



NBRC Federal Co-Chair's J-1 Visa Waiver Policy

The Northern Border Regional Commission (NBRC) is committed to helping all residents of Maine, New Hampshire, New York, and Vermont have access to quality, affordable health care. Accordingly, NBRC's Federal Co-Chair will consider recommending, under certain conditions, a waiver of the two-year home-country physical presence requirement on behalf of physicians holding J-1 Visas. The Federal Co-Chair's policy is totally discretionary and voluntary and may be modified or terminated at any time without notice. The NBRC has the discretion to limit the number of waiver requests from health care providers who submit multiple applications in a federal cycle year. In all instances, the Federal Co-Chair reserves the right to recommend or decline to recommend any waiver request. Waiver recommendations will be sent to the U.S. Department of State and approval is at the sole discretion of U.S. Citizenship and Immigration Services.

These NBRC guidelines are minimum requirements, but each NBRC State may impose additional requirements it deems necessary to support its physician recruitment program.

1. Physician requests must be sponsored by the State of Maine, New Hampshire, New York, or Vermont, and will be considered by the Federal Co-Chair only upon written recommendation by the Governor, the NBRC State Alternate or, at the State's option, a letter from the Director of the designated State Department of Public Health or its equivalent.
2. The physician must agree to provide primary care or specialty medicine for at least forty (40) hours a week within a Health Professional Shortage Area (HPSA) or Medically Underserved Area, or psychiatric care in a Mental Health Professional Shortage Area as designated by the Health Resources and Services Administration (HRSA). The facility shall be located within the legislatively defined Northern Border Regional Commission's service area for a minimum of three years or longer, as a specific state policy may require. Travel or on-call time may not be included in the 40 hours required by this paragraph except for obstetricians.
3. The employer must demonstrate that it has made a reasonable good faith effort to recruit a U.S. doctor for the job opportunity in the same salary range without success during the six months immediately preceding the request for waiver. The employer shall demonstrate that it has undertaken such recruitment through a reasonable number of appropriate sources including but not limited to advertisements in newspapers and medical journals of national and statewide circulation most likely to bring responses from able, willing, qualified and available U.S. doctors and job opportunity notices placed in appropriate medical schools including all medical schools in the State in which the hospital or clinic is located. The date of the postings must be made clear.
4. The employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete clause, or non-solicitation clause, which prevents or discourages the physician from continuing to practice in any HPSA/MUA after the period of obligation under this policy has expired.
5. The physician, prior to employment, will have completed their graduate medical education and training and must be licensed by the State (Maine, New Hampshire, New York, or Vermont) where they will practice primary care or specialty care medicine with an appropriate showing of need, in a designated primary care HPSA, MUA or psychiatric care in a designated Mental Health Professional Shortage Area. If the physician will practice at multiple sites, all sites must be located in a legislatively defined region of the NBRC.

At its discretion, the NBRC may consider an application from a physician practicing at a HPSA/MUA site located within an NBRC contiguous county if it is proven that the physician will serve patients located within the NBRC region and that there is no alternative for an NBRC resident to receive this medical care at a facility located within the region. In this situation, an applicant would need to submit a written request to allow for an exception to the Co-Chair's policy in advance of submitting an entire application package. The request must show that at least 50% of the patients the practice serves are residents of a surrounding NBRC covered county. The request must also show what the distance would be for those same patients to travel to the closest practice physically located within an NBRC county offering that specific specialty.

6. The physician must not have been "out of status" (as defined by the United States Citizenship and Immigration Services of the United States Department of Homeland Security) for more than 180 days since receiving a visa under 8 U.S.C. 1182(j) of the Immigration and Nationality Act, as amended. The physician shall provide the Federal Co-Chair all copies of their Certificates of Eligibility for Exchange Visitor (J-1) Status, form DS-2019 and every other document needed to verify status.

7. The employer must agree to provide health services to individuals without discriminating against them because (a) they are unable to pay for those services or (b) payment for those health services will be made under Medicare and Medicaid. The employer may charge no more than the usual and customary rate prevailing in the HPSA/MUA in which services are provided. In addition, charges must be discounted on a sliding fee scale for persons at or below 200 percent of poverty. Persons with third party insurance may be charged the full fee for service. A notice must be posted in a conspicuous location in the patient waiting area at the practice site notifying patients of the charges for service as required in this paragraph. Such notice must contain at least the information set forth in the [Sample Notice - Policies for Healthcare Services Charges](#).

8. For special population designated HPSAs, employers must demonstrate their record of serving Medicare, Medicaid, and medically indigent patients for three years prior to the request for waiver as well as their continuing intentions to serve such individuals. Such demonstrations will not be required for Community Health Centers, Rural Health Centers and Federally Qualified Centers that are otherwise required to serve the target population. Such sponsors must provide a copy of their Notice of Grant Award instead.

9. The physician must sign and incorporate into the employment agreement the [Federal Co-Chair's "J-1 Visa Policy Affidavit and Agreement"](#) for consideration by the Federal Co-Chair of the request and must comply with the terms and conditions set forth in that document.

10. All requests approved initially by the Federal Co-Chair and approved subsequently by the United States Citizenship and Immigration Services of the United States Department of Homeland Security will be subject to review by a relevant Federal compliance official for compliance with this policy statement and other applicable laws. An employer's failure to comply in good faith with this waiver policy will be considered in the evaluation of other applications involving the same employer.