

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 83

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PHYSICIANS; AMENDING SECTION 39-6102, IDAHO CODE, TO REVISE  
2 PROVISIONS REGARDING THE PURPOSE OF THE IDAHO CONRAD J-1 VISA WAIVER  
3 PROGRAM AND THE NATIONAL INTEREST WAIVER PROGRAM; AMENDING SECTION  
4 39-6105, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-6106,  
5 IDAHO CODE, TO INCREASE THE NUMBER OF J-1 VISA WAIVER REQUEST AP-  
6 PPLICATIONS ALLOTTED TO A HEALTH CARE FACILITY AND TO MAKE TECHNICAL  
7 CORRECTIONS; AMENDING SECTION 39-6107, IDAHO CODE, TO REDUCE THE PERIOD  
8 OF TIME FOR SUSTAINED ACTIVE RECRUITMENT THAT A HEALTH CARE FACILITY  
9 MUST DEMONSTRATE IN ORDER FOR ITS WAIVER REQUEST APPLICATION TO BE CON-  
10 sidered; AMENDING SECTION 39-6108, IDAHO CODE, TO REVISE PROVISIONS  
11 REGARDING APPLICANT CRITERIA; AMENDING SECTION 39-6111, IDAHO CODE, TO  
12 REVISE PROVISIONS REGARDING J-1 PETITIONING PHYSICIAN CRITERIA; AMEND-  
13 ING SECTION 39-6111A, IDAHO CODE, TO REVISE PROVISIONS REGARDING FLEX  
14 WAIVERS FOR J-1 PETITIONING PHYSICIANS; AMENDING SECTION 39-6111B,  
15 IDAHO CODE, TO REVISE PROVISIONS REGARDING CRITERIA FOR NATIONAL IN-  
16 TEREST WAIVER PETITIONING PHYSICIANS; AMENDING SECTION 39-6114, IDAHO  
17 CODE, TO REVISE PROVISIONS REGARDING CERTAIN APPLICATION FORMS AND AC-  
18 COMPANYING DOCUMENTS; AMENDING SECTION 39-6114A, IDAHO CODE, TO REVISE  
19 PROVISIONS REGARDING CERTAIN APPLICATION FORMS AND DOCUMENTS; AMENDING  
20 SECTION 39-6116, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT OF HEALTH  
21 AND WELFARE WILL RETURN APPLICATIONS AND APPLICATION FEES TO CERTAIN  
22 APPLICANTS AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-  
23 GENCY AND PROVIDING AN EFFECTIVE DATE.  
24

25 Be It Enacted by the Legislature of the State of Idaho:

26 SECTION 1. That Section 39-6102, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 39-6102. PURPOSE. Under this chapter, rural and underserved communi-  
29 ties in Idaho would be able to apply for the placement of a foreign trained  
30 physician after demonstrating that they are unable to recruit an American  
31 physician, and all other recruitment/placement possibilities have proven to  
32 be inaccessible.

33 (1) The "Idaho Conrad J-1 Visa Waiver Program" authorizes the Idaho  
34 department of health and welfare to recommend up to thirty (30) foreign  
35 trained physicians per federal fiscal year to locate in communities that are  
36 federally designated as having a health workforce shortage. ~~No more than~~  
37 ~~ten (10) of thirty (30) recommendations~~ Recommendations may be for physician  
38 specialists other than pediatrics, internal medicine, family medicine,  
39 obstetrics, gynecology, psychiatry, ~~or~~ general surgery, or physician spe-  
40 cialists. Applications for specialists must demonstrate a need for the type  
41 of specialty held by the petitioning physician. Final approval of J-1 visa

1 waiver requests are made by the United States bureau of citizenship and im-  
2 migration services.

3 (2) Provided health care organizations located in federally designated  
4 shortage areas do not utilize the full annual allocation of J-1 visa waivers,  
5 the department ~~will~~ may ~~accept no more than ten (10)~~ waiver applications six  
6 (6) months after the beginning of each federal fiscal year for petitioning  
7 J-1 visa waiver physicians to work in areas without a federal shortage area  
8 designation. The practice and petitioning physician must serve patients who  
9 reside in federally designated areas of underservice. ~~The maximum number of~~  
10 ~~flex waiver applications available to specialists is limited to no more than~~  
11 ~~five (5) per federal fiscal year.~~

12 (3) The "National Interest Waiver Program" allows the Idaho department  
13 of health and welfare to testify that it is in the public's interest that a  
14 waiver be granted to a foreign trained physician who commits to locating in  
15 a community that is federally determined as having a health workforce short-  
16 age. Final approval of the national interest waiver request is made by the  
17 United States bureau of citizenship and immigration services.

18 SECTION 2. That Section 39-6105, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 39-6105. DEFINITIONS. As used in this chapter:

21 (1) "Applicant" means a health care facility that seeks to employ a  
22 physician and is requesting state support of a J-1 visa waiver or national  
23 interest waiver.

24 (2) "Area of underservice" means a health professional shortage area in  
25 primary care or mental health, a medically underserved area, or a medically  
26 underserved population, ~~federally~~ designated by the secretary of health and  
27 human services.

28 (3) "Department" means the Idaho department of health and welfare.

29 (4) "Employment contract" means a legally binding agreement between  
30 the applicant and the physician named in the J-1 visa waiver or national  
31 interest waiver application ~~which~~ that contains all terms and conditions of  
32 employment, including, ~~but not limited to,~~ the salary, benefits, length of  
33 employment and any other consideration owing under the agreement. The em-  
34 ployment contract must meet all state and federal criteria, including labor  
35 and immigration rules.

36 (5) "Federal fiscal year" means the twelve (12) months ~~which~~ that com-  
37 mence the first day of October in each year and close on the thirtieth day of  
38 September of the following year.

39 (6) "Flex" means the ~~maximum of ten (10) waiver applications, with no~~  
40 ~~more than five (5) available to specialists,~~ applications that may be sub-  
41 mitted six (6) months following the beginning of each federal fiscal year for  
42 J-1 visa waiver physicians to work in areas without a federal shortage area  
43 designation.

44 (7) "Full time" means a working week of a minimum of forty (40) hours at  
45 one (1) or more health care facilities.

46 (8) "Health care facility" means an entity with an active Idaho tax-  
47 payer identification number doing business or proposing to do business in  
48 the practice location where the physician would be employed, whose stated  
49 purposes include the delivery of primary medical or mental health care.

1 (9) "Interested government agency" means an agency that has the author-  
 2 ity from the United States department of state to submit requests for J-1  
 3 visa waivers of foreign physician petitioners on behalf of public interest.

4 (10) "J-1 visa" means an entrance permit into the United States for  
 5 a foreign trained physician who is a nonimmigrant admitted under section  
 6 101(a)(15)(J) of the United States ~~information and education exchange~~  
 7 immigration and nationality act or who acquired such status or who acquired  
 8 exchange visitor status under the act.

9 (11) "J-1 visa waiver" means a federal action that waives the require-  
 10 ment for a foreign physician, in the United States on a J-1 visa, to return to  
 11 his home country for a two (2) year period following medical residency train-  
 12 ing.

13 (12) "National interest waiver" means an exemption from the labor cer-  
 14 tification process administered by the United States department of labor for  
 15 foreign physicians whose will to stay in the United States and work in an area  
 16 of underservice in Idaho is determined to be in the public interest by the  
 17 Idaho department of health and welfare.

18 (13) "New start" means a health care facility, as defined in subsection  
 19 (8) of this section, that has been in existence for twelve (12) months or  
 20 less.

21 (14) "Petitioning physician" means the foreign physician, named in the  
 22 J-1 visa waiver or national interest waiver application, who requires a  
 23 waiver to remain in the United States to practice medicine.

24 (15) "Primary care" means a medical doctor or doctor of osteopathy li-  
 25 censed in pediatrics, family medicine, internal medicine, obstetrics, gyne-  
 26 cology, general surgery or psychiatry.

27 ~~(16) "Sliding fee discount schedule" means a written delineation docu-~~  
 28 ~~menting the value of charge discounts granted to patients based upon finan-~~  
 29 ~~cial hardship and federal poverty guidelines.~~

30 ~~(17) (16) "Specialist" means a medical doctor or doctor of osteopathy in~~  
 31 ~~any specialty or subspecialty other than pediatrics, family medicine, in-~~  
 32 ~~ternal medicine, obstetrics, gynecology, general surgery or psychiatry.~~

33 ~~(18) (17) "Unmet need" means a vacancy or shortage of primary care or~~  
 34 ~~specialist physicians experienced by a community or population, as defined~~  
 35 ~~by federally designated health professional shortage areas or medically un-~~  
 36 ~~derserved areas/populations or as demonstrated by additional data and in-~~  
 37 ~~formation required by the department.~~

38 ~~(19) (18) "Vacancy" means a full-time physician practice opportunity in~~  
 39 ~~the delivery of health care services.~~

40 SECTION 3. That Section 39-6106, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42 39-6106. GENERAL REQUIREMENTS AND LIMITATIONS. (1) J-1 visa waiver or  
 43 national interest waiver request. The department may only submit a waiver  
 44 request when:

45 (a) The application contains all of the required information and docu-  
 46 mentation; ~~and~~

47 (b) The application meets all state and federal criteria; ~~and~~

1 (c) Foreign exchange physicians having a J-1 case number assigned by  
2 the United States department of state have paid all federal processing  
3 fees; and

4 (d) The applicant has paid the state of Idaho application processing  
5 fee.

6 (2) Limitations of department actions.

7 (a) Prior to submission of an application, the department may provide  
8 information to the applicant on preparing a complete application.

9 (b) The department will not be responsible for adding any information  
10 to incomplete application packets.

11 (c) For applicants who have benefited from department waiver requests  
12 previously, the applicant's history of compliance will be a considera-  
13 tion in future decisions for waiver requests.

14 (d) In any single program year, a health care facility will not be al-  
15 lotted more than ~~two (2)~~ five (5) J-1 visa waiver request applications  
16 per practice location.

17 (e) The shortage area designation must be current on the date the United  
18 States department of state reviews and recommends the application and  
19 on the date the immigration agency approves the J-1 visa waiver and na-  
20 tional interest waiver. Any application that is being submitted to the  
21 department at the end of the three (3) year health professional shortage  
22 area designation cycle may be summarily denied if the renewal is not ob-  
23 tained.

24 (i) Participation by the department in the J-1 visa waiver pro-  
25 gram and in the national interest waiver program is completely  
26 discretionary and voluntary. The department may elect not to par-  
27 ticipate in the program at any time. The submission of a complete  
28 waiver application package does not ensure the department will  
29 recommend a waiver. The department reserves the right to recom-  
30 mend or decline any request for a waiver.

31 (ii) The department, its employees or agents are held harmless of  
32 any perceived consequence for the denial of a waiver petitioner,  
33 or the approved placement of one that is not favorable.

34 (iii) Application procedures for J-1 visa waiver physician place-  
35 ments were developed by the department in compliance with P.L.  
36 103-416 and subsequent revisions. The procedures for the issuance  
37 of national interest waiver recommendations were developed by the  
38 department in compliance with 8 CFR ~~see.~~ 214.12 and 8 CFR ~~see.~~ 245  
39 and subsequent revisions. These procedures are subject to updates  
40 and changes at any time. Interpretation of these procedures rests  
41 solely with the department in consultation with the appropriate  
42 federal agencies.

43 SECTION 4. That Section 39-6107, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 39-6107. APPLIED PRINCIPLES. (1) Option of last resort. The J-1 visa  
46 waiver and national interest waiver programs are considered a final source  
47 for recruiting qualified physicians. These programs are not a substi-  
48 tute for broad recruiting efforts for graduates from United States medical  
49 schools, but an option of last resort. Any application that qualifies for

1 consideration under any other interested government agency or federal pro-  
 2 gram, such as the one administered by the department of health and human  
 3 services, must be submitted under that program in lieu of the J-1 visa waiver  
 4 program. The option of last resort principle does not apply to national  
 5 interest waiver petitioning physicians for whom a J-1 visa waiver request  
 6 was issued by the state of Idaho; in which case, physician retention is the  
 7 objective if it is determined to be in the public interest.

8 (2) Waiver request applications will only be considered for health care  
 9 facilities that can provide evidence of sustained active recruitment over a  
 10 period of at least ~~six (6)~~ three (3) months for the physician vacancy in the  
 11 practice location. The ~~six (6)~~ three (3) month vacancy requirement does not  
 12 apply to a national interest waiver petitioning physician for whom a J-1 visa  
 13 waiver request was issued by the state of Idaho.

14 (3) The J-1 visa waiver program and national interest waiver program  
 15 will be used to assist health care facilities that can document the provision  
 16 of health care services to all residents of the federally determined area of  
 17 underservice. When a federal designation is for an underserved population,  
 18 the health care facility must document the provision of care to, and assure  
 19 access by, the underserved population.

20 SECTION 5. That Section 39-6108, Idaho Code, be, and the same is hereby  
 21 amended to read as follows:

22 39-6108. CRITERIA FOR APPLICANTS. (1) Applicants must be existing  
 23 health care facilities that:

24 (a) Have an active taxpayer identification number in Idaho; and

25 (b) Have provided medical or mental health care in Idaho for a minimum  
 26 of twelve (12) months prior to submitting the application, or meet the  
 27 requirements for a new start as defined in this chapter.

28 (2) The waiver request to the department must come from a U.S. health  
 29 care facility on behalf of the physician and not directly from the physician  
 30 or his representative.

31 (3) J-1 visa waiver and national interest waiver petitioners with fel-  
 32 lowship training must contract with employers to provide primary care ser-  
 33 vices full time.

34 (4) Applicants must not be former J-1 visa waiver or national interest  
 35 waiver physicians who are currently fulfilling their required three (3) or  
 36 five (5) year obligation.

37 (5) Applicants may not submit waiver requests for a relative.

38 (6) Applicants must accept all patients regardless of their ability to  
 39 pay.

40 (7) Except for state institutional and correctional facilities desig-  
 41 nated as federal shortage areas, the applicant must-

42 ~~(a) Serve~~ serve medicare clients, medicaid clients, low-income  
 43 clients, uninsured clients, and the population of a federal shortage  
 44 designation.

45 ~~(b) Agree to implement a sliding fee discount schedule. The schedule~~  
 46 ~~must be:~~

47 ~~(i) Available in Spanish (where applicable) and English; and~~

48 ~~(ii) Posted conspicuously; and~~

~~(iii) Distributed in hard copy on request to individuals making or keeping appointments with that physician.~~

(8) Applicants must have a signed employment contract with the physician, and guarantee wages for the duration of the contract.

(9) Applicants must cooperate in providing the department with clarifying information, in verifying information already provided, or in any investigation of the applicant's financial status and payer mix.

(10) Applicants must first apply through any organization with federal or interested governmental agency authority ~~which that~~ submits waiver requests for Idaho's underserved rural areas. Documentation ~~which that~~ fully explains why this route was not taken for placement is required as part of the application.

(11) The physician's name and practice location will be made available to the public as a provider who accepts medicare, and medicaid ~~and utilizes a sliding fee schedule for the low-income population.~~

(12) An assurance letter that the health care facility, its principals, and the J-1 or national interest waiver petitioning physician are not under investigation for, under probation for, or under restriction for medicare or medicaid fraud, or other violations of law or licensure restrictions that may indicate that it may not be in the public interest that a waiver be granted, must be provided.

(13) The applicant and its principals must be free of default on any federal or state scholarship or loan repayment program such as the national health service corps ~~or by the state.~~

SECTION 6. That Section 39-6111, Idaho Code, be, and the same is hereby amended to read as follows:

39-6111. CRITERIA FOR THE J-1 PETITIONING PHYSICIAN. (1) The petitioning physician must not have a J-1 visa waiver pending for any other employment offer, and must provide a notarized statement testifying to this fact.

(2) The physician must have the qualifications described in recruitment efforts for a specific vacancy.

(3) Petitioning physicians must:

(a) Provide direct patient care full time; and

(b) Be trained in:

(i) Family medicine;

(ii) Internal medicine;

(iii) Pediatrics;

(iv) Obstetrics and gynecology;

(v) General surgery;

(vi) Psychiatry and its subspecialties; or

(vii) Other specialties licensed or eligible for licensure by the Idaho board of medicine, if there is a demonstrated need by the applicant organization.

(4) Physicians must apply and be eligible for an active Idaho medical license. The petitioning physician may be participating in an accredited residency program for this application, but must have successfully completed the third year of their residency training program for their employment contract to be activated. The petitioning physician must have an

1 unrestricted license to practice in the state of Idaho and be board-certified or eligible in his respective medical specialty at the commencement  
2 of employment. A copy of the acknowledgment of receipt form from the state  
3 board of medicine must be included in the waiver request.  
4

5 ~~(5) Physicians must have at least one (1) recommendation from their~~  
6 ~~residency program that:~~

7 ~~(a) Addresses the physician's interpersonal and professional ability~~  
8 ~~to effectively care for diverse and low-income persons in the United~~  
9 ~~States;~~

10 ~~(b) Describes an ability to work well with supervisory and subordinate~~  
11 ~~medical staff, and adapt to the culture of United States health care fa-~~  
12 ~~cilities;~~

13 ~~(c) Documents the level of specialty training, if any;~~

14 ~~(d) Is prepared on residency program letterhead and is signed by resi-~~  
15 ~~dency program staff or faculty; and~~

16 ~~(e) Includes name, title, relationship to physician, address, and~~  
17 ~~telephone number of signatory.~~

18 ~~(6) (5) The petitioning physician must agree with all provisions of the~~  
19 ~~employment contract as described in section 39-6109, Idaho Code. Other ne-~~  
20 ~~gotiable terms of the contract are between the petitioning physician and the~~  
21 ~~hiring agency.~~

22 ~~(7) (6) The petitioning physician must:~~

23 ~~(a) (i) Agree to work full time for no less than three (3) years in~~  
24 ~~an area of underservice in the state of Idaho;~~

25 ~~(b) (ii) Provide health care to medicare and medicaid beneficia-~~  
26 ~~ries; and~~

27 ~~(c) Post and implement a sliding fee discount schedule;~~

28 ~~(d) (iii) Serve the low-income population; all individuals within~~  
29 ~~a shortage designation population, including low-income and unin-~~  
30 ~~insured individuals; or~~

31 ~~(e) Serve the uninsured population; and~~

32 ~~(f) Serve the shortage designation population; or~~

33 ~~(g) (b) Serve the population of a local, state, or federal governmental~~  
34 ~~institution or corrections facility as an employee of the institution.~~

35 SECTION 7. That Section 39-6111A, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 39-6111A. FLEX WAIVERS FOR J-1 PETITIONING PHYSICIANS. The department  
38 will accept ~~no more than ten (10)~~ waiver applications six (6) months after  
39 the beginning of each federal fiscal year for petitioning J-1 visa waiver  
40 physicians to work in areas without a federal shortage area designation. The  
41 practice and petitioning physician must serve patients who reside in feder-  
42 ally designated areas of underservice. The maximum number of flex applica-  
43 tions may not exceed the total number of waiver slots available.

44 (1) The practice location must be located outside of a federally desig-  
45 nated shortage area to apply for a flex waiver.

46 (2) The applicant organization and petitioning physician must meet all  
47 eligibility, application and reporting requirements with the exception of  
48 the practice location.

1 (3) The applicant organization must submit documentation demonstrat-  
2 ing how the practice location and petitioning physician will serve patients  
3 who reside in federally designated areas of underservice.

4 ~~(4) The maximum number of flex waiver applications available for spe-~~  
5 ~~cialists is limited to no more than five (5) per federal fiscal year.~~

6 ~~(5)~~ (4) Flex waiver applications must demonstrate a need for the pri-  
7 mary care or specialty petitioning physician.

8 SECTION 8. That Section 39-6111B, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 39-6111B. CRITERIA FOR THE NATIONAL INTEREST WAIVER PETITIONING  
11 PHYSICIAN. The national interest waiver petitioning physician must:

12 (1) (a) Provide direct patient care full time; and

13 (b) Be trained in:

14 (i) Family medicine;

15 (ii) Internal medicine;

16 (iii) Pediatrics;

17 (iv) Obstetrics and gynecology;

18 (v) General surgery; ~~or~~

19 (vi) Psychiatry and its subspecialties; ~~or~~

20 (vii) Other specialties licensed or eligible for licensure by the  
21 Idaho board of medicine, if there is a demonstrated need by the ap-  
22 plicant organization.

23 (2) Apply and be eligible for an active Idaho medical license. The  
24 physician may be participating in an accredited residency program for this  
25 application, but must have successfully completed the third year of his  
26 residency training program for his employment contract to be activated. The  
27 physician must have an unrestricted license to practice in the state of Idaho  
28 and be board-certified or eligible in his respective medical specialty at  
29 the commencement of employment. A copy of the acknowledgment of receipt form  
30 from the state board of medicine must be included in the waiver request.

31 ~~(3) Have at least one (1) recommendation from their residency program~~  
32 ~~and one (1) from a previous employer, if applicable, that:~~

33 ~~(a) Addresses the physician's interpersonal and professional ability~~  
34 ~~to effectively care for diverse and low-income persons in the United~~  
35 ~~States;~~

36 ~~(b) Describes an ability to work well with supervisory and subordinate~~  
37 ~~medical staff, and adapt to the culture of United States health care fa-~~  
38 ~~cilities;~~

39 ~~(c) Documents the level of specialty training, if any;~~

40 ~~(d) Is prepared on residency program letterhead or the employer's busi-~~  
41 ~~ness letterhead and is signed by residency program staff or faculty; and~~

42 ~~(e) Includes name, title, relationship to physician, address and phone~~  
43 ~~number of signatory.~~

44 ~~(4)~~ (3) Agree with all provisions of the employment contract as de-  
45 scribed in section 39-6109A, Idaho Code. Other negotiable terms of the  
46 contract are between the physician and the hiring agency.

47 ~~(5)~~ (4) (a) (i) Agree to work full time for no less than five (5)  
48 years in an area of underservice in the state of Idaho unless the  
49 physician qualifies for the three (3) year service provision under



1 the applicable national interest waiver rules and regulations or  
 2 the physician is transferring from another area of underservice;  
 3 ~~(b) (ii) Provide health care to medicare and medicaid beneficia-~~  
 4 ~~ries; and~~  
 5 ~~(c) Post and implement a sliding fee discount schedule;~~  
 6 ~~(d) (iii) Serve the low-income population; all individuals within~~  
 7 ~~a shortage designation population, including low-income and unin-~~  
 8 ~~insured individuals; or~~  
 9 ~~(e) Serve the uninsured population; and~~  
 10 ~~(f) Serve the shortage designation population; or~~  
 11 ~~(g) (b) Serve the population of a local, state or federal governmental~~  
 12 ~~institution or corrections facility as an employee of the institution.~~

13 SECTION 9. That Section 39-6114, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 39-6114. REQUIRED APPLICATION FORMS AND ACCOMPANYING DOCUMENTS FOR A  
 16 J-1 VISA WAIVER REQUEST. (1) Applications for the J-1 visa waiver program  
 17 must include, but not be limited to, the following:

18 (a) Evidence the applicant has no other mechanism through another  
 19 process or interested government agency to apply for a J-1 visa waiver  
 20 for the petitioning physician;

21 (b) Evidence of recruiting efforts over a minimum of ~~six (6)~~ three (3)  
 22 months prior to when the physician applied for the vacancy; this must  
 23 include ~~regional and national electronic or print advertising stating~~  
 24 ~~the position available and the practice site location. Copies of ad-~~  
 25 ~~vertisements submitted must show the publication date. Advertisements~~  
 26 ~~run at the time of or after preparation of the employment contract are~~  
 27 ~~unusable. Online advertisements must show dates the advertisements~~  
 28 ~~were online. Contracts with recruitment firms are allowable as evi-~~  
 29 ~~dence in lieu of electronic or print advertisements if the activities~~  
 30 ~~described in this section are provided under contract. Recruitment~~  
 31 ~~firm contracts must be included if applicable documentation that the~~  
 32 ~~health care facility has utilized broad recruitment efforts and was~~  
 33 ~~unsuccessful;~~

34 (c) Evidence that the petitioning physician selected for the position  
 35 visited the practice site;

36 (d) A ~~mailing~~ list of physicians who applied for the position and the  
 37 reason they were not selected;

38 (e) Evidence that the applicant has been providing medical or mental  
 39 health care in Idaho for at least twelve (12) months or meets the re-  
 40 quirements for a new start as defined in this chapter. This includes,  
 41 but may not be limited to, the Idaho taxpayer identification number, fa-  
 42 cility address, fax and telephone numbers, and staffing list;

43 (f) A copy of an employment contract between the petitioning physician  
 44 and the applicant for no less than three (3) years;

45 (g) Evidence that the employment site is in a designated area of under-  
 46 service;

47 ~~(h) The request must be submitted by the applicant or applicant's rep-~~  
 48 ~~resentative. The letter must be written on the applicant's letterhead~~

1 stationery, which includes address, telephone and fax numbers, if any.  
2 Letters, contracts and forms must contain original signatures;

3 ~~(i)~~ A copy of the sliding fee scale which the health care facility must  
4 agree to implement and post;

5 ~~(j)~~ (h) A copy of the petitioning physician's license to practice  
6 medicine in the state of Idaho, or proof of the physician's eligibility  
7 to apply for an Idaho license;

8 ~~(k)~~ (i) Legible copies of all ~~IAP-66~~/DS 2019 forms (certificate of eli-  
9 gibility for exchange visitor status), covering every period the physi-  
10 cian was in J-1 status, submitted in chronological order;

11 ~~(l)~~ (j) Legible copies (front and back) of all I-94 entry and departure  
12 cards for the physician and family members;

13 ~~(m)~~ (k) The petitioning physician's curriculum vitae;

14 ~~(n)~~ (l) A statement of "no objection from the government" of the pe-  
15 titioning physician's country of nationality, if applicable. The  
16 government of the country to which the petitioning physician is oth-  
17 erwise contractually obliged to return must furnish a letter to the  
18 director of the United States department of state with a statement in  
19 writing that there is no objection to such waiver in cases where the  
20 petitioning physician's medical education or training is funded by the  
21 government of the petitioning physician's home country. Whether or not  
22 there is foreign government funding can be determined from examining  
23 the physician's ~~IAP-66~~ DS 2019 form. This letter must be in English and  
24 follow the procedures and format outlined in federal register volume  
25 60, number 197, published October 12, 1995 (or subsequent revisions);

26 ~~(o)~~ (m) Payment of the department's administrative application pro-  
27 cessing fee;

28 ~~(p)~~ (n) Federal form G-28 or letterhead from the law office, if the  
29 physician is being represented by an attorney, with telephone and fax  
30 numbers, and a contact name and address; and

31 ~~(q)~~ (o) A copy of the United States department of state-issued instruc-  
32 tion sheet with case number.

33 (2) The state may require any other documentation or information for  
34 the support and approval process in the waiver application on the part of the  
35 petitioning physician or the applicant.

36 (3) These requirements are subject to change without notice.

37 (4) J-1 visa waiver program application forms and instructions are  
38 available and may be requested from the department.

39 (5) The petitioning physician's case number must appear on each page.  
40 The case number is assigned by the United States department of state.

41 (6) All required information and documentation must be submitted in  
42 a single package with all documents presented per instructions that will  
43 be provided by the department upon request. One (1) single-sided, unbound  
44 original and one (1) single-sided, unbound copy must be included. Waiver  
45 requests that do not comply with these requirements and the instructions  
46 provided by the department will not be considered.

47 (7) The request must be submitted by the applicant or applicant's rep-  
48 resentative. The letter must be written on the applicant's letterhead sta-  
49 tionery, which includes address, telephone and fax numbers, if any. Let-  
50 ters, contracts and forms must contain original signatures.

1 SECTION 10. That Section 39-6114A, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 39-6114A. REQUIRED APPLICATION FORMS AND DOCUMENTS FOR A NATIONAL  
4 INTEREST WAIVER REQUEST. (1) Applications for the national interest waiver  
5 program must include, but not be limited to, the following:

6 (a) Evidence of recruiting efforts over a minimum of ~~six (6)~~ three (3)  
7 months prior to when the petitioning physician applied for the vacancy.  
8 This evidence must include ~~regional and national electronic or print~~  
9 ~~advertising stating the position available and the practice site lo-~~  
10 ~~cation. Copies of advertisements submitted must show the publication~~  
11 ~~date. Advertisements run at the time of or after preparation of the em-~~  
12 ~~ployment contract are unusable. Online advertisements must show dates~~  
13 ~~the advertisements were online. Contracts with recruitment firms are~~  
14 ~~allowable as evidence in lieu of electronic or print advertisements~~  
15 ~~if the activities described in this paragraph are provided under con-~~  
16 ~~tract. Recruitment firm contracts must be included, if applicable.~~  
17 ~~The provision of evidence for recruitment efforts over a six (6) month~~  
18 ~~period is not necessary for national interest waiver petitioning physi-~~  
19 ~~cians who receive a J-1 visa waiver at the request of the state of Idaho~~  
20 ~~documentation that the health care facility has utilized broad recruit-~~  
21 ~~ment efforts and was unsuccessful;~~

22 (b) Evidence that the physician selected for the position visited the  
23 practice site;

24 (c) A ~~mailing~~ list of physicians who applied for the position and the  
25 reason they were not selected;

26 (d) Evidence that the applicant has been providing medical or mental  
27 health care in Idaho for at least twelve (12) months or meets the re-  
28 quirements for a new start as defined in section 39-6105, Idaho Code.  
29 This includes, but may not be limited to, the Idaho taxpayer identifica-  
30 tion number, facility address, fax and telephone numbers, and staffing  
31 list;

32 (e) A copy of an employment contract between the physician and the ap-  
33 plicant;

34 (f) Evidence that the employment site is in a federally determined area  
35 of underservice;

36 ~~(g) The request must be submitted by the applicant or applicant's rep-~~  
37 ~~resentative. The letter must be written on the applicant's letterhead~~  
38 ~~stationery, which includes address, telephone and fax numbers, if any.~~  
39 ~~Letters, contracts and forms must contain original signatures;~~

40 ~~(h) A copy of the sliding fee scale which the health care facility must~~  
41 ~~agree to implement and post;~~

42 ~~(i) (g)~~ A copy of the physician's license to practice medicine in the  
43 state of Idaho, or eligibility to apply for an Idaho license;

44 ~~(j) (h)~~ Legible copies of any DS 2019 forms ~~(formerly IAP-66)~~, and other  
45 United States immigration documentation attesting to the physician's  
46 current legal status and history of stay in the United States;

47 ~~(k) (i)~~ The physician's curriculum vitae; and

48 ~~(l) (j)~~ Payment of the department's administrative application pro-  
49 cessing fee.

1 (2) The state of Idaho may require any other documentation or informa-  
2 tion for the support and approval process in the waiver application on the  
3 part of the physician or the applicant.

4 (3) The request must be submitted by the applicant or applicant's rep-  
5 resentative. The letter must be written on the applicant's letterhead sta-  
6 tionery, which includes address, telephone and fax numbers, if any. Let-  
7 ters, contracts and forms must contain original signatures.

8 ~~(3)~~ (4) These requirements are subject to change without notice.

9 SECTION 11. That Section 39-6116, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 39-6116. DEPARTMENT REVIEW AND ACTION. (1) The department will review  
12 applications for completeness in date order received.

13 (2) Applications submitted for petitioning physicians with language  
14 skills appropriate to the community they wish to serve will be given prior-  
15 ity.

16 (3) Selection preference will be given to applications received from  
17 health professional shortage areas having the greatest unmet need for physi-  
18 cians.

19 (4) Applications must be mailed, sent by commercial carrier, or deliv-  
20 ered in person. Applications may not be sent electronically. The department  
21 is not responsible for applications or related materials lost in the mail.

22 (5) The department may limit the time period during which applications  
23 may be submitted including refusing to process applications after the de-  
24 partment has submitted requests for all applications allowed in a given fed-  
25 eral fiscal year.

26 (6) In the event an applicant for a J-1 visa waiver or a national in-  
27 terest waiver submits an application to the department, the department will  
28 acknowledge receipt of the copy of the application within five (5) business  
29 days of receipt.

30 (7) The department will review applications within thirty (30) working  
31 days of receipt of the application to determine if the application is com-  
32 plete, and provide a written explanation of missing items.

33 (8) An additional fee will not be charged for incomplete applications  
34 if the missing items are provided within thirty (30) calendar days of the  
35 date on the letter of explanation from the department. If new information is  
36 not received within this time frame, the application will be returned to the  
37 applicant. The application fee will not be returned.

38 (9) The department will return applications and application fees to ap-  
39 plicants having had ~~two (2)~~ five (5) approved J-1 visa waiver requests in the  
40 current federal fiscal year for the shortage area or applications received  
41 after thirty (30) placements have been recommended.

42 (10) The department will review complete applications against the cri-  
43 teria specified in this chapter.

44 (11) The department may:

45 (a) Request additional clarifying information;

46 (b) Verify information presented;

47 (c) Investigate the financial status of the applicant;

48 (d) Request verification of the health care facility's payer mix for  
49 the previous twelve (12) to eighteen (18) months; and

1 (e) Return the application as incomplete if the applicant does not sup-  
2 ply the requested clarifying information in its entirety within thirty  
3 (30) days of request. The application fee is nonrefundable. Incomplete  
4 applications must be resubmitted with the application fee. Resubmitted  
5 applications will be considered new applications and will be reviewed  
6 in date order received.

7 (12) The department may request the director of the United States de-  
8 partment of state to recommend that the immigration agency grant the J-1 visa  
9 waiver.

10 (13) The department may provide a letter of attestation to the immigra-  
11 tion agency that the physician's work in Idaho is in the public interest for a  
12 national interest waiver.

13 (14) The department will notify the applicant in writing of action taken  
14 by the department. If the decision is to decline the J-1 visa waiver or na-  
15 tional interest waiver request, the department will provide an explanation  
16 of how the application failed to meet the stated criterion or criteria. The  
17 application fee is nonrefundable.

18 (15) The department may deny a J-1 visa waiver or national interest  
19 waiver request or, prior to United States department of state or immigration  
20 agency approval, may withdraw a J-1 visa waiver or national interest waiver  
21 recommendation for cause, which shall include the following:

22 (a) The application is not consistent with state or federal criteria;

23 (b) Fraud;

24 (c) Misrepresentation;

25 (d) False statements;

26 (e) Misleading statements;

27 (f) Evasion or suppression of material facts in the J-1 visa waiver or  
28 national interest waiver application or in any ~~of its~~ required documen-  
29 tation and supporting materials;

30 (g) Incomplete or insufficient information; or

31 (h) Allowable number of recommendations for the facility or year has  
32 been met.

33 (16) Applications denied may be resubmitted with concerns addressed,  
34 with the application fee. Resubmitted applications will be considered new  
35 applications and will be reviewed in date order received.

36 (17) The department retains the authority to audit, monitor and conduct  
37 unannounced site visits.

38 SECTION 12. An emergency existing therefor, which emergency is hereby  
39 declared to exist, this act shall be in full force and effect on and after  
40 July 1, 2023.