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Immigration

New J-1 Waiver Procedures Announced for International Physicians in Minnesota

Legal Update

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By Fredrikson's Immigration Group

On August 8, 2014, Minnesota Department of Health (MDH), through the Office of Rural Health and Primary Care, announced new procedures for health care facilities wishing to apply for a J-1 waiver on behalf of prospective international physician employees through the Conrad 30 program.

International physicians who complete their residency programs in J-1 nonimmigrant status are required to return to their home country to complete a two year residency requirement. INA § 212(e) Health care facilities located in or serving patients from health professional shortage areas (HPSA) or medically underserved areas (MUA) who wish to employ an international physician subject to the two year residence requirement may apply for a waiver of the two year requirement through the Conrad State 30 program and sponsor the physician to work under H-1B status. Pursuant to this program, MDH can recommend up to 30 waivers each fiscal year. Ten flex waivers are available for facilities which are not located in HPSA/MUA areas but which serve a significant patient population that does reside in those areas.

The regulatory requirements for a waiver include a bona fide offer and acceptance of full-time employment serving patients from HPSA/MUA areas for a period of three years.

The most significant change MDH has made for FY2015 is the establishment of a competitive review process for all applications submitted. This replaces the first-in, first-out process used in the past. All applications will now be judged based on a variety of factors, including standard versus flex waivers; the impact on underserved areas; charity care provided; Medicaid/Medicare eligibility; time spent recruiting for the position; primary care versus specialty care; rural versus urban; number of prior waivers granted; reasonableness of non-compete or liquidated damages contract clauses; physician retention plans; community ties; and extenuating circumstances. The review committee will award waiver recommendations to those applicants it believes will have the greatest impact on patient care in underserved regions of Minnesota.

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This year's application submission period will run from September 15 to November 28, 2014. The committee review process will begin at the close of the submission period.

For further information on J-1 Conrad 30 Waivers for international physicians, please contact an attorney in Fredrikson & Byron P.A.'s Immigration Group.