

117TH CONGRESS
1ST SESSION

H. R. 3541

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2021

Mr. SCHNEIDER (for himself, Mr. BACON, Mr. DELGADO, Mr. MCKINLEY, Mrs. AXNE, Mr. BABIN, Mr. BERA, Ms. BLUNT ROCHESTER, Mr. BUTTERFIELD, Mr. CASTEN, Mr. CLEAVER, Mr. COSTA, Mr. DEFazio, Mr. FITZPATRICK, Mr. GARAMENDI, Ms. GARCIA of Texas, Miss GONZÁLEZ-COLÓN, Mr. HICE of Georgia, Mr. KELLER, Ms. KELLY of Illinois, Mr. KILDEE, Mr. KILMER, Mr. KRISHNAMOORTHY, Mr. LAWSON of Florida, Mr. LONG, Mr. LUCAS, Mr. MAST, Mr. MULLIN, Mr. NORMAN, Mr. PANETTA, Mr. PETERS, Mr. POCAN, Mr. PRICE of North Carolina, Mr. RUSH, Mr. RYAN, Mr. SOTO, Ms. SPEIER, Mr. VAN DREW, and Ms. WILLIAMS of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Conrad State 30 and
5 Physician Access Reauthorization Act”.

1 **SEC. 2. CONRAD STATE 30 PROGRAM.**

2 (a) EXTENSION.—Section 220(c) of the Immigration
3 and Nationality Technical Corrections Act of 1994 (Public
4 Law 103–416; 8 U.S.C. 1182 note) is amended by striking
5 “September 30, 2015” and inserting “on the date that
6 is 3 years after the date of the enactment of the Conrad
7 State 30 and Physician Access Reauthorization Act”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect as if enacted on September
10 30, 2018.

11 **SEC. 3. RETAINING PHYSICIANS WHO HAVE PRACTICED IN**
12 **MEDICALLY UNDERSERVED COMMUNITIES.**

13 Section 201(b)(1) of the Immigration and Nationality
14 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the
15 end the following:

16 “(F)(i) Alien physicians who have completed
17 service requirements of a waiver requested under
18 section 203(b)(2)(B)(ii), including—

19 “(I) alien physicians who completed such
20 service before the date of the enactment of the
21 Conrad State 30 and Physician Access Act; and

22 “(II) the spouse or children of an alien
23 physician described in subclause (I).

24 “(ii) Nothing in this subparagraph may be con-
25 strued—

1 “(I) to prevent the filing of a petition with
2 the Secretary of Homeland Security for classi-
3 fication under section 204(a) or the filing of an
4 application for adjustment of status under sec-
5 tion 245 by an alien physician described in this
6 subparagraph before the date by which such
7 alien physician has completed the service de-
8 scribed in section 214(l) or worked full-time as
9 a physician for an aggregate of 5 years at the
10 location identified in the section 214(l) waiver
11 or in an area or areas designated by the Sec-
12 retary of Health and Human Services as having
13 a shortage of health care professionals; or

14 “(II) to permit the Secretary of Homeland
15 Security to grant a petition or application de-
16 scribed in subclause (I) until the alien has sat-
17 isfied all of the requirements of the waiver re-
18 ceived under section 214(l).”.

19 **SEC. 4. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

20 (a) **EXCEPTIONS TO 2-YEAR FOREIGN RESIDENCY**
21 **REQUIREMENT.**—Section 214(l)(1) of the Immigration
22 and Nationality Act (8 U.S.C. 1184(l)(1)) is amended—

23 (1) in the matter preceding subparagraph (A),
24 by striking “Attorney General” and inserting “Sec-
25 retary of Homeland Security”;

1 (2) in subparagraph (A), by striking “Director
2 of the United States Information Agency” and in-
3 sserting “Secretary of State”;

4 (3) in subparagraph (B), by inserting “, except
5 as provided in paragraphs (7) and (8)” before the
6 semicolon at the end;

7 (4) in subparagraph (C), by striking clauses (i)
8 and (ii) and inserting the following:

9 “(i) the alien demonstrates a bona fide
10 offer of full-time employment at a health facil-
11 ity or health care organization, which employ-
12 ment has been determined by the Secretary of
13 Homeland Security to be in the public interest;
14 and

15 “(ii) the alien—

16 “(I) has accepted employment with
17 the health facility or health care organiza-
18 tion in a geographic area or areas which
19 are designated by the Secretary of Health
20 and Human Services as having a shortage
21 of health care professionals;

22 “(II) begins employment by the later
23 of the date that is—

24 “(aa) 120 days after receiving
25 such waiver;

1 “(bb) 120 days after completing
2 graduate medical education or train-
3 ing under a program approved pursu-
4 ant to section 212(j)(1); or

5 “(cc) 120 days after receiving
6 nonimmigrant status or employment
7 authorization, if the alien or the
8 alien’s employer petitions for such
9 nonimmigrant status or employment
10 authorization not later than 120 days
11 after the date on which the alien com-
12 pletes his or her graduate medical
13 education or training under a pro-
14 gram approved pursuant to section
15 212(j)(1); and

16 “(III) agrees to continue to work for
17 a total of not less than 3 years in the sta-
18 tus authorized for such employment under
19 this subsection, except as provided in para-
20 graph (8).”; and

21 (5) in subparagraph (D), in the matter pre-
22 ceding clause (i), by inserting “(except as provided
23 in paragraph (8))”.

24 (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-
25 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-

1 SERVED AREAS.—Section 214(l)(2)(A) of such Act (8
2 U.S.C. 1184(l)(2)(A)) is amended to read as follows:

3 “(A) Upon the request of an interested Federal
4 agency or an interested State agency for rec-
5 ommendation of a waiver under this section by a
6 physician who is maintaining valid nonimmigrant
7 status under section 101(a)(15)(J) and a favorable
8 recommendation by the Secretary of State, the Sec-
9 retary of Homeland Security may change the status
10 of such physician to any status authorized for em-
11 ployment under this Act. The numerical limitations
12 contained in subsection (g)(1)(A) shall not apply to
13 any alien whose status is changed under this sub-
14 paragraph.”.

15 (c) VIOLATION OF AGREEMENTS.—Section
16 214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is
17 amended by inserting “substantial requirement of an” be-
18 fore “agreement entered into”.

19 (d) PHYSICIAN EMPLOYMENT IN UNDERSERVED
20 AREAS.—Section 214(l) of such Act, as amended by this
21 section, is further amended by adding at the end the fol-
22 lowing:

23 “(4)(A) If an interested State agency denies an appli-
24 cation for a waiver under paragraph (1)(B) from a physi-
25 cian pursuing graduate medical education or training pur-

1 suant to section 101(a)(15)(J) because the State has re-
2 quested the maximum number of waivers permitted for
3 that fiscal year, the physician’s nonimmigrant status shall
4 be extended for up to 6 months if the physician agrees
5 to seek a waiver under this subsection (except for para-
6 graph (1)(D)(ii)) to work for an employer described in
7 paragraph (1)(C) in a State that has not yet requested
8 the maximum number of waivers.

9 “(B) Such physician shall be authorized to work only
10 for the employer referred to in subparagraph (A) during
11 the period beginning on the date on which a new waiver
12 application is filed with such State and ending on the ear-
13 lier of—

14 “(i) the date on which the Secretary of Home-
15 land Security denies such waiver; or

16 “(ii) the date on which the Secretary approves
17 an application for change of status under paragraph
18 (2)(A) pursuant to the approval of such waiver.”.

19 (e) CONTRACT REQUIREMENTS.—Section 214(l) of
20 such Act, as amended by this section, is further amended
21 by adding at the end the following:

22 “(5) An alien granted a waiver under paragraph
23 (1)(C) shall enter into an employment agreement with the
24 contracting health facility or health care organization
25 that—

1 “(A) specifies the maximum number of on-call
2 hours per week (which may be a monthly average)
3 that the alien will be expected to be available and
4 the compensation the alien will receive for on-call
5 time;

6 “(B) specifies—

7 “(i) whether the contracting facility or or-
8 ganization—

9 “(I) has secured medical malpractice
10 liability protection for the alien under sec-
11 tion 224(g) of the Public Health Service
12 Act (42 U.S.C. 233(g)); or

13 “(II) will pay the alien’s malpractice
14 insurance premiums;

15 “(ii) whether the employer will provide
16 malpractice insurance for the alien; and

17 “(iii) the amount of such liability protec-
18 tion that will be provided;

19 “(C) describes all of the work locations that the
20 alien will work and includes a statement that the
21 contracting facility or organization will not add addi-
22 tional work locations without the approval of the
23 Federal agency or State agency that requested the
24 waiver; and

25 “(D) does not include a non-compete provision.

1 “(6) An alien granted a waiver under this subsection
2 whose employment relationship with a health facility or
3 health care organization terminates under paragraph
4 (1)(C)(ii) during the 3-year service period required under
5 paragraph (1) shall be considered to be maintaining lawful
6 status in an authorized period of stay during the 120-day
7 period referred to in items (aa) and (bb) of subclause (III)
8 of paragraph (1)(C)(ii) or the 45-day period referred to
9 in subclause (III)(cc) of such paragraph.”.

10 (f) RECAPTURING WAIVER SLOTS LOST TO OTHER
11 STATES.—Section 214(l) of such Act, as amended by this
12 section, is further amended by adding at the end the fol-
13 lowing:

14 “(7) If a recipient of a waiver under this subsection
15 terminates the recipient’s employment with a health facil-
16 ity or health care organization pursuant to paragraph
17 (1)(C)(ii), including termination of employment because of
18 circumstances described in paragraph (1)(C)(ii)(III), and
19 accepts new employment with such a facility or organiza-
20 tion in a different State, the State from which the alien
21 is departing may be accorded an additional waiver by the
22 Secretary of State for use in the fiscal year in which the
23 alien’s employment was terminated.”.

1 (g) EXCEPTION TO 3-YEAR WORK REQUIREMENT.—

2 Section 214(l) of such Act, as amended by this section,

3 is further amended by adding at the end the following:

4 “(8) The 3-year work requirement set forth in sub-

5 paragraphs (C) and (D) of paragraph (1) shall not apply

6 if—

7 “(A)(i) the Secretary of Homeland Security de-

8 termines that extenuating circumstances, including

9 violations by the employer of the employment agree-

10 ment with the alien or of labor and employment

11 laws, exist that justify a lesser period of employment

12 at such facility or organization; and

13 “(ii) the alien demonstrates, not later than 120

14 days after the employment termination date (unless

15 the Secretary determines that extenuating cir-

16 cumstances would justify an extension), another

17 bona fide offer of employment at a health facility or

18 health care organization in a geographic area or

19 areas which are designated by the Secretary of

20 Health and Human Services as having a shortage of

21 health care professionals, for the remainder of such

22 3-year period;

23 “(B)(i) the interested State agency that re-

24 quested the waiver attests that extenuating cir-

25 cumstances, including violations by the employer of

1 the employment agreement with the alien or of labor
2 and employment laws, exist that justify a lesser pe-
3 riod of employment at such facility or organization;
4 and

5 “(ii) the alien demonstrates, not later than 120
6 days after the employment termination date (unless
7 the Secretary determines that extenuating cir-
8 cumstances would justify an extension), another
9 bona fide offer of employment at a health facility or
10 health care organization in a geographic area or
11 areas which are designated by the Secretary of
12 Health and Human Services as having a shortage of
13 health care professionals, for the remainder of such
14 3-year period; or

15 “(C) the alien—

16 “(i) elects not to pursue a determination of
17 extenuating circumstances pursuant to sub-
18 clause (A) or (B);

19 “(ii) terminates the alien’s employment re-
20 lationship with the health facility or health care
21 organization at which the alien was employed;

22 “(iii) demonstrates, not later than 45 days
23 after the employment termination date, another
24 bona fide offer of employment at a health facil-
25 ity or health care organization in a geographic

1 area or areas, in the State that requested the
2 alien’s waiver, which are designated by the Sec-
3 retary of Health and Human Services as having
4 a shortage of health care professionals; and

5 “(iv) agrees to be employed for the remain-
6 der of such 3-year period, and 1 additional year
7 for each termination under clause (ii).”.

8 **SEC. 5. ALLOTMENT OF CONRAD 30 WAIVERS.**

9 (a) IN GENERAL.—Section 214(l) of the Immigration
10 and Nationality Act (8 U.S.C. 1184(l)), as amended by
11 section 4, is further amended by adding at the end the
12 following:

13 “(9)(A)(i) All States shall be allotted a total of 35
14 waivers under paragraph (1)(B) for a fiscal year if 90 per-
15 cent of the waivers available to the States receiving at
16 least 5 waivers were used in the previous fiscal year.

17 “(ii) When an allotment occurs under clause (i), all
18 States shall be allotted an additional 5 waivers under
19 paragraph (1)(B) for each subsequent fiscal year if 90
20 percent of the waivers available to the States receiving at
21 least 5 waivers were used in the previous fiscal year. If
22 the States are allotted 45 or more waivers for a fiscal year,
23 the States will only receive an additional increase of 5
24 waivers the following fiscal year if 95 percent of the waiv-

1 ers available to the States receiving at least 1 waiver were
2 used in the previous fiscal year.

3 “(B) Any increase in allotments under subparagraph
4 (A) shall be maintained indefinitely, unless in a fiscal year,
5 the total number of such waivers granted is 5 percent
6 lower than in the last year in which there was an increase
7 in the number of waivers allotted pursuant to this para-
8 graph, in which case—

9 “(i) the number of waivers allotted shall be de-
10 creased by 5 for all States beginning in the next fis-
11 cal year; and

12 “(ii) each additional 5 percent decrease in such
13 waivers granted from the last year in which there
14 was an increase in the allotment, shall result in an
15 additional decrease of 5 waivers allotted for all
16 States, provided that the number of waivers allotted
17 for all States shall not drop below 30.”.

18 (b) ACADEMIC MEDICAL CENTERS.—Section
19 214(l)(1)(D) of such Act (8 U.S.C. 1184(l)(1)(D)) is
20 amended—

21 (1) in clause (ii), by striking “and” at the end;

22 (2) in clause (iii), by striking the period at the
23 end and inserting “; and”; and

24 (3) by adding at the end the following:

1 “(iv) in the case of a request by an inter-
2 ested State agency—

3 “(I) the head of such agency deter-
4 mines that the alien is to practice medicine
5 in, or be on the faculty of a residency pro-
6 gram at, an academic medical center (as
7 that term is defined in section
8 411.355(e)(2) of title 42, Code of Federal
9 Regulations, or similar successor regula-
10 tion), without regard to whether such facil-
11 ity is located within an area designated by
12 the Secretary of Health and Human Serv-
13 ices as having a shortage of health care
14 professionals; and

15 “(II) the head of such agency deter-
16 mines that—

17 “(aa) the alien physician’s work
18 is in the public interest; and

19 “(bb) the grant of such waiver
20 would not cause the number of the
21 waivers granted on behalf of aliens for
22 such State for a fiscal year (within
23 the limitation in subparagraph (B)
24 and subject to paragraph (6)) in ac-

1 cordance with the conditions of this
2 clause to exceed 3.”.

3 **SEC. 6. AMENDMENTS TO THE PROCEDURES, DEFINITIONS,**
4 **AND OTHER PROVISIONS RELATED TO PHYSI-**
5 **CIAN IMMIGRATION.**

6 (a) DUAL INTENT FOR PHYSICIANS SEEKING GRAD-
7 UATE MEDICAL TRAINING.—Section 214(b) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1184(b)) is amend-
9 ed by striking “(other than a nonimmigrant described in
10 subparagraph (L) or (V) of section 101(a)(15), and other
11 than a nonimmigrant described in any provision of section
12 101(a)(15)(H)(i) except subclause (b1) of such section)”
13 and inserting “(other than a nonimmigrant described in
14 subparagraph (L) or (V) of section 101(a)(15), a non-
15 immigrant described in any provision of section
16 101(a)(15)(H)(i) (except subclause (b1) of such section),
17 and an alien coming to the United States to receive grad-
18 uate medical education or training as described in section
19 212(j) or to take examinations required to receive grad-
20 uate medical education or training as described in section
21 212(j))”.

22 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-
23 FICATIONS.—

24 (1) PRACTICE AND GEOGRAPHIC AREA.—Sec-
25 tion 203(b)(2)(B)(ii)(I) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1153(b)(2)(B)(ii)(I)) is
2 amended by striking items (aa) and (bb) and insert-
3 ing the following:

4 “(aa) the alien physician agrees to
5 work on a full-time basis practicing pri-
6 mary care, specialty medicine, or a com-
7 bination thereof, in an area or areas des-
8 ignated by the Secretary of Health and
9 Human Services as having a shortage of
10 health care professionals, or at a health
11 care facility under the jurisdiction of the
12 Secretary of Veterans Affairs; or

13 “(bb) the alien physician is pursuing
14 such waiver based upon service at a facility
15 or facilities that serve patients who reside
16 in a geographic area or areas designated
17 by the Secretary of Health and Human
18 Services as having a shortage of health
19 care professionals (without regard to
20 whether such facility or facilities are lo-
21 cated within such an area) and a Federal
22 agency, or a local, county, regional, or
23 State department of public health deter-
24 mines the alien physician’s work was or
25 will be in the public interest.”.

1 (2) FIVE-YEAR SERVICE REQUIREMENT.—Sec-
2 tion 203(b)(2)(B)(ii) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1153(B)(ii)) is amended—

4 (A) by moving subclauses (II), (III), and
5 (IV) 4 ems to the left; and

6 (B) in subclause (II)—

7 (i) by inserting “(aa)” after “(II)”;

8 and

9 (ii) by adding at the end the fol-
10 lowing:

11 “(bb) The 5-year service requirement
12 under item (aa) shall begin on the date on
13 which the alien physician begins work in
14 the shortage area in any legal status and
15 not on the date on which an immigrant
16 visa petition is filed or approved. Such
17 service shall be aggregated without regard
18 to when such service began and without re-
19 gard to whether such service began during
20 or in conjunction with a course of graduate
21 medical education.

22 “(cc) An alien physician shall not be
23 required to submit an employment contract
24 with a term exceeding the balance of the 5-
25 year commitment yet to be served or an

1 employment contract dated within a min-
2 imum time period before filing a visa peti-
3 tion under this subsection.

4 “(dd) An alien physician shall not be
5 required to file additional immigrant visa
6 petitions upon a change of work location
7 from the location approved in the original
8 national interest immigrant petition.”.

9 (c) TECHNICAL CLARIFICATION REGARDING AD-
10 VANCED DEGREE FOR PHYSICIANS.—Section
11 203(b)(2)(A) of the Immigration and Nationality Act (8
12 U.S.C. 1153(b)(2)(A)) is amended by adding at the end
13 the following: “An alien physician holding a foreign med-
14 ical degree that has been deemed sufficient for acceptance
15 by an accredited United States medical residency or fel-
16 lowship program is a member of the professions holding
17 an advanced degree or its equivalent.”.

18 (d) SHORT-TERM WORK AUTHORIZATION FOR PHY-
19 SICIANS COMPLETING THEIR RESIDENCIES.—

20 (1) IN GENERAL.—A physician completing
21 graduate medical education or training described in
22 section 212(j) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(j)) as a nonimmigrant described
24 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.
25 1101(a)(15)(H)(i))—

1 (A) shall have such nonimmigrant status
2 automatically extended until October 1 of the
3 fiscal year for which a petition for a continu-
4 ation of such nonimmigrant status has been
5 submitted in a timely manner and the employ-
6 ment start date for the beneficiary of such peti-
7 tion is October 1 of that fiscal year; and

8 (B) shall be authorized to be employed in-
9 cident to status during the period between the
10 filing of such petition and October 1 of such fis-
11 cal year.

12 (2) TERMINATION.—The physician’s status and
13 employment authorization shall terminate on the
14 date that is 30 days after the date on which a peti-
15 tion described in paragraph (1)(A) is rejected, de-
16 nied or revoked.

17 (3) AUTOMATIC EXTENSION.—A physician’s
18 status and employment authorization will automati-
19 cally extend to October 1 of the next fiscal year if
20 all of the visas described in section 101(a)(15)(H)(i)
21 of such Act that were authorized to be issued for the
22 fiscal year have been issued.

23 (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES
24 AND CHILDREN OF J–1 EXCHANGE VISITORS.—A spouse
25 or child of an exchange visitor described in section

1 101(a)(15)(J) of the Immigration and Nationality Act (8
2 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-
3 ments under section 212(e) of such Act (8 U.S.C.
4 1182(e)).

5 **SEC. 7. ANNUAL CONRAD STATE 30 J-1 VISA WAIVER PRO-**
6 **GRAM STATISTICAL REPORT.**

7 The Director of U.S. Citizenship and Immigration
8 Services shall submit an annual report to Congress and
9 to the Department of Health and Human Services that
10 identifies the number of aliens admitted during the most
11 recently concluded fiscal year as a result of the Conrad
12 State 30 J–1 Visa Waiver Program established under sec-
13 tions 212(e) and 214(l) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1182(e) and 1184(l)), broken down
15 by State.

○