



## 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 request for a waiver. 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 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 in a designated primary care Health Professional shortage Area (HPSA), or a Medically Underserved Area (MUA), or psychiatric care in a Mental Health Professional Shortage Area, as designated by the Health Resources and Services Administration (HRSA). The physician will work in primary care or psychiatry within the legislatively defined Northern Border Regional Commission's service area for at least 40 hours a week, for a minimum of three years. Travel or on-call time may not be included in the 40 hours required by this paragraph except for obstetricians.
3. The sponsor 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 sponsor shall demonstrate, with such supporting documentation as the Federal Co-Chair may require, 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.
4. The employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete 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, must be licensed by the State where they will practice (Maine, New Hampshire, New York, or Vermont) primary medical care that includes general or family practice, general internal medicine, pediatrics, or obstetrics and gynecology, in a designated primary care HPSA or designated MUA or psychiatric care in a designated Mental Health Professional Shortage Area.

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 facility or practice sponsoring the physician 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 sponsor 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, which is attached to this policy statement. Sponsors seeking a placement in a special population HPSA or MUA placement must demonstrate their recent record of serving Medicare, Medicaid, and medically indigent patients as well as their continuing intentions to serve such individuals.

8. The physician must sign and have notarized the Federal Co-Chair’s “J-1 Visa Policy Affidavit and Agreement” prior to consideration by the Federal Co-Chair of the request and must comply with the terms and conditions set forth in that document.

9. 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. A sponsor’s failure to comply in good faith with this waiver policy will be considered in the evaluation of other applications involving the same sponsor.