

STATE OF KANSAS CONRAD STATE 30 J-1 VISA WAIVER PROGRAM



Information on the J-1 Visa Waiver Program may be found at http://www.kdheks.gov/olrh/j-1visa_waiver_overview.htm
Questions regarding the Program should be directed to primarycare@kdheks.gov.

Table of Contents

Kansas J-1 Visa Waiver Program Overview	Page 2
Physician Requirements	Page 3
Employer Requirements.....	Page 4
Evaluation of Unmet Need for Health Care Services	Page 5
Physician – Employer Specific Contract Specifications.....	Page 6
Physician – Employer Reporting Requirements	Page 7
Application Process and Procedures.....	Page 8
National Interest Waiver – Letter of Support	Page 12
J-1 Visa Waiver Transfers	Page 13
Appendix 1: Overview of Department of State Procedures.....	Page 14

CONRAD STATE-30 J-1 WAIVER PROGRAM OVERVIEW

The State of Kansas is committed to assisting communities recruit physicians into areas that lack adequate access to primary health care. The Kansas Department of Health and Environment Division of Health (KDHE) is the designated state health agency recommending waivers through the J-1 Visa Waiver Program (also referred to as the Conrad State 30 Program). KDHE is able to recommend up to 30 waivers per Federal Fiscal Year (October 1 through September 30) on behalf of physicians holding J-1 visas. The Office of Primary Care and Rural Health within the KDHE Bureau of Community of Health Systems, is responsible for the overseeing the J-1 Visa Waiver application process.

Exchange visitors who are subject to, but do not wish to comply with, the two-year home country residence requirement may apply for a waiver of that requirement under any of the four grounds set forth in the Immigration and Nationality Act, Section 212(e):

- Exceptional hardship to a United States citizen (or legal permanent resident) spouse or child of an exchange visitor:
- Persecution if forced to return to home country;
- A statement supporting a waiver from an interested U.S. government agency; or
- A statement supporting a waiver from a state department of public health or its equivalent. (Only foreign medical doctors who received their J-1 status to pursue graduate medical education or training may apply for a waiver under this basis.)

The Kansas J-1 Visa Waiver program focuses on primary care, and priority will be given to primary care physicians who are board certified in one of the following specialties: **Family Practice, General Internal Medicine, General Pediatrics, Obstetrics/ Gynecology, Emergency Medicine and Psychiatry.**

Non-primary care specialists may also apply. Evidence of unmet need for non-primary care specialties must be demonstrated by the applicant. This may include past utilization data, population-to-physician ratios, waiting times, travel distance, referral difficulties for safety net providers or other measures of underservice. (Refer to “Evaluation of Unmet Need for Health Care Services” section found on page 3 for further specifications.)

Primary care requests shall be given priority consideration with up to 50% of waiver requests available to non-primary care specialties from October 1 through December 31. Distribution of unused primary care requests will be available on the following schedule:

Specialty	October 1	January 1	March 1	July 1
Primary Care Specialties	15 available	reserve up to 6 if available	reserve up to 4 if available	hold up to 2 if contracts are pending
Other specialties	15 available	potential release	potential release	potential release

PHYSICIAN REQUIREMENTS

Pursuant to the requirements of Public Law 103-416, enacted October 25, 1994, to be eligible for the waiver, the foreign medical graduate must:

- Have an offer of full-time employment at a health facility in a designated health professional shortage area;
- Begin employment at such facility within 90 days of receiving the waiver; and
- Contract to work a total of 40 hours per week for not less than three years at the health care facility.

All J-1 Visa Waiver applicants must apply for a case number from the U.S. Department of State. This requires completing the online [Data Sheet](https://j1visawaiverrecommendation.state.gov/) through the U.S. Department of State (<https://j1visawaiverrecommendation.state.gov/>).

The J-1 physician must have or be eligible for a medical license from the [Kansas Board of Healing Arts](http://www.ksbha.org/) (<http://www.ksbha.org/>).

The J-1 physician is responsible for negotiating a contract with the employer to provide full-time care, 40 hours per week, at least 4 days per week, in the appropriate specialty for a minimum of three (3) years. (Refer to “Provider-Employer Contract Specifications” section for further specifications.)

By federal regulation, the J-1 physician must commence practice within 90 days of receiving a waiver. The U.S. Department of State and the U.S. Citizenship and Immigration Services will be notified if a J-1 physician is found not to have reported or not to be practicing medicine at least 40 hours per week in the location for which the recommendation was made.

KDHE must be notified when the J-1 physician does not report for duty. The employer and/or J-1 physician must notify KDHE of any breach or termination of contract. Transfers must be cleared with KDHE before the transfer occurs to confirm that the new area is also underserved.

EMPLOYER REQUIREMENTS

Any employer wishing to hire a physician is required to show that the practice has an open door policy with patients and sign an agreement to accept all patients regardless of ability to pay. The employer must:

- Provide services to individuals regardless of their insurance type, ability to pay, or the individual's race, color, sex, national origin, disability, religion, age, or sexual orientation.
- Charge for services at the usual and customary rates prevailing in the areas in which such services are provided except that, if a person is unable to pay such charge, such person shall be charged at a reduced rate (discounted/sliding fee schedule) or not charged any fee.
- Offer a discounted sliding fee schedule based on the current Federal Poverty Guidelines, accept Medicaid, Medicare, and State Children's Health Insurance Program assignment rates, and provide free care when medically necessary.
- Prominently post signage in its waiting room advertising the site does not discriminate in the provision of services and that discounts for essential services are offered depending upon family, size and income.
- Have a written nondiscrimination policy and provide services in a culturally and linguistically appropriate fashion responsive to the needs of the area's general population.

The employer's practice location(s) must be located in federally designated Medically Underserved Areas (MUA) or Medically Underserved Populations (MUP), or Health Professional Shortage Areas (HPSA) that has been designated or updated within the past four (4) years. Evidence should include the street address, zip code, telephone and fax numbers for the practice site. Facilities with an automatic HPSA Rural Health Clinics (RHC) or Federally Qualified Health Centers (FQHC) are also eligible. Kansas does not require a minimum Health Professional Shortage Area (HPSA) score or a specific facility type.

Federal law allows up to ten physicians in each state to work in regions not specifically designated as underserved by the Department of Health and Human Services. Kansas will use its authority to recommend up to ten (10) waivers each year for physicians to practice in areas that do not have the required federal shortage area designations, if the need for services can be demonstrated and if patients from designated shortage areas will be served. Evidence of unmet need must be demonstrated by the applicant. (Refer to "Evaluation of Unmet Need for Health Care Services" section for further specifications.)

KDHE policy is that a waiver recommendation by the state public health agency is a measure of last resort. The employer must show evidence of open recruitment and that hiring a J-1 physician is a last resort. In the event that a physician not encumbered by the J-1 home residence requirement applies for and is qualified for the job advertised, he or she must be offered the position. The medical facility must prove that other avenues, regionally and nationally, to secure a physician not bound by the 2-year home residence requirement have been undertaken over a period of at least the six months prior to preparing/signing a contract. Recruitment efforts must include regional and national print advertising stating the position available and the practice site location.

Requests will be limited to two (2) per employer or affiliated practice at the beginning of the annual cycle. The Office of Primary Care and Rural Health may allow an employer or practice to submit up to four (4) requests at the beginning of the annual cycle, upon written request. After January 1, additional requests will be considered on a case by case basis.

A former J-1 physician currently fulfilling his/her required three (3) year obligation may not serve as the employer of a new waiver candidate.

Employers located outside of the state must provide assurance that employer has a formal agreement with the Kansas facility/practice to place each J-1 Visa physician at the facility/practice for three years. The written assurance must be signed by the employer and an authorized official with the Kansas facility/practice. In addition, KDHE may ask for the employer to supply additional supporting documentation validating this formal agreement between the employer and the facility/practice.

EVALUATION OF UNMET NEED FOR HEALTH CARE SERVICES

If the J-1 Visa physician's discipline is a non-primary care specialty or if the employer is not located in a federal shortage area designation, the application must include documentation to demonstrate evidence of unmet need. A statement of need must be included in the application's required cover letter from employer. Refer to "Application Process and Procedures" section for further specifications regarding the cover letter. In addition to defining the community/population served by the facility or clinical site(s), the employer should explain with quantifiable information the insufficient capacity of existing resources (locally or regionally) to meet the needs of the defined service area or underserved population. Describing the unmet need within a service area or in an identified underserved population may be accomplished using measures from the following list of options:

- Number of practicing primary care physicians or specialists (include visiting specialists) supporting the defined service area or underserved population.
- (For non-primary care specialties) agreements with local and referring primary care practitioners showing that the specialty is needed and supporting the current waiver application.
- Utilization data (e.g. number of procedures most commonly performed by specialty being recruited).
- Population to physician ratios, or other measures of underservice for the area with evidence to support a rational service area.
- Medicaid data.
- Waiting times for referrals from safety net providers.
- Compliance requirements of accrediting bodies or state and national program guidelines.

The use of two or more different sources of information will be looked for during the review in order to demonstrate inadequate access and/or insufficient capacity. At a minimum, one informational source cited should provide quantifiable data to support the employer's case for the unmet needs in the defined service area or underserved population.

The employer statement of need must contain documentation that the facility where the physician will practice has sufficient patients who live in designated shortage areas to support at least one Full Time Equivalent (FTE) physician of the specialty provided by the physician named in the waiver application.

For medical school teaching positions, evidence of need shall consist of a letter from the Dean of the University of Kansas School of Medicine certifying that an essential faculty vacancy exists. For public health officer positions, evidence of need shall consist of a letter from the KDHE State Health Officer certifying that an essential public health officer vacancy exists.

Provider-Employer Contract Specifications

For the statutorily-required three (3) years, there can be no changes to the contract that would result in the J-1 physician leaving the agreed-upon facility or ceasing to serve the patients he/she has agreed to serve in the manner agreed upon. It is recommended that each party have its own legal representation in preparation of the contract.

The Department of State requires a J-1 Visa physician to serve in the clinical practice of his/her profession full time, a minimum of 40 hours per week providing direct patient care at the approved practice site. For all medical disciplines, with the exception of Emergency Medicine or physicians practicing as an Internist or Hospitalist (a physician specialized in inpatient medicine, who acts as a patient's primary doctor while the patient is hospitalized), the 40 hour work week must be compressed into no less than four days per week with no more than 12 hours in any 24-hour period. Time spent on-call does not count toward the 40 hour week. Hours worked over the required 40 hours per week will not be applied to any other work week.

The contract must include all of the following information:

- Guaranteed three (3)-year base salary;
- Benefits (including health insurance);
- Field of practice, practice site name and complete street address;
- 40 hour work week for at least 4 days per week, not including travel and on-call time;
- Leave (annual, sick, continuing medical education, holidays);
- commencement date begins within 90 days of receipt of J-1 visa waiver;
- statement that all amendments shall adhere to State and Federal J-1 visa waiver requirements; and
- Dated and signed by both parties.

In addition the contract terms and condition must meet the following guidelines:

- Physician may be terminated only with cause and cannot be terminated by mutual agreement until the statutorily-required three (3) years have expired.
- Contract must contain a sentence stating what field of medicine the J-1 physician will practice a minimum of 40 hours per week and the practice site address. Include a statement that on-call and travel times are not included in the minimum hours.
- A non-compete clause or any provision that purports to limit the J-1 physician's ability to remain in the area upon completion of the contract term is prohibited.
- Contracts may not include any clauses that would require the J-1 physician to pay a sum to the employer for experience gained on the job or for the J-1 physician remaining in the area after the contract has ended.

PHYSICIAN-EMPLOYER REPORTING REQUIREMENTS

The physician and the Chief Executive Officer of the employing entity must provide annual reports to the KDHE Waiver Review Program. It is the health facility's responsibility to submit the **Kansas Physician/Employer Reporting Form** to KDHE within the physicians first thirty (30) days of practice. The form is located on the KDHE website at: <http://www.kdheks.gov/olrh/j-1forms.html>. DO NOT SUBMIT this form with the waiver application. This reporting form report must be submitted every 12 months thereafter, until the three (3) year commitment is complete.

In agreements to serve in population-designated HPSAs, documentation must be submitted demonstrating that the relevant underserved population was indeed served. What constitutes adequate proof will vary depending upon the circumstances but should include a report of Medicare, Medicaid/KanCare and self-pay revenue, and the number of patients served by pay category, if available. When submitting the final report, the physician must indicate whether he/she intends to remain in the shortage area to practice. If a report is not submitted, penalties for default will be implemented.

KDHE will monitor provider practice and patient access, and follow up on any complaints that the practice refuses care to patients. KDHE may use Medicaid claims data and waiting times for referrals from safety net providers if necessary to monitor access concerns. Past compliance with the program guidelines will affect an employer's future eligibility.

Penalties for Default:

Physicians - A letter to U.S Citizenship and Immigration Services with a recommendation for deportation. A letter of notification will be sent to the Kansas Board of Healing Arts.

Employers - Restricted from submitting J-1 Visa Waiver applications for a period of two years.

These requirements are subject to revision without prior written notice.

APPLICATION PROCESS AND PROCEDURES

Key Steps of J-1 Visa Waiver Application Process

Application submitted to the Kansas Department of Health Environment requesting that the state act as the interested governmental agency in support of the waiver request.

Once reviewed and approved, a recommendation letter supporting J-1 Visa Waiver Application will be signed by the KDHE State Health Officer.

The J-1 Visa Waiver Recommendation Letter along with the J-1 Visa Waiver Application is submitted by KDHE to the U.S. Department of State (USDOS) for a secondary review.

The USDOS determines its recommendation and forwards the application to the United States Citizenship and Immigration Services (USCIS) for final approval.

Waiver requests should be submitted not more than nine months before the J-1 physician's current educational program is scheduled for completion. The review cycle begins October 1 with complete applications numbered sequentially beginning with one each year. After thirty (30) applications are received, KDHE will determine on a case-by-case basis those applications appropriate for assignment for priority processing in the next year. The application must be made by the legal entity making the contract offer to the physician seeking a J-1 visa waiver, including facilities, institutions, rural health clinics, community health centers, primary care clinics, medical centers, hospitals or private practices located in Kansas. Applications will only be accepted when there is a confirmed physician contract pending. Applications submitted to the Kansas Department of Health and Environment by an attorney may facilitate processing.

Notice of Intent

KDHE must be notified that an application will be submitted by completing and returning the Notice of Intent to Apply for J-1 Visa Waiver form located on the KDHE website at:

<http://www.kdheks.gov/olrh/download/J-1NoticeOfIntentToApply.pdf>

The Notice of Intent to Apply form serves as advance notification and reservation of a J-1 Visa waiver slot for up to six months. Therefore, all fields must be fully completed. Confirmation of receipt will be sent to the attorney within 3 to 5 business days.

Application Package

To process a waiver request, two packets of information must be submitted:

- All information, including letters of recommendation, must be submitted AT THE SAME TIME.

- After gathering the required documents, prepare ONE COMPLETE COPY to submit along WITH THE ORIGINAL; an attorney must submit an original and one hard copy application.
- Letters of need and forms must contain original signatures, and every page of the application must contain the Department of State case number.

Both packets of information shall be mailed to:

Attn: J-1 Visa Waiver Review Program
 State Primary Care Office
 KDHE Bureau of Community Health Systems
 1000 SW Jackson, Suite 340
 Topeka, KS 66612-1365

Application Standardization for the US Department of State

- Limit use of staples, binders, tabs
- Avoid two-sided documents and use only 8 1/2" x 11" paper
- Record the Case Number assigned by the Department of State on every sheet submitted
- Documents shall be placed in the order detailed listed below separated by a colored divider page appropriately labeled with the name of the document behind it

Required Application Documents and Detailed Instructions

1) Employer Cover Letter Requesting Waiver

- Cover letter should be addressed to the State Office of Primary Care and Rural Health designee from the head of the entity/facility with which the physician will be employed.
- The letter should request that KDHE act in its capacity as state health agency and recommend a waiver for the J-1 physician; and should discuss how it is in the "Public Interest" that the physician remains in the United States.
- The letter must contain the following:
 - Physician's full name;
 - Physician's date of birth;
 - Physician's country of origin or last residence;
 - Physician's medical specialty;
 - Practice name, street location, city and zip code;
 - Description of sponsoring employer facility or clinical site and the service area;
 - A statement that the practice is located in a designated HPSA or MUA area and provides medical care to both Medicaid and Medicare eligible patients, and indigent uninsured patients;
 - Description of the physician's proposed responsibilities;
 - A statement describing the plans for retaining the physician during and beyond the three (3)-year obligation; and
 - Detailed description of unmet need, if required. (Refer to "Evaluation of Unmet Need for Health Care Services" section for further specifications.)

2) Data Sheet DS-3035

- Online DS-3035 application can be found at <https://j1visawaverrecommendation.state.gov/>

3) Employment Contract

- Both the physician and the head of the health care facility/employer must sign and date the contract.
 - Refer to “Provider-Employer Contract Specifications” for detailed contract requirements.
- 4) **Physician Exchange Visitor Attestation Form**
- Downloadable form - <http://www.kdheks.gov/olrh/download/J-1Affidavit.pdf>
 - Form must be notarized.
- 5) **DS-2019 Forms**
- Readable copies of DS-2019 (formerly IAP 66) forms must be submitted, covering the full timeframe that the physician has participated in the exchange visitor program in J-1 status.
 - Copies should be filed chronologically.
- 6) **U.S. Department of State Employer Attestation Form**
- Downloadable form - <http://www.kdheks.gov/olrh/download/J-1EmployerAttestation.pdf>
 - The form must be signed by the head of the facility at which the J-1 physician will be employed and notarized.
- 7) **Physician’s Personal Statement**
- The statement from the physician regarding his/her reasons for not wishing to fulfill the two-year home country residence requirement to which the alien IMG agreed at the time of acceptance of exchange visitor status.
- 8) **Physician’s Current Curriculum Vitae**
- The physician’s full contact information must be displayed on the first page of the CV/resume.
- 9) **Explanation For Out of Status –**
- When applicable, written explanation must be included if physician applicant spent any period of time in some other visa status, out of status, or outside of the United States.
- 10) **Form G-28 or letterhead from law office** - if an attorney represents the applicant.
- 11) **I-94 Entry and Departure Cards**
- Readable copies of documents/cards must be provided with the photocopies of the front and back on the same page.
- 12) **A “No Objection” Statement**
- If foreign government funding was provided for the exchange visitor program, a “no objection” statement from the visitor’s government must be included.
- 13) **Exchange Visitor Attestation Form**
- Downloadable form - <http://www.kdheks.gov/olrh/download/J-1ExchangeVisitor.pdf>
 - The form must be signed by the head of the facility at which the J-1 physician will be employed and notarized.
- 14) **Qualifications**
- The application must include a copy of the physician’s Kansas medical license, or a letter

from the Kansas Board of Healing Arts indicating the physician has met the medical licensure requirements for the State of Kansas.

- Diplomas and other certifications must be included, as applicable.

15) Recruitment Documentation

- The U.S. Department of State requires this information and if it is not available, submit a detailed statement describing recruitment efforts.
- Recruitment efforts must include regional and national print advertising stating the position available and the practice site location.
- Documentation shall include:
 - Sample/example of advertisements;
(Please do not send copies of every advertisement.)
 - Copies of agreements with placement service; and
 - List of interviewed candidates and reason not selected, if appropriate.

Point of Information: One acceptable regional recruitment effort is to list the position with the Kansas Recruitment Center operated by the University of Kansas Medical School. Job listing forms are available from the Rural Health Education and Services of the University of Kansas School of Medicine and are accessible at <http://ruralhealth.kumc.edu> or by calling 1-888-503-4221. Listings are posted and maintained on the National Rural Recruitment and Retention Network (3R Net) website, <https://www.3rnet.org/locations/kansas>, a web-based practice opportunity listing for physicians

16) Community Letters of Support

- At least three (3) letters of community support from the following must be provided: community leaders (mayor, commissioners, other elected officials, chamber of commerce, etc.), local physicians, safety-net clinics, hospital administrator(s), or local public health department.

17) Letters of Recommendation

- Three letters of recommendation from those who know the J-1 physician's qualifications
- At least two of the letters written on the physician's behalf must represent two different entities (i.e. organizations, departments).

NATIONAL INTEREST WAIVER - LETTER OF SUPPORT

The Kansas Department of Health and Environment will provide a letter of support for J-1 physicians in good standing. Each National Interest Waiver request will be considered on an individual basis. To obtain a letter of support, the following items must be submitted:

1. [National Interest Waiver Request Form](#) and all required documentation
 - Downloadable form –
<http://www.kdheks.gov/olrh/download/J-1NationalInterestWavierRequestForm.pdf>
2. A copy of current employment contract.
3. The physician must submit a statement that includes:
 - Full name;
 - Date of birth;
 - Kansas medical license number;
 - Employment site;
 - Description of services to be provided in the HPSA/MUA; and
 - Description of how approval of the waiver is in the national interest.
4. The sponsoring employer must submit a letter that includes:
 - Full name of physician;
 - Facility name and full address;
 - Verification that the physician is in good standing;
 - Description of services physician will provide;
 - Documentation of need for the physician's services;
 - Affirmation that physician will practice full-time (40 hours per week) in a HPSA/MUA; and
 - Description of the effects of denial of the National Interest Waiver to the facility and to the HPSA/MUA.

J-1 VISA WAIVER TRANSFERS

Once a Kansas J-1 Visa Waiver application is approved for a specific location, the J-1 physician cannot be placed at another location without KDHE approval. Movement of a J-1 physician to a location that has not been approved by KDHE will result in the physician being out of compliance with the program and may be reported to USCIS.

*** Provide the U.S. Department of State J-1 visa waiver case number on all correspondence*

KDHE must be notified, in writing, of the J-1 physician's intent to transfer to another location along with the following information:

- Reasons for the transfer;
- The proposed new employer, practice site name, address, telephone number; and
- Proposed date of transfer.

The original employer must:

- Provide a letter releasing the J-1 physician from the employment contract; and
- Provide an explanation for termination.

The new employer must:

- Provide a letter of intent to employ the J-1 physician for the remainder of the obligation period;
- Agree to the terms that the J-1 physician will provide health services 40 hours per week;
- Provide a copy of the employment contract; and
- Provide a copy of the financial assistance policy and sliding fee scale;

Within 30 days of the transfer, the physician and the new employer must submit the [J-1 Visa Waiver Transfer Notification Form \(http://www.kdheks.gov/olrh/download/J-1NationalInterestWavierRequestForm.pdf\)](http://www.kdheks.gov/olrh/download/J-1NationalInterestWavierRequestForm.pdf) to:

Attn: J-1 Visa Waiver Review Program
State Primary Care Office
KDHE Bureau of Community Health Systems
1000 SW Jackson, Suite 340
Topeka, KS 66612-1365

APPENDIX 1:

OVERVIEW OF STATE DEPARTMENT PROCEDURES



The Waiver Review Division of the Office of Legislation, Regulation and Advisory Assistance in the Visa Office of the Bureau of Consular Affairs (formerly the USIA Waiver Review Branch of the Office of the General Counsel) reviews applications and makes recommendations to the U.S. Citizenship and Immigration Services concerning Section 212(e) waivers.

J-1 Visa Exchange Visitor Program information can be found on U.S. Department of State, Bureau of Consular Affairs website at: <http://travel.state.gov/content/visas/en/study-exchange/exchange.html>

If you have questions regarding waiver review procedures, please refer to one of the following sources of information:

U.S. Department of State, Bureau of Consular Affairs, Visa Services:

<http://travel.state.gov/content/visas/en/study-exchange/student/residency-waiver.html>

U.S. Citizenship and Immigration Services:

<http://www.uscis.gov/portal/site/uscis>

Online Application Portal:

<https://j1visawaiverrecommendation.state.gov/>

Current Application Fee information:

<http://travel.state.gov/content/visas/english/study-exchange/exchange.html#fees>

Checking Waiver Application Status:

<http://j1visawaiverstatus.state.gov/>

When the Waiver Review Division receives ALL required documentation, your case will be adjudicated. At the conclusion of the review process, the Waiver Review Division will forward its recommendation directly to the U.S. Citizenship and Immigration Service (USCIS) and you will receive a copy of that recommendation at the address listed on your data sheet. If your application is denied, you will be notified directly