

# TEXAS CONRAD 30 J-1 VISA WAIVER PROGRAM

Texas Primary Care Office  
Texas Department of State Health Services

FFY2021  
POLICY  
MANUAL



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Texas Department of State  
Health Services

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## INTRODUCTION

Generally, physicians who are in the United States under a J-1 visa must return home to their home country for two years when they complete their graduate medical education. Under the Conrad 30 Waiver Program, each state's department of health is authorized to recommend that up to 30 of these J-1 physicians receive a waiver of the two-year home residence requirement from U.S. Citizenship and Immigration Services (USCIS) each year. To receive this waiver, J-1 physicians must work full-time in federally designated health professional shortage areas (HPSAs), medically underserved areas (MUAs), or medically underserved populations<sup>1</sup> for three years.

In line with the Texas Primary Care Office's (PCO) mission to improve access to primary and specialty care for the underserved in Texas, the PCO reviews Texas Conrad 30 J-1 Visa Waiver Program (the program) applications on behalf of the Texas Department of State Health Services (DSHS) to make waiver recommendations to the U.S. Department of State (DOS).

This policy manual is a guide for those physicians completing a J-1 waiver application with the intent to practice medicine in Texas.

## FEDERAL LAW

### [8 USC §1182 Inadmissible Aliens](#)

See: (e) Educational visitor status; foreign residence requirement; waiver

### [8 USC §1184 Admission of Nonimmigrants](#)

See: (I) Restrictions on waiver

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<sup>1</sup> Areas which are federally designated as medically underserved populations are not eligible practice locations for the Texas Conrad 30 J-1 Visa Waiver Program.

## CODE OF FEDERAL REGULATIONS

### [22 CFR §41.63 Two-year home country physical presence requirement](#)

See: (e) Requests for waiver from a State Department of Public Health, or its equivalent, on the basis of Public Law 103-416

## TEXAS LAW

### [Texas Health and Safety Code §12.0127 Immigration Visa Waivers for Physicians](#)

## TEXAS ADMINISTRATIVE CODE (RULES)

### [25 Texas Administrative Code §13.1 - §13.3 Recruitment of Physicians to Underserved Areas](#)

## TEXAS CONRAD 30 J-1 VISA WAIVER PROGRAM POLICY

This section outlines the specific policies of the program. State law and DSHS rules allow the program flexibility to set operational priorities on an annual basis. This manual and any updates for the upcoming application cycle are posted on the [program's website](#) by May 1 of each year.

## C30-2021.01 – PHYSICIAN ELIGIBILITY

All physician specialties which provide direct patient care are eligible for the program. For the purpose of prioritizing applications, the program classifies specialties as follows:

- Primary Care Specialties
  - Adolescent Medicine
  - Adult Medicine
  - Family Medicine
  - General Practice
  - Geriatric Medicine
  - Internal Medicine (General)
  - Obstetrics and Gynecology
  - Pediatrics
- Mental Health Care Specialties

- Addiction Medicine
- Addiction Psychiatry
- Child and Adolescent Psychiatry
- Geriatric Psychiatry
- Psychiatry
- Other Specialties
  - Includes any specialty not listed as a primary care or mental health care specialty
  - Includes all sub-specialties

## C30-2021.02 – SHORTAGE DESIGNATION REQUIREMENTS

### **For Primary Care Specialties:**

The following areas are eligible practice locations for physicians practicing in primary care specialties as listed in [C30-2021.01](#):

- Geographic or population-based<sup>2</sup> primary care HPSAs
- Federally Qualified Health Centers (FQHCs)<sup>3</sup>
- Rural Health Clinics (RHCs) with automatic facility HPSA designation<sup>3</sup>
- MUAs updated within the past four years<sup>4</sup>

### **For Mental Health Care Specialties:**

The following areas are eligible practice locations for physicians practicing in mental health care specialties as listed in [C30-2021.01](#):

- Geographic or population-based<sup>2</sup> mental health HPSAs

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<sup>2</sup> Practice sites located in population-based HPSAs must obtain verification from the program that the site is eligible prior to submitting the application. See [C30.2021.03](#) for more information.

<sup>3</sup> For physicians who are eligible for the federal HHS waiver program, FQHCs and RHCs are only eligible if the HPSA score is less than 7.

<sup>4</sup> The MUA must have been updated within four years prior to the last date of the application cycle (September 21, 2020). The HPRC office can be contacted regarding MUA status.

- FQHCs<sup>3</sup>
- RHCs with automatic facility HPSA designation<sup>3</sup>
- [State hospitals](#) with a facility mental health HPSA designation
- MUAs updated within the past four years<sup>4</sup>

### **For Other Specialties:**

The following areas are eligible practice locations for physicians practicing in other specialties as listed in [C30-2021.01](#):

- Geographic or population-based<sup>2</sup> primary care HPSAs
- FQHCs
- RHCs with automatic facility HPSA designation
- MUAs updated within the past four years<sup>4</sup>

### **For All Physicians:**

Counties that DSHS determines to be affected by an ongoing exposure to a disease that is designated as reportable under [Texas Health and Safety Code, Section 81.048](#) are considered eligible areas for practice in Texas. Per federal legislation, the area must also be in a federally designated area or count as a flex spot under the [flex option](#). DSHS has determined that for the federal fiscal year (FFY) 2021 application cycle, there are no counties that meet the criteria under Texas Health and Safety Code, Section 81.048.

### **C30-2021.03 – POPULATION-BASED HPSAS**

If the practice site is in a population-based HPSA, the sponsor must obtain verification from the program that the site is eligible prior to submitting the application. Eligible sites must:

- Accept Medicaid or CHIP
- Have at least 30 percent of patient visits in the prior year paid with Medicaid or CHIP, paid on a sliding fee scale, or considered indigent or charity care

To obtain verification, the sponsor must submit the following information on official letterhead to the program:

- A statement from the sponsor that the practice site accepts Medicaid or CHIP
- The percentage of patient visits at the practice site within the past year paid with Medicaid or CHIP, paid on a sliding fee scale, or considered indigent or charity care
- The practice site address

If the program verifies the site is eligible, the program will email the verification. This verification must be included in the final application packet.

#### C30-2021.04 – PRIORITIZATION OF APPLICATIONS

The primary application period for FFY2021 is from September 8, 2020 through September 21, 2020. If the program receives more than 30 eligible and complete applications during the application period, the program prioritizes applications by the following criteria:

1. Applicants who will practice in a primary care or mental health care specialty as listed in [C30-2021.01](#) will receive highest priority. If necessary, the program will prioritize primary care or mental health care applicants by practice location in the following order, and then by the relative HPSA score or MUA Index of Medical Underservice Score within each designation type:
  - 1.1. Geographic HPSA
  - 1.2. State hospital with facility HPSA designation
  - 1.3. MUA
  - 1.4. FQHC or RHC with automatic facility HPSA designation
  - 1.5. Population-based HPSA
2. Applicants who will practice in a county that DSHS determines is affected by an ongoing exposure to a disease that is designated as reportable under [Texas Health and Safety Code, Section 81.048](#) will be prioritized

after applicants who will practice in primary care or mental health care specialties.<sup>5</sup>

3. Applicants who will practice in other specialties as listed in [C30-2021.01](#) will receive lowest priority. If necessary, the program will prioritize applicants practicing in other specialties by practice location in the following order, and then by the relative HPSA score or MUA Index of Medical Underservice Score within each designation type:
  - 3.1. Geographic HPSA
  - 3.2. State hospital with facility HPSA designation
  - 3.3. MUA
  - 3.4. FQHC or RHC with automatic facility HPSA designation
  - 3.5. Population-based HPSA

In the event, the above criteria result in multiple applications being tied for the last remaining spot(s)<sup>6</sup>, the program will use randomization to identify the application(s) to be selected for recommendation. Specifically, each application would be numbered and a random number generator would be used to identify the applications to be recommended.

The program will consider applications received after September 21, 2020 if any slots remain unfilled at that time.

#### C30-2021.05 – EMPLOYMENT CONTRACT

The employment contract must be signed and dated by the physician and the head of the health care facility. The employment contract must include:

- A statement that the physician will provide patient care for a minimum of 40 hours per week for three years at the eligible site or sites

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<sup>5</sup> DSHS has determined that for the FFY2021 application cycle, there are no counties that meet the criteria under Texas Health and Safety Code, Section 81.048.

<sup>6</sup> Specifically, there are fewer remaining spots than applications sharing the same designation type and score.

- A statement that any amendments to the contract will adhere to state and federal J-1 visa waiver requirements
- A statement by the physician agreeing to meet the requirements set forth in Section 214(I) of the Immigration and Nationality Act<sup>7</sup>
- A statement that termination can only be for cause, not mutual agreement
- A statement that indicates the physician will begin working within 90 days of receiving the waiver and employment authorization from USCIS
- The physician's field of practice
- The physician's salary, which can be no less than the prevailing wage
- A list of benefits and insurance to be provided to the physician
- The estimated schedule of hours per week (at each practice site)
- The amount of leave granted to the physician
- The clinic name or contact name, address, and telephone number for each practice site

The employment contract cannot include:

- A non-compete clause
- A liquidated damages clause
- A remedies clause

Note: If the employment contract contains a non-solicitation clause, the program will review the non-solicitation clause on a case-by-case basis.

#### C30-2021.06 – APPLICATION FEE

The Texas Conrad 30 J-1 Visa Waiver application fee is \$3,000.00. Please include the payment with the application packet, and make any checks payable to Texas Department of State Health Services. DSHS will not accept cash.

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<sup>7</sup> Per 22 CFR §41.63 (e)(3)(iii)

The refund procedure is as follows:

- If DSHS recommends the waiver to DOS, none of the application fee will be returned.
- If the applicant withdraws the application before DSHS recommends the waiver to DOS, DSHS will refund 50 percent of the application fee.
- If DSHS does not recommend the waiver, DSHS will refund 100 percent of the application fee.

#### C30-2021.07 – MAILING ADDRESS

Please send applications to:

Texas Department of State Health Services  
Cash Receipts Branch, MC 2003, J-1  
1100 West 49th Street  
Austin, TX 78756

Please use an established overnight delivery service such as UPS, USPS, or FedEx. DSHS will not accept hand-delivered applications.

#### C30-2021.08 – FLEX OPTION

The flex option allows Conrad 30 programs to allot up to ten of the 30 slots for facilities that are not located in a designated shortage area. The flex option is not available for the Texas program for FFY2021 as there are no counties that meet the criteria under Texas Health and Safety Code, Section 81.048 as outlined in the Texas Health and Safety Code, Section 12.0125.

#### C30-2021.09 – MISCELLANEOUS

- The health care facility must be operational at the time the application is submitted.
- The individual, partnership, corporation, or other entity that employs program participants must be established as a legal Texas entity.
- It is an expectation of the program that waiver recipients and their employers be available by telephone and email for periodic follow-up.
- Employers are limited to 3 program participants per county per year.

- If an employer submits more than three applicants, and all applications are eligible, the program will rank the candidates based on the prioritization system and select accordingly.
- Applicants who qualify for a J-1 visa waiver through the [federal HHS program](#) must use that program for a waiver recommendation. It is the responsibility of the applicant to determine eligibility for a waiver recommendation from HHS.

#### C30-2021.10 – NOTIFICATION

The employer and the J-1 physician must notify DSHS in writing within ten days if the contract is breached or terminated.

#### C30-2021.11 – RIGHTS AND RESPONSIBILITIES

Each applicant and sponsor must have a thorough understanding of the policies in this manual, which includes the items in the [Rights and Responsibilities](#) section.

#### J-1 APPLICANT CHECKLIST

The following is a list of documents to submit for a waiver recommendation from the program. Also provided here are suggestions from DOS on how to put an application together that may speed up application review time.

#### SUGGESTIONS FROM US DEPARTMENT OF STATE

- Do not include documents that are not required by DOS or the program.
- Limit use of staples, binders, tabs, two-sided copies, or pages larger or smaller than 8.5" x 11".
- The DOS waiver case file number should appear on every page of the application.

#### APPLICATION DOCUMENT DESCRIPTION AND DOCUMENT ORDER

Documents should be placed in the following order, separated by a colored divider page, and appropriately labeled with the name of the document behind it. Please do not include any documents not listed below. **Please**

**note that a duplicate copy and letters of support are no longer required.**

- **Data Sheet DS-3035**
- **Employment Contract** ([C30-2021-05](#))
- **IAP-66/DS-2019 Forms** – Please include copies of all forms that were issued to the applicant
- **Letter from facility** – Please ensure the letter indicates a desire to hire the applicant and is on official letterhead
- **Evidence of shortage designation status**
- **No objection statement** from the applicant’s country of nationality or last residence – if applicable
- **Curriculum vitae**
- **Explanation for out of status** – if the applicant spent any period of time in some other visa status, out of status, or outside of the US
- **Form G-28 or letterhead from the law office** – if the applicant is represented by an attorney

#### TEXAS CONRAD 30 J-1 VISA WAIVER PROGRAM REQUIRED ITEMS

- **Application fee** ([C30-2021.06](#))
- **Document with the applicant’s Texas medical license number (if held), NPI number, and permanent email address**
- **If the practice site is in a population-based HPSA, verification from program that the site is eligible** – See [C30-2021.03](#) for more information

#### RIGHTS AND RESPONSIBILITIES

It is the intent of the Texas Conrad 30 J-1 Visa Waiver Program that all sponsors and physicians are aware of and understand their rights and responsibilities. **By applying to the program, both the employer and**

**the applicant attest they have read and understood the Texas Conrad 30 J-1 Visa Waiver Program FFY2021 Policy Manual in its entirety.**

## RIGHTS AND RESPONSIBILITIES FOR THE J-1 WAIVER PHYSICIAN

### **I have a right to be treated equal to my peers.**

Understand that your service obligation does not negate your right to be treated equal to your peers. You have a right to fair and equal treatment regarding physician duties, including call coverage; evening, weekend and holiday shifts; educational and personal leave, etc. However, understand that the newest employees may get the last choice in schedules or duties, but over time there should be more balance and equity.

### **I have a right to be compensated as agreed upon in the employment contract.**

Understand the salary agreement. The contracted salary is part of the agreement that allowed the waiver recommendation. If you sign a new contract, it may not meet the requirements for the waiver. Contracts may also limit your right to ask for a higher salary.

### **I have a right to expect that all billings and claims submitted for my services will be lawful and correct.**

Understand the billing and claims submission process. Ask to verify billings submitted under your NPI number and license. You may be liable for any errors or unlawful submissions.

### **I have a right to regular performance evaluations.**

Meet regularly with your employer and other key staff for performance evaluations. Performance evaluations ensure that employees have a clear understanding of job requirements and expectations, and allow the employee and the employer the opportunity to discuss performance and development.

**I have a right to discuss my situation with legal professionals if necessary.**

Understand that if you have any concerns about your employment or contract, you have a right to discuss these concerns with your attorney for guidance.

**I have a right to leave the practice with no repercussions after my obligation is complete.**

Be open with your employer about your employment plans in advance. If you successfully complete your three-year obligation within the contract terms, you should then have a wider range of employment options. Understand any non-solicitation clauses in your contract and abide by them. Also, understand immigration regulations as they relate to employment. For example, obtaining a “green card” or permanent residency through a National Interest Waiver will require employment that meets USCIS requirements.

**I am responsible for recognizing the value of my sponsor’s offer of employment.**

Understand that an offer of employment is a serious commitment, with immediate and long term financial implications. The employer is also committing an investment of time and administrative assistance to support a medical practice. Acceptance of an offer of employment is an acknowledgement of this value.

**I am responsible for asking for clarification of any contract terms I do not understand.**

Understand your contract thoroughly, **prior to signing**. Ask questions and seek clarification about any areas of the contract that are difficult to understand, and/or have someone with contract expertise review the contract with you.

**I am responsible for practice performance that justified my sponsor’s level of investment.**

Productivity, such as the number of patients seen each day, is one measure of performance. The physician and employer should discuss marketing and scheduling to optimize productivity. The physician, sponsor and other professionals in the practice should work together to provide consistent, quality care, which ensures continuity of that care for the patients. This includes establishing a clear process and plan for coverage of patients outside regular clinic hours.

**I am responsible for requesting approval from my employer before accepting any outside employment and I am responsible for gaining any appropriate work authorization.**

Understand that “moonlighting” or working for another employer must have prior and ongoing approval by the sponsor. Outside employment cannot be allowed to conflict with your primary job.

**I am responsible for fair and equitable treatment, without regard to race, age, ability, sex, sexual orientation, financial status, marital status, education, ethnicity, religion, or any other characteristic protected by federal, state, or local law.**

Understanding the culture, experience and background of patients, peers, co-workers and the community you work in is important to the successful practice of medicine.

**I am responsible for behaving in a professional manner.**

Understand that expectations for a good work ethic and attention to professional standards, such as charting and documenting services you provide are not negotiable. Meet with your employer and peers regularly and join physician associations to further continuing education and expectations.

**I am responsible for recognizing that my conduct is a reflection of my employer and organization and to act in a manner that provides a positive reflection.**

Be mindful of how your behavior is viewed by others in your community. Be sure that your family knows they are seen as an extension of you and the practice with which you will be associated.

## RIGHTS AND RESPONSIBILITIES FOR THE SPONSORS OF J-1 WAIVER PHYSICIANS

### **I have the right to expect compliance with contracted service and benefits.**

Spelling out work schedules and benefits such as leave and insurance in the contract should clearly state your intentions. These should be the same as benefits available to other physicians in the practice.

### **I have the right to be notified of, review, and approve any outside employment.**

Understand that “moonlighting” by the physician could conflict with your expectations of the physician. You have the right to approve or deny any outside work. It is the physician’s responsibility to gain work authorization for any outside employment. Do not subcontract the physician’s services beyond the Texas Conrad 30 contractual agreement.

### **I have the right to be respected for my agreement to employ this physician.**

Your investment of time, space, legal costs, or any other financial or non-financial resources should be understood and respected by the physician. Sharing information about practice management costs may help make it clear that the sponsorship must also be a good business decision on your part.

### **I have the right to be consulted over any decisions that may impact my role as an employer.**

Major decisions on the part of the physician, such as staying or leaving upon completion of the initial three-year term, should be made known in a timely manner. Open communication is key, especially as it relates to what happens after the obligation has been met.

**I have the right to discuss financial implications of the employee or their behavior.**

Open communication about the business and personal performance of the physician should be incorporated in the professional performance evaluation of the physician. This should be a regular and ongoing process during the three-year obligation.

**I have the right to expect professional behavior and appropriate conduct on the part of the sponsored employee.**

Understand that the physicians' behavior and conduct are a reflection of your practice, and you have the right to expect positive and professional conduct from the physician.

**I am responsible for fair and equitable treatment, without regard to visa status, race, age, ability, sex, sexual orientation, financial status, marital status, education, ethnicity, religion, or any other characteristic protected by federal, state, or local law.**

Understanding the culture, experience and background of patients, peers, co-workers and the community you work in is important to the successful practice of medicine.

**I am responsible for the salary and timely payment as agreed upon in the employment contract.**

Understand that the salary and timely salary payments, as defined in the contract, are expected from employers. The contracted salary must be competitive for the specialty in the area.

**I am responsible for upholding all other terms of the contract. Any re-negotiations must meet visa waiver requirements.**

Understand that any subsequent contract offered during the initial three-year term must be approved by the Texas Conrad 30 office. Your ability to employ a waiver physician in the future could be impacted if waiver requirements are not met.

**I am responsible for clearly stating my performance expectations and providing assistance for reaching these goals.**

Performance evaluations ensure that employees have a clear understanding of job requirements and expectations, and allow employee and employer the opportunity to discuss performance and development. Meet regularly with the physician to provide feedback, guidance and training; and to help identify and address potential problems early.

**I am responsible for setting the example of professionalism to which I hold others.**

Professional standards are learned and setting the example can go a long way in establishing and maintaining a professional practice.

**I am responsible for ensuring transparent and legal billings on behalf of my clinic and employees.**

Understand that any complaints related to the legality of billings will be reported.

## ACRONYMS AND DEFINITIONS

**CFR (Code of Federal Regulations):** The administrative rules of federal departments and agencies.

**DOS (Department of State):** A federal cabinet-level department of the United States Government. For the J-1 Visa Waiver Program, DOS reviews and recommends waivers to the United States Citizenship and Immigration Services (USCIS).

**DSHS (Department of State Health Services):** A state agency in Texas that is responsible for the administration of the physician visa waiver program.

**FQHC (Federally Qualified Health Center):** A private, non-profit, or public entity comprehensive primary care clinic serving the underserved. Clinics are certified or funded by the Health Resources and Services Administration. FQHCs are automatically designated as HPSA facilities.

**HHS (Health and Human Services):** A department within the Health Resources and Services Administration that administers the shortage designation program and a physician visa waiver program.

**HPSA (Health Professional Shortage Area):** A geographic area, population, or facility with a shortage of physicians, dentists, or mental health professionals that is designated by the Secretary of HHS.

**MUA (Medically Underserved Area):** A geographic area or population that lacks medical services as indicated by poverty, low birth weight or infant mortality, age of the population, and lack of primary care providers. MUAs are designated by the Secretary of HHS.

**PCO (Primary Care Office):** Works with providers and communities to improve access to care for the underserved. Receives and reviews applications for the Texas Conrad 30 J-1 Visa Waiver Program on behalf of DSHS to make waiver recommendations to DOS.

**RHC (Rural Health Clinic):** A hospital or physician operated clinic in a rural area, certified by the Centers for Medicare and Medicaid. RHCs may apply for designation as a HPSA facility.

**USC (United States Code):** The compilation of the general and permanent laws of the United States. [Title 8 USC Aliens and Nationality](#) contains the laws that apply to physician immigration and the Conrad 30 program.

**USCIS (United States Citizenship and Immigration Services):** The federal agency that issues visas (or permits) for non-citizens to visit or work in the United States.