



## PENNSYLVANIA DEPARTMENT OF HEALTH

### NATIONAL INTEREST WAIVER PROGRAM STATEMENT OF POLICY

#### **Background**

Federal Law allows States to provide support letters for foreign physicians who wish to work in a federally designated underserved health shortage area. The employment period required is a total of five years. These waivers relieve the petitioner from fulfilling the labor certification requirement, as administered by the US Department of Labor. The following guidance has been offered through rules and regulations:

- Primary Care and Specialists are eligible to apply.
- State Department of Public Health must attest to the physician's work being in the public interest.
- Physician must work a 40 hour clinical week providing direct patient care.
- Physician must provide a contract or letter covering required period of clinical medical practice that was issued and dated within six months prior to the filing date of the petition.

#### **Department of Health Policies for Issuance of National Interest Waiver Support**

The Department of Health (DOH) will consider supporting National Interest Waiver requests to the extent that the applicant/sponsor demonstrates that the need for such placement exists; that the placement is consistent with the Department of Health's mission to ensure access to health care; that the placement supports program objectives of DOH; and that all requirements of the federal program have been met. It is the responsibility of the applicant/sponsor to document a compelling public health interest for waiver support. DOH considers the primary responsibility of the National Interest Waiver Program to be the underserved communities which the Program serves.

#### **DOH Program Objectives**

1. To assure access to health care by persons or population groups living in health professional shortage areas (HPSA); medically underserved areas (MUA) and by designated populations unable by reason of poverty or other circumstances to obtain access to a physician (population-based HPSA or medically underserved population (MUP). Federally Qualified Health Centers and Look-alikes are also eligible sites.

2. To recruit and retain physicians within designated shortage areas of the Commonwealth who are specifically engaged in providing direct patient care to the underserved residents of their area.
3. To support medically underserved communities that have a demonstrated inability to recruit or retain physicians.



<b>NATIONAL INTEREST WAIVER APPLICATION INSTRUCTIONS AND CHECKLIST</b>
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**Submit the following documentation along with this checklist:**

**Letter from Physician. Include the following:**

- \_\_\_\_\_ Submit a letter from the physician requesting a NIW Support letter.
- \_\_\_\_\_ Provide name; birth country, current home address, home telephone number, cell number; email address & facsimile number (if available).
- \_\_\_\_\_ Provide a copy of the United States Citizenship and Immigration Service (USCIS) Form I-797C, Notice of Action, which provides a receipt number for the NIW petition.
- \_\_\_\_\_ Copy of your Pennsylvania Medical renewal license.
- \_\_\_\_\_ Copy of your I-94 card and I-797A Approval Notice.
- \_\_\_\_\_ If you received a waiver from another State and finished your three year commitment, provide a letter from the State Dept. of Public Health verifying your start date and finish date.
- \_\_\_\_\_ If you were not on a J-1 Visa; submit a copy of your H1B Visa.
- \_\_\_\_\_ Letter must state that you intend to fulfill the requirements of the NIW either through a total of five years or an additional two years beyond your three year J-1 Visa Waiver Commitment.
- \_\_\_\_\_ If you intend to be self-employed, submit a copy of your property lease showing a total of five years.
- \_\_\_\_\_ Provide a statement that you agree to monitoring and site visits during your five year commitment even if USCIS grants you permanent residency before the completion of the five years.
- \_\_\_\_\_ Provide a statement that you will participate in yearly retention calls after the five year period is completed.

**Specialist Request – In addition to the above:**

- \_\_\_\_\_ Provide specialty. Contact the Dept. of Health prior to filing this request to discuss the need for your specialty in the proposed county since federal designations do not measure the need for specialists. The DOH has a process to evaluate need. If requested to do so, submit a listing of all like specialists in the county listing their name; organization they are associated with; number of clinical hours per week; whether they accept Medicaid and the medically indigent; waiting time for a new appointment; and whether they are planning to retire in the near future. This information is used to adjust the ratio of the specialty to population.

### **Participation Agreement (Sponsor and Physician)**

\_\_\_\_\_ Sponsor and physician sign the participation agreement.

### **Site Application (Sponsor and/or Physician) – Site application can be found on our website under waiver programs.**

- \_\_\_\_\_ Sponsor completes site application. Physician completes if self-employed.
- \_\_\_\_\_ If site is located in a low income service area, complete the low income table.
- \_\_\_\_\_ If site is new, ensure that procedures are followed which are listed on the site application for new sites. The DOH is cautious regarding placements at new sites since it takes time to build a medical practice.
- \_\_\_\_\_ Submit a copy of the sites sliding fee scale and policies to ensure access to health care for those at or below 200% poverty level. Use the current Federal poverty guidelines. All physicians in our waiver programs must serve residents regardless of their ability to pay.

### **Employment Contract**

- \_\_\_\_\_ Submit an employment contract listing all practice site addresses; a statement that the physician will work for 40 hours a week exclusive of on call time, travel time and hospital rounds; a statement that he will work for a period of five years; non compete clauses are prohibited; termination without cause is prohibited; and contract must be signed and dated by the physician and sponsor. Hospital rounds are permitted for hospitalists.
- \_\_\_\_\_ For physicians in our J-1 Program, it is permissible to submit an addendum to your contract for the additional two year period.
- \_\_\_\_\_ Contract must be dated within six months prior to the filing date of the NIW petition.
- \_\_\_\_\_ Liquidated Damages Clause – Although not required by the DOH, a sponsor may include a damages clause for failure to fulfill the time period specified in the employment contract.
- \_\_\_\_\_ Statement regarding non-compete clause. Sponsor shall make a statement that there is nothing in the contract or organization policies, handbooks, etc. that would restrict the physician's employment upon termination of the contract. The purpose of the DOH's participation in this waiver program is to gain a physician for an underserved community.

### **Letter from Sponsor**

- \_\_\_\_\_ Submit a letter verifying need and what efforts will take place to retain the physician beyond his 5 year commitment.
- \_\_\_\_\_ Provide the physician's start date with the organization.

**Note: If the DOH decides to provide a support letter, it will be mailed directly to the United States Citizenship and Immigration Service Office listed on the Petition Form. The sponsor, attorney and physician will receive a copy of the letter.**

Submit the documentation to: Department of Health  
Bureau of Health Planning  
Attention: Waiver Programs  
625 Forster Street  
Health & Welfare Bldg. – Room 1033  
Harrisburg, PA 17120-0701