

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 394

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH AND SAFETY; AMENDING SECTION 39-6105, IDAHO CODE, TO  
2 REVISE A DEFINITION; AMENDING SECTION 39-6111, IDAHO CODE, TO REVISE A  
3 PROVISION RELATING TO THE MEDICAL CRITERIA FOR A J-1 PETITIONING PHYSI-  
4 CIAN AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 39-6111A,  
5 IDAHO CODE, TO REVISE A PROVISION RELATING TO THE MEDICAL CRITERIA FOR A  
6 NATIONAL INTEREST WAIVER PETITIONING PHYSICIAN AND TO MAKE A TECHNICAL  
7 CORRECTION.  
8

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

10 SECTION 1. That Section 39-6105, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 39-6105. DEFINITIONS. As used in this chapter:

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

16 (2) "Area of underservice" means a health professional shortage area in  
17 primary care or mental health, a medically underserved area, or a medically  
18 underserved population, federally designated by the secretary of health and  
19 human services. Physician scarcity areas as determined by the centers for  
20 medicaid and medicare services are included for the purpose of placing na-  
21 tional interest waiver petitioning physicians.

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

23 (4) "De-designation threshold" means the number of full-time equiva-  
24 lent primary care physicians necessary to remove the federal designation as  
25 an area of underservice.

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

33 (6) "Federal fiscal year" means the twelve (12) months which commence  
34 the first day of October in each year and close on the thirtieth day of  
35 September of the following year.

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

38 (8) "Health care facility" means an entity with an active Idaho tax-  
39 payer identification number doing business or proposing to do business in  
40 the practice location where the physician would be employed, whose stated  
41 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 act or  
7 who acquired such status or who acquired exchange visitor status under the  
8 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) "Physician" means the foreign physician, named in the J-1 visa  
22 waiver or national interest waiver application, who requires a waiver to  
23 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) "Unmet need" means a vacancy or shortage of primary care health  
31 physicians experienced by a community or population, as defined by federally  
32 designated health professional shortage areas or medically underserved ar-  
33 eas/populations.

34 (18) "Vacancy" means a full-time physician practice opportunity in the  
35 delivery of primary care services.

36 SECTION 2. That Section 39-6111, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 39-6111. CRITERIA FOR THE J-1 PETITIONING PHYSICIAN. (1) The physi-  
39 cian must not have a J-1 visa waiver pending for any other employment offer,  
40 and must provide a notarized statement testifying to this fact.

41 (2) The physician must have the qualifications described in recruit-  
42 ment efforts for a specific vacancy.

43 (3) Physicians must:

44 (a) Provide direct patient care full time; and

45 (b) Be trained in:

46 (i) Family medicine;

47 (ii) Internal medicine;

48 (iii) Pediatrics;

49 (iv) Obstetrics and gynecology; ~~or~~

1           (v) General surgery; or

2           (vi) Psychiatry and its subspecialties.

3           (4) Physicians must apply and be eligible for an active Idaho medical  
4 license. The physician may be participating in an accredited residency pro-  
5 gram for this application, but must have successfully completed the third  
6 year of their residency training program for their employment contract to be  
7 activated. The physician must have an unrestricted license to practice in  
8 the state of Idaho and be board certified or eligible in his respective med-  
9 ical specialty at the commencement of employment. A copy of the acknowledg-  
10 ment of receipt form from the state board of medicine must be included in the  
11 waiver request.

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

14           (a) Addresses the physician's interpersonal and professional ability  
15 to effectively care for diverse and low-income persons in the United  
16 States; and

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

20           (c) Documents the level of specialty training, if any; and

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

23           (e) Includes name, title, relationship to physician, address, and  
24 telephone number of signatory.

25           (6) The physician must agree with all provisions of the employment con-  
26 tract as described ~~herein~~ in section 39-6109, Idaho Code. Other negotiable  
27 terms of the contract are between the physician and the hiring agency.

28           (7) The physician must:

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

31           (b) Provide health care to medicare and medicaid beneficiaries;

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

33           (d) Serve the low-income population;

34           (e) Serve the uninsured population; and

35           (f) Serve the shortage designation population; or

36           (g) Serve the population of a local, state, or federal governmental in-  
37 stitution or corrections facility as an employee of the institution.

38           SECTION 3. That Section 39-6111A, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40           39-6111A. CRITERIA FOR THE NATIONAL INTEREST WAIVER PETITIONING  
41 PHYSICIAN. The national interest waiver petitioning physician must:

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

43           (b) Be trained in:

44           (i) Family medicine;

45           (ii) Internal medicine;

46           (iii) Pediatrics;

47           (iv) Obstetrics and gynecology; ~~or~~

48           (v) General surgery; or

49           (vi) Psychiatry and its subspecialties.

1           (2) Apply and be eligible for an active Idaho medical license. The  
2 physician may be participating in an accredited residency program for this  
3 application, but must have successfully completed the third year of his  
4 residency training program for his employment contract to be activated. The  
5 physician must have an unrestricted license to practice in the state of Idaho  
6 and be board certified or eligible in his respective medical specialty at the  
7 commencement of employment. A copy of the acknowledgment of receipt form  
8 from the state board of medicine must be included in the waiver request.

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

11           (a) Addresses the physician's interpersonal and professional ability  
12 to effectively care for diverse and low-income persons in the United  
13 States;

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

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

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

20           (e) Includes name, title, relationship to physician, address and phone  
21 number of signatory.

22           (4) Agree with all provisions of the employment contract as described  
23 in section 39-6109A, Idaho Code. Other negotiable terms of the contract are  
24 between the physician and the hiring agency.

25           (5) (a) Agree to work full time for no less than five (5) years in an  
26 area of underservice in the state of Idaho unless the physician quali-  
27 fies for the three (3) year service provision under the applicable na-  
28 tional interest waiver rules and regulations or the physician is trans-  
29 ferring from another area of underservice;

30           (b) Provide health care to medicare and medicaid beneficiaries;

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

32           (d) Serve the low-income population;

33           (e) Serve the uninsured population; and

34           (f) Serve the shortage designation population; or

35           (g) Serve the population of a local, state or federal governmental in-  
36 stitution or corrections facility as an employee of the institution.