

## **Indiana J-1 Visa Waiver Program Guidelines Indiana Department of Health (IDOH)**

The Indiana J-1 Visa Waiver program targets primary care and mental health physicians who have completed a U.S. residency training program in one of the following practice areas: Family Medicine, General Pediatrics, General Obstetrics/Gynecology, General Internal Medicine or General Psychiatry.

Federal requirements for the program allow the State to *recommend* 30 qualifying physicians for waiving the Immigration and Nationality Act, Section 212(e) requirement for returning home for at least two years after the J-1 Visa exchange visitor program. While the State of Indiana may recommend a waiver be approved, the Bureau of Citizenship and Immigration Services (BCIS) of the U.S. Department of Homeland Security is the federal agency that grants J-1 visa waivers.

Physicians must practice in federally designated Primary Care Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs), or Medically Underserved Population (MUP) areas. Psychiatrists may practice in an underserved area or a Mental Health Professional Shortage Area.

### **Application Review and Submission**

#### **September 1**

Primary Care applications, including psychiatrists, and specialty applications, can be submitted beginning September 1 of each year. Specialists include Hospitalists, Geriatricians, and all other physicians who have received additional Fellowship training.

#### **December 31**

The IDOH will accept applications through and including December 31 of each year. If, by December 31 the number of applicants exceeds the 30-slot ceiling, applications starting with the 31<sup>st</sup> applicant, may be held and considered for the subsequent year if the applicant notifies the application reviewer via email [nmorrison@indianapca.org](mailto:nmorrison@indianapca.org) with a copy to [aalley@health.in.gov](mailto:aalley@health.in.gov) and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov). If the applicant wishes to be considered in the subsequent year, the application will be considered received prior to all other applications received in that year. However, primary care applicants will take precedence at any time.

Three (3) copies of the application must be mailed to the Indiana Primary Health Care Association address below using a tracked mail service. On the day the application is sent, an email noting the tracked package number and applicant name (s) in the subject line and applicant contact in the email body must be sent to [nmorrison@indianapca.org](mailto:nmorrison@indianapca.org) , [aalley@health.in.gov](mailto:aalley@health.in.gov), and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov). Multiple applicants may be represented in one package and one email. Applications should be mailed no earlier than September 1. Any applications mailed before this date will not be accepted.

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## **Prioritization of Applications:**

Applications will be ranked by the order in which the email containing the application tracking number is received. Application submitters will receive a confirmation email from [nmorrison@indianapca.org](mailto:nmorrison@indianapca.org) for their records. Tracking numbers may be consulted if necessary to verify the submission of the physical package. If multiple applications are submitted together, ranking will be determined by the order of the applicants listed in the email.

If the application is incomplete, it will be rejected and the email timing will become void. However, if there are correctable deficiencies in the application the reviewer will contact via e-mail the person identified as the contact person in the application and transmittal email.

If the reviewer does not receive all corrected materials via e-mail within 5 (five) business days, the application will be considered incomplete and will not be processed further. When all the materials are received after 5 (five) business days have passed, the reviewer will reassign a ranking to the application.

When reviews and rankings are completed, the reviewer will forward the physical applications to the IDOH. IDOH makes the decision to recommend or deny applications. IDOH will prepare letters of recommendations for signature by the Health Commissioner. Copies of letters will be returned to the reviewer to forward to the applicant's representative.

## **Physician Eligibility**

To be eligible, a J-1 physician must:

- Document an offer of full-time employment (at least 40 hours per week) at one or more eligible service sites located in federally designated Health Professional Shortage Areas (HPSAs) or in federally designated Medically Underserved Areas (MUAs), or serving in a federally designated Medically Underserved Population (MUP). Find HPSA by address here: <https://data.hrsa.gov/tools/shortage-area/by-address>. Find MUAs and MUPs here: <https://data.hrsa.gov/tools/shortage-area/mua-find>.
- Sign a contract to work at an approved service site full-time (40 hours/week) for a period of not less than three years.
- Provide a copy of a permanent license, copy of a temporary license, or a copy of application for a license. An electronic copy of a permanent license must be sent when available to [aalley@health.in.gov](mailto:aalley@health.in.gov) and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov).

## **Service Site Requirements**

Physicians must serve at eligible sites. To be eligible, a service site must:

- Be located in a federally designated HPSA or federally designated MUA, or in a federally designated MUP or Mental Health HPSA;
- Have been operational and providing care for at least six months as of the date of the request for an IDOH recommendation;

- Submit documentation demonstrating that a U.S. citizen was unsuccessfully recruited. The documentation cannot be older than the year preceding the J-1 Visa Waiver application. Recruitment documentation should reflect a recruitment time span of no less than six-months.
- Provide a similar salary for locally recruited and J-1 physicians;
- Use a sliding fee scale based on ability to pay for all patients at the facility who are uninsured and/or having a household income at or below 200% of Federal Poverty Guidelines;
- The sliding-discount-to-fee-scale must be based on the current U.S. Department of Health and Human Services Federal Poverty Guidelines as published annually in the Federal Register. See <https://aspe.hhs.gov/poverty-guidelines>.
- Indiana will accept applications from facilities outside designated underserved areas if the candidate's practice site can document over 50% of its patients seen over the previous 12 months resided in an underserved area. In order to document this exception, a site must submit 12 months of data containing unduplicated, de-identified patient records containing a unique patient number and address. The information must be submitted electronically in Excel format to [aalley@health.in.gov](mailto:aalley@health.in.gov).

#### **The Employer and the J-1 Physician Applicant must**

- Accept all patients regardless of method of payment, including Medicaid, Medicare assignment and ability to pay;
- Provide services to those who have no health insurance coverage; charge patients at the usual and prevailing rates in this area; and
- Use and post for public viewing a sliding fee scale based on ability to pay for all patients at the facility who are uninsured and at or below 200% of Federal Poverty Guidelines.
- The J-1Physician and the Chief Executive Officer or Administrator of the employing entity must submit a signed, scanned copy of a semiannual Verification of Employment (VOE) form which verifies the J-1Physician's employment at the practice site.
  - Send the report via email with "J-1 Visa Waiver Verification of Employment Report" in the subject line to [aalley@health.in.gov](mailto:aalley@health.in.gov) and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov).
  - The first report must be submitted within 30 days of employment. Subsequent reports must be submitted **every six months** from the contract execution date with a final report due upon completion of the three-year commitment.
  - If the employment contract is terminated prior to its scheduled end date, the J-1Physician and employer must provide written notification and explanation to the IDOH via email with "J-1 Visa Waiver Termination" in the subject line to [aalley@health.in.gov](mailto:aalley@health.in.gov) and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov).
  - The employer of a J-1 Physician that transfers to another medical facility within Indiana must submit a final VOE form upon termination of the contract.
  - The new employer of a J-1 Physician who has transferred from within Indiana or another state must file the first work verification form within 30 days of the transfer.

- Subsequent reports must be submitted every six months from the contract execution date with a final report due upon completion of the contract.
- Failure on the part of the J-1 Physician to submit accurate and truthful semiannual forms will result in a report of noncompliance to the U.S. Citizenship and Immigration Service. Failure on the part of the Chief Executive Officer or Administrator of the employing entity to submit accurate and truthful semiannual reports will jeopardize future eligibility for J-1 placement at the practice site and may result in an out-of-compliance report for the J-1 Physician.

A service site, employer and applicant must meet and/or agree to all the requirements listed above for an application to be considered.

### **IDOH Held Harmless**

The IDOH reserves the right to deny recommending any J-1 visa waiver application. If support is denied, IDOH will not forward the application to the U.S. Department of State (DOS) Waiver Review Division. The IDOH does not bear any liability for the denial of support of a J-1 visa waiver application, which includes but is not limited to, the consequences arising from any practice arrangements or contracts entered into by the J-1 physician or proposed employer before or after requesting an IDOH J-1 waiver recommendation.

In the event that an application is denied, the IDOH will notify the J-1 physician or his/her representative of the denial via mail or e-mail.

## **APPLICATION PROCEDURE**

### **The applicant's case number must be included on every page of all documentation.**

**STEP 1.** Obtain a case number from the United States Department of State (DOS) (Please refer to Requirement #2 below).

**STEP 2.** Receive your case number and instruction sheet from DOS.

The instruction sheet from DOS may include a list of documents that are required by the Waiver Review Division (IDOH requires items 1-16 of the Requirements in order to consider the request for a letter of support). *If the DOS Waiver Review Division asks for an item that is not on the Indiana requirement list, be sure to include that item.*

**STEP 3.** Submit documentation described under the subheading “**Requirements 1-16**” below to the Reviewer at the Indiana Primary Health Care Association (IPHCA).

**STEP 4.** If supporting a J-1 visa waiver application, the IDOH will submit all required documents and letters relating to the application to the DOS Waiver Review Division. At this point, the IDOH is no longer directly involved in the process. The IDOH will inform the J-1 physician or the lawyer of record when this happens.

In the event that an application is denied, The J-1 physician's attorney, the physician or the employer will be notified by mail or E-mail.

### **Requirements 1-16**

Three (3) copies of the application must be mailed to the address below using a tracked mail service. On the day the application is sent, an email noting the tracked package number and applicant(s) name in the subject line and applicant contact in the email body must be sent to [nmorrison@indianapca.org](mailto:nmorrison@indianapca.org) ,

[aalley@health.in.gov](mailto:aalley@health.in.gov), and [vbarrett@health.in.gov](mailto:vbarrett@health.in.gov). Multiple applicants may be represented in one package and one email.

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**WRITE YOUR DOS (DEPARTMENT OF STATE) CASE NUMBER ON EACH PAGE SUBMITTED.**

1. An Indiana J-1 Visa Waiver Application Sheet
2. DS-3035, Review Application Form, Date Sheet (current edition)

Refer to <https://j1visawaiverrecommendation.state.gov/>.

Click “STEP 1 – Complete the Online J Visa Waiver Recommendation Application” and the “J Visa Waiver Online” link to fill out Online J Visa Waiver Recommendation Application, Form DS-3035.

Please note: **You must use the online form. No other version of Form DS-3035 will be accepted.** If you submit a version of Form DS-3035 other than the online form, your application will be returned to you without the processing fee, which is non-refundable.

3. A “JUSTIFICATION LETTER” from the head of the facility at which the physician will be employed that:
  - Describes the facility, including the nature and extent of its medical services and the need for a J-1 physician
  - Describes the facility’s percent of the patient population to which the sliding fee has pertained in the last year; the percent of Medicaid, Medicare and privately insured, self-pay, and charity care.
  - Describes the effect a waiver denial will have on the area.
  - Describes how the J-1 physician’s employment will satisfy important unmet needs, including the health care needs of the specific community and preventive programs the physician will initiate or continue that address health problems prevalent in the specific community.
  - Presents the J-1 physician’s supervisor’s rationale for wanting to hire the particular applicant.
  - Describes the recruitment process and employment environment:
    - Who recruited?
    - What questions were asked of the applicant?
    - What was the level of community involvement?
    - The quality management system place?
    - Will the J-1 physician provide hospital-based care?
    - Is the candidate hospital certified?
    - Is there a physician retention plan?
    - Is there a physician quality improvement system in place?
    - Is board certification required?
    - Is there a continuing medical education allowance or formalized opportunity with partners available to enable the candidate to maintain her/his board eligibility/certification?

- What is the date of the last client satisfaction survey performed and what was the outcome?
- Please describe the candidate’s verbal and written communication skills?
- Describe in what way the candidate has the performance competencies to meet the needs of the population he/she will serve?
- Approximately how many patients will the candidate carry?
- Please attach a copy of the site’s orientation and retention plan that takes J-1 physicians into account.

**4. A copy of a fully-executed valid contract of full-time employment from the time BCIS grants a waiver of the two-year home-country residency requirement. The contract must include the following:**

- The contract must specify the address of the service site (s) where the J-1 physician will provide services.
- The contract must be for at least three (3) years, 40 hours per week.
- The physician must agree to begin employment at the approved service site within 90 days of receiving a J-1 visa waiver.
- The contract may contain a non-compete clause that is not overly burdensome.
- Both the J-1 physician and the employer must sign the contract.
- The contract may not be terminated without cause and may not be terminated by mutual agreement.
- The contract must state that the J-1 physician and the employer may not change, by contractual amendment or otherwise, the essential terms of the employment contract.
- Until the J-1 physician completes the three-year commitment, the J-1 physician must provide services:
  - At the service site (s) specified in the employment contract,
  - To the patients specified in the employment contract, and
  - In the manner specified in the employment contract.
- Documentation from the Foreign Labor Certification Data Center (<http://www.flcdatacenter.com/OesWizardStart.aspx>) that services will be provided at a salary comparable to other salaries in the area

**5. Evidence that the facility is in a federally designated Health Professional Shortage Area (HPSA) or federally designated Medically Underserved Area/Population (MUA/P.)**

- The site census track number and the HPSA and/or MUA Name and ID are sufficient proof.
- For official listings of designated HPSAs, <https://data.hrsa.gov/tools/shortage-area/by-address>, MUAs and MUPs: <https://data.hrsa.gov/tools/shortage-area/mua-find>.

**6. Legible copies of the physician’s IAP-66/DS-2019, Certificate of Eligibility for Exchange Visitor (1-1) Status forms, covering every period the physician was in J-1 status.**

- IAP-66/DS-2019 forms must be submitted in chronological order with “Begin a new program” first.

**7. Proof of passage of examinations required by Immigration and Naturalization Services (i.e., Flex and ECFMG). All scores must be included for the application to be processed.**

**8. Curriculum Vitae.**

**9. Two letters of recommendation from the physician’s primary care residency or fellowship program.**

**10. Form G-28, Notice of Entry of Appearance as Attorney or Representative.**

**11. A completed J-1 Visa Waiver Program Affidavit and Agreement**

**12. Recruitment documentation.**

- Copies of advertisements, announcements, and or placement agreements and a summary description of recruitment efforts.
- Documentation demonstrating that the employer made a good faith effort to recruit a United States citizen for the job opportunity in the same salary range for at least four (4) months before the request for an IDOH J-1 visa waiver recommendation and that the effort was not successful. The documentation may include advertisements or announcements in newspapers or professional journals, residency programs, websites, etc. The employer must describe the recruitment efforts including the number of United States citizen physicians interviewed, and outcome of any interviews. The description of recruitment efforts must clearly demonstrate that the employer could not find a United States citizen primary care physician through traditional recruitment methods.

**13. A facility sliding discount-to-fee schedule (SFS) and the procedure in place for its use.**

- The sliding discount-to-fee schedule must be based on current Federal Poverty Guidelines available at <http://aspe.hhs.gov/poverty/15poverty.cfm#guidelines>
- The schedule and policies for its use must be posted in a prominent location for public viewing within the facility.
- Discounts must be offered to all patients at the facility who are uninsured and at or below 200% of Federal Poverty Guidelines.

**14. Two (2) letters prepared within the year (12-month span) of application.**

- Provide originals of each letter.
- Letters of support suggesting the need from the community for employing the J-1 physician to provide primary care services at the service site.

**15. Copy of the J-1 physician's permanent license, copy of a temporary license, or a copy of application for a license. An electronic copy of a permanent license must be sent when available to [aalley@health.in.gov](mailto:aalley@health.in.gov) and [ybarrett@health.in.gov](mailto:ybarrett@health.in.gov).**

**16. Copy of license to practice in states other than Indiana even if license has expired.**