

## Conrad State 30 & Physician Access Act (S. 1189)

The United States is facing a daunting shortage of doctors in the coming years. The Conrad State 30 program has brought thousands of foreign physicians, trained in the United States, to rural, inner city, and other medically underserved communities since 1994. After completing residencies in the U.S. on J-1 visas, foreign doctors are required to return to their home country for two years. In exchange for three years of service in an underserved area, these doctors receive a waiver of the home return requirement. The “30” in the name of the program reflects the maximum of 30 doctors that each state can receive each year. The program has been reauthorized by Congress several times and has been utilized by every state in the country. The *Conrad State 30 and Physician Access Act* would remove the sunset of the program, improve its functioning, and allow it to expand its scope to better meet the needs of the country. The bill also makes other improvements to the immigration laws affecting physicians outside of the Conrad program with same goal of increasing access to doctors in underserved communities.

Update (12/3/2016): The office of Senator Charles Grassley has taken a leadership role in negotiating extension and improvements language with the office of Sen. Klobuchar and other bill co-sponsors. Agreement was reached in November 2015, and at present the IMG Taskforce is advocating for inclusion of such agreed upon, bipartisan negotiated language in the anticipated Continuing Resolution within the current session of Congress.

### Section 1 – Title

**Section 2 – Conrad 30 Authorization** - Removes the sunset of the program which is currently in 2015.

**Section 3 – Green Cards** – Under current law, physicians can get a National Interest Waiver green card under the EB-2 category if they serve 5 years (3 of which can be under the Conrad program) in a medically underserved area or VA medical facility. This section would exempt these physicians from the cap on employment-based green cards.

**Section 4 – Employment Protections** – This section would institute a number of employment protections for doctors in the Conrad program and make technical fixes to the operation of the program.

- Under current law, doctors must begin work within 90 days after receiving a waiver. This section creates flexibility by extending that date to the later of 90 days after receiving the waiver, 90 days after completing graduation medical education or training, or 90 days after receiving nonimmigrant status or employment authorization, as long as the status or authorization is petitioned for within 90 days after completing graduation medical education or training.
- Under current law, doctors may change employers under “extenuating circumstances” as designated by DHS. In some cases however, it may be difficult or impractical to get such a determination by DHS, so the bill would allow doctors to leave their employers without this determination. However, they would then be required to do an additional year of service in an underserved area.

- If an application is denied because the state has requested the maximum number of waivers for that year, the physician's nonimmigrant status is automatically extended for 6 months if the physician agrees to seek a waiver in a State that has not requested the maximum number of waivers.
- The physicians' employment contracts would be required to specify the number of on-call hours the doctors must work, whether the employer would provide malpractice insurance, and the exact facilities at which the doctors would work. The contracts cannot include non-compete provisions.
- Doctors whose employment is terminated would have 120 days to begin new employment in an underserved area before being considered out of status.

**Section 5 – Allotment of Conrad Waivers** – All states would receive an additional 5 waivers each time 90% of the nationwide waivers are used in a year. States that receive fewer than 5 waivers in a year would not be included in the calculation so that states with very inactive programs would not prevent the program from expanding. Any such increases in the cap would be maintained indefinitely until there is a 5% decrease nationwide compared to the last year in which there was an increase in the cap.

- Once the cap reaches 45 waivers, it would become more difficult for the cap to increase further. To go above 45, 95% of nationwide slots would have to be filled and any state that received at least 1 waiver would count in the calculations.
- These increase and decrease mechanisms are designed to let the program expand while not harming states that struggle to attract doctors under the program.
- **Academic Medical Centers** - Creates an additional 3 waivers per state that can only be used by academic medical centers and provided that the work performed by the doctor is in the public interest.

### **Section 6 – Other Changes to Physician Immigration**

- **Dual Intent** – Physicians entering the country on a J visa do not need to prove that they do not have intent to immigrate permanently.
- **Visa Status During Conrad Service** - Permit doctors to do their J waiver service in any authorized status, rather than just H-1B as under current law.
- **National Interest Waiver Green Card Clarifications** -
  - Specialists are eligible (codifying current practice).
  - Doctors who serve in Conrad “flex” spots are eligible. Under current law, states can use 10 waivers for doctors serving patients from underserved areas at a facility not located in an underserved area. This provision is used, for example, in very rural states that may not be able to attract a crucial specialist unless that doctor is going to be working in a relatively larger community (in a facility serving patients from around the state).
  - The 5 years of required service starts when the doctor begins employment, not when the green card application is filed.
- **EB-2 Degree Requirements** – Clarification that foreign medical degrees qualify as “advanced degrees” to meet the requirements of obtaining an EB-2 green card.
- **Short-Term Bridge Work Authorization For Physicians Completing Their Residencies** – Doctors who would lose their visa status due to the timing gap between when they finish their training and when they are able to obtain a work

visa, will maintain their status until the beginning of the next fiscal year (i.e. from the spring to the fall).

- **Dependents of J Visa Holders** - Spouses and children would not be subject to the 2-year home country return requirement. Because of this requirement, the spouses of doctors doing Conrad service are often unable to work, and frequently these spouses are also doctors.