name and medical specialty of the J-1 Physician,

- qualifications of the J-1 Physician,
 - a work schedule for the J-1 Physician and a statement that the J-1 Physician will practice primary (or psychiatric or other specialty) care at least 40 hours per week during normal office hours at least 4 days per week (on-call and travel times);
2. An original and a copy of the employment contract signed by both the employer and the J-1 Physician;
 3. Statement from employer verifying that worksite is an appropriate federally designated area. The HPSA, MUA, MUP, or MHPSA federal ID must be included;

ii. Requirements for the J-1 Physician

The application must include:

1. Attachment 3: Applicant Face page
2. **Form G-28**/Letter of Representation from the law office by which the applicant is represented;
3. **DS-3035** and Supplemental Application Information Pages;
4. Copy of the DOS File Number Notification (aka third-party barcode page);
5. **DS-2019/I-94**: Copies of all the IAP-66 sheets issued by the U.S. Information Agency for each year the J-1 Physician maintained the J-1 visa status with no time gaps;
6. A current Curriculum Vitae;
7. Attachment 4: Exchange Visitor Assurance & Foreign Medical Graduate Statement;
8. Statement of Reason;
9. Employment Contract between employer and J-1 must include:
 - Three years or more of contracted service;
 - Base salary and compensation;
 - The specific location of employment in a federally designated HPSA, including street address and telephone number;
 - Location specific work schedule for J-1 Physician (must work 40 hours per week over not less than a four-day period);
 - Statement of J-1 Physician agreeing to the contractual requirements set forth in Section 214(l) of the Immigration and Nationality Act;
 - Include a statement that the J-1 Visa Waiver applicant agrees to begin employment within ninety (90) days from the date the USCIS grants a waiver and approval to work;
 - Clause stating the employer and provider will not terminate the agreement without just and proper cause and not simply for the mutual convenience of the parties; and
 - The contract may not include a non-compete clause or restrictive covenant preventing or discouraging the J-1 Physician from continuing to practice in any federally designated shortage area after the period of obligation has expired; and
10. All passport documentation.

C. MT DPHHS Procedural Guidelines

1. For an application to be deemed complete, it must include all the required documents from the employer and the J-1 Physician, submitted and tabbed in the order presented in Attachment 2. The J-1 Physician's case number obtained from the U.S. Department of State must be affixed to each document and on all correspondence submitted to MT DPHHS. All documents must be on standard 8.5 by 11-inch white paper. 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

Within 30 working days after receipt of application, MT PCO intends to review the application and notify the applicant or his/her legal counsel in writing if application is incomplete and provide a written list of deficiencies.

**** APPLICATIONS MUST INCLUDE A PAID OVERNIGHT SHIPPING LABEL ADDRESSED TO USCIS.**

Address Shipping Labels For USCIS To:

**Karen Robinson, State Depart Waiver Request
Department of State, Visa Services
Waiver Review Division, U.S. Department of State
CA/VO/L/W
600 19th Street, NW, SA-17, 11th Floor
Washington, DC 20522-1707**

2. Within 10 working days following the determination that an application package is complete, MT PCO intends to forward each complete application receiving its favorable recommendation to the U.S. Department of State for review. MT PCO will notify the practice site and the physician in writing that the application has been forwarded with a positive recommendation to the U.S. Department of State.
3. Once the U.S. Department of State recommends the application for approval, it will forward the application to the BCIS with a recommendation for approval. The BCIS will send notification directly to the J-1 Physician after it approves the application recommended by the U.S. Department of State.

D. MT DPHHS Application Evaluation Standards

1. When reviewing each J-1 visa waiver application, MT DPHHS intends that the proposed placement of the J-1 Physician will not adversely affect or compromise the delivery of health care in the medically underserved area.
2. When reviewing applications, MT DPHHS will view negatively any past or current disciplinary actions or proceedings taken by the Montana Board of Medical Examiners (or comparable professional medical review boards in other states) against the employer in cases where the employer is a medical professional.

3. MT DPHHS will view negatively the J-1 visa waiver applications from any employer whose principals such as owners, administrators, or medical directors are under investigation, indictment, or conviction for violations of federal, state, or local laws, regulations, or ordinances related to medical practice.
4. MT DPHHS will have the discretion to limit the number of J-1 visa waivers granted to employers who submit multiple applications. The only exception will be applications from federally funded clinics or state agencies that provide healthcare to the indigent, uninsured, or institutionalized populations.
5. When considering J-1 Physicians for employment, employers may not impose additional requirements beyond the practice policies and expectations for non-J-1 visa-waivered physicians.
6. The MT DPHHS will review each waiver application to determine how the placement will improve the accessibility of care in the underserved area and to ensure that the proposed placement will not adversely affect or compromise the delivery of health care in underserved areas in the state. The submission of a complete waiver package to the MT DPHHS does not ensure that the MT DPHHS will recommend a waiver. In all instances, the DPHHS reserves the right to recommend or decline any waiver request. The priority of applications includes J-1 Visa Waivers currently completing a residency program in the State of Montana.
7. **The application window opens each year on October 1 and closes September 30 the following year. Ten slots are reserved for Specialists and 20 for Primary Care Providers. All applicants are required to work in a federally designated HPSA for Primary Care.**

VII. MT DPHHS SEMIANNUAL REPORTING REQUIREMENTS

1. The Waiver Physician and the Chief Executive Officer or Administrator of the employing entity must provide MT DPHHS a semiannual report which verifies the J-1 Physician's employment at the practice site. **The first report must be submitted within 30 days of employment.** Subsequent 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 three-year commitment.
2. 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.

VII. GLOSSARY OF TERMS INCLUDING WEBSITES

3RNET The National Rural Recruitment and Retention Network. A not-for-profit organization assisting health professionals in locating practices throughout rural America. www.3rnet.org.

BCIS Bureau of Citizenship and Immigration Services of the Department of Homeland Security. Formerly the Immigration and Naturalization Service (INS). BCIS has the final say in the approval/disapproval of a J-1 Visa Waiver application.
<https://www.uscis.gov>

BHW Bureau of Healthcare Workforce. Located in the U.S. Department of Health and Human Services, the National Center for Health Workforce Analysis reviews and processes requests for designation of HPSAs and MUA/Ps. <http://bhpr.hrsa.gov/healthworkforce/>

DOS U.S. Department of State, Bureau of Consular Affairs, Waiver Review Division -- the federal agency that reviews the recommendations submitted by MT DPHHS and submits its own recommendation to the BCIS for final determination. <http://travel.state.gov/jvw.html>

Employer The clinic, hospital, or other health care organization that employs a physician working under a J-1 visa waiver. Often synonymous with “facility.”

Facility A health care facility employing a physician working under a J-1 visa waiver.

FQHC A Federally Qualified Health Center. FQHC’s are federally funded community health centers and migrant health centers.

HPSA Health Professional Shortage Area. An area defined by the U.S. Department of Health and Human Services as having a shortage of health care providers.

J-1 Physician An international medical graduate physician completing graduate medical education in the U.S. under a J-1 Visa. These physicians are required to return to their country of nationality for at least two years before reentering the U.S. unless a J-1 Visa waiver is granted.

MHPSA Mental Health Professional Shortage Area. A federally designated HPSA having a shortage of general psychiatrists to serve the area’s mental health care needs.

Medically Indigent A health care patient who is too poor to pay for his/her health care.

Montana ORH/AHEC The Montana Office of Rural Health and the Montana Area Health Education Center are partners with the Montana PCO in supporting the recruitment of medical providers to serve rural and underserved communities. <http://healthinfo.montana.edu>

Montana PCO Montana’s Primary Care Office, located within MT DPHHS. The PCO administers Montana’s J-1 Visa Waiver Program, the NHSC program in Montana, and coordinates various primary care activities.

MT DPHHS The Montana Department of Public Health and Human Services. Montana’s public health and human services agency.

MUA Medically underserved area. Like a Health Professional Shortage Area, this federal designation is for an urban or rural area that does not have enough health care resources to meet the needs of its population.

MUP Medically underserved population. Like a HPSA or an MUA, this federal designation is for a specific identified population that lacks an adequate supply of health care providers. **NHSC** The National Health Service Corps. A federal program that helps medically underserved communities recruit and retain primary care clinicians to serve in their community.

<http://nhsc.bhpr.hrsa.gov/>

Primary Care Fields Montana’s J-1 Visa Waiver Program Guidelines include the following five areas of practice within the domain of primary care: family practice, internal medicine, pediatrics, obstetrics/gynecology, and general psychiatry, each practiced within a designated underserved area (HPSA, MHPSA, MUA, MUP).

Practice Site The actual physical location at which the J-1 physician will provide medical services.

Montana State-30 J-1 Visa Waiver Program Application Instructions

- ◆ **Please include the Montana State-30 J-1 Visa Waiver Program Application Format Checklist on the top of the applications.**
- ◆ **Please only provide TWO COPIES of the complete application – One original and one copy.**
- ◆ **All J-1 visa waiver applications and copies are to be submitted with tabs in the order presented in the following table. APPLICATIONS SENT WITHOUT TABS OR OUT OF ORDER WILL BE RETURNED.**
- ◆ **The U.S Department of State assigned J-1 waiver case number must be prominent on each page of the application.**
- ◆ **If the application is not in the appropriate order or if the U.S. Department of State assigned J-1 visa case number is not prominently noted, the application will be returned to the applicant.**
- ◆ **APPLICATIONS MUST INCLUDE A PAID OVERNIGHT SHIPPING LABEL ADDRESSED TO USCIS:**

Address Shipping Labels For USCIS To:

**Karen Robinson, State Depart Waiver Request
Department of State, Visa Services
Waiver Review Division, U.S. Department of State
CA/VO/L/W
600 19th Street, NW, SA-17, 11th Floor
Washington, DC 20522-1707**

Montana State-30 J-1 Visa Waiver Program Applicant Format

Checklist 2022/2023 Cycle

TAB	ITEM	CHECK
1	State Health Cover Letter (Supporting Document(s) if necessary)	
2	Montana State-30 J-1 Visa Waiver Program Application Face Page	
3	Letter from Employer	
4	HPSA/ MUA Evidence Documents	
5	Employment Contract	
6	DS-2019's / I-94	
7	Curriculum Vitae	
8	Exchange Visitor Assurance / Foreign Medical Graduate Statement	
9	Form G-28 / Letter of Representation	
10	DS-3035 and Supplementary Application Information Pages	
11	Statement of Reason	
12	Third Party Barcode Page	
13	Waiver Division Barcode Page	

Montana State-30 J-1 Visa Waiver Program 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 STATE-30 J-1 VISA WAIVER PROGRAM

PHYSICIAN ASSURANCES

I _____

(Print Name)

hereby declare and certify, under penalty of the provisions of 18 U.S.C. 1001, that I do not now have pending, nor am I submitting during the pendency of this request, another request to any United States Government department or agency or any state department of public health, or equivalent, other than the Montana Department of Public Health and Human Services, to act on my behalf in any matter relating to a waiver of my two-year home-country physical presence requirement.

Signature

Name (Print)

Date