

Summary of changes made to the J1 Visa Waiver proposed regulations

- Section 19a-2a-26(b) now includes the language that was previously in subsection (e)(1) and (2) of this section.
- Section 19a-2a-26(c) now has the language that was previously in subsection (b)
- Section 19a-2a-26(d) now has the language that was previously in section 19a-2a-26(e)(2)(A) and (B)
- Section 19a-2a-26(e) now has the language that was previously in section 19a-2a-26(c)
- Section 19a-2a-26(f) now has the language that was previously in section 19a-2a-26(d). The language in subsection (f) was modified to indicate that the J1 Visa Program is mandatory, and to link subsection (f) and (k).
- Section 19a-2a-26(g) now has the same language that was previously in sections 19a-2a-26(f) and (g). Thus, subsections (f) and (g) are now together
- Section 19a-2a-26(h) now has the same language as before, but dates were added and the language is simpler to understand
- Section 19a-2a-26(i) is the same as before
- Section 19a-2a-26(j) is the same as before
- Section 19a-2a-26(k) now cites specific statutory basis for not recommending a waiver application that the Department had deemed complete
- Throughout the entire document, the following changes were made:
 - The words department, commissioner, director, and federal fiscal year are now in lower case letters, and
 - The symbol for section has been removed and replaced with the word *section*

State of Connecticut Regulation of The Department of Public Health Concerning J1 Visa Waiver Program

Sec 1. Sections 19a-2a-24 to 19a-2a-26 of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 19a-2a-24. Definitions

As used in sections 19a-2a-24 to 19a-2a-26, inclusive, of the Regulations of Connecticut State Agencies:

[(1) "Department" means the Department of Public Health.]

[(2)](1) "Application" means an application for waiver of a two-year foreign residence requirement for a foreign medical graduate holding a J-1 VISA, in accordance with 22 C.F.R. 41.63, 8 U.S.C. 1182 (e) and 8 U.S.C. 1184 (l) as amended from time to time[.];

[(3)](2) "Applicant" means a foreign medical graduate physician or surgeon licensed pursuant to Chapter 370 of the Connecticut General Statutes, **[, on whose behalf an application is being filed.];**

(3) "Commissioner" means the Commissioner of Public Health or the commissioner's designee;

(4) "Department" means the Department of Public Health;

(5) "Director" means the Director of the Department of State Waiver Review Division;

[(4)](6) "Federal Fiscal Year" means the period October [1st]1 through September [30th.]30; and

[(5)](7) "Health Care Facility" means a medical facility, as defined in 42 C.F.R. [Section] 5.2, as amended from time to time.

[(6) "Director" means the Director of the United States Information Agency (USIA).]

Sec. 19a-2a-25. Applications

[(a)] An application form for a J-1 VISA waiver shall be developed by the [Department] department and **[shall be disseminated by] published on the [Department] department's internet website **[upon request to health care facilities or applicants]**. Such application form shall request all information and documentation deemed necessary by the [Department] department, in accordance with federal laws and the requirements of these regulations, to ensure that the [Department] department will be able to submit the completed application materials to the [Director] director on behalf of an applicant.**

[(b) A health care facility shall submit a completed application to the Department on behalf of an applicant.]

Sec. 19a-2a-26. Eligibility determination

(a) [If an application contains all of the necessary information and documentation, as set forth in the application and as required by federal regulation, 22 C.F.R. section 41.63, the application may be approved by the Department. If information is missing from the application, the Department shall not approve the application.] An applicant may submit an application to the

department for its consideration. To the extent permitted by federal law and these regulations, the department may recommend a waiver of the foreign country residence requirement for an applicant who agrees to practice medicine in accordance with 8 U.S.C. 1184 (I) and these regulations, as amended from time to time.

(b) [The Department shall forward to the Director the first thirty approved applications in the fiscal year. The Department shall recommend that the United States Attorney General grant J-1 VISA waivers to such thirty applicants.] Applications submitted in accordance with subsections (c) and (d) of this section shall include applications from a physician or surgeon who:

(1) agrees to practice medicine in a health care facility that is located in a geographic area designated by the United States Secretary of Health and Human Services as having a shortage of health care professionals; or

(2) agrees to practice medicine in a health care facility that serves patients who reside in one or more geographic areas designated by the United States Secretary of Health and Human Services as having a shortage of health care professionals without regard to whether such facility is located within such a designated area.

(c) [Notwithstanding the above procedures, if the Department determines that there is a shortage of physicians or surgeons in a specific specialty or in a specific geographic location within the area designated by the Secretary of Health and Human Services, the Department may forward to the Director an approved application for such specialty or geographic location, even though such application may not be one of the first thirty applications approved by the Department during the fiscal year. The Department shall document the basis for its decision to forward and recommend an application that is not among the first thirty applications approved during the fiscal year.] The department shall not deem a submitted application complete unless the application:

(1) is submitted in a form and manner as prescribed by the department on its internet website;

(2) is received between October 1 and by end of business on October 15, unless October 15 falls on a weekend or holiday, in which event, the department will accept applications until the end of business on the next business day;

(3) at the time of the department's review, contains all of the necessary information and documentation, as set forth in the application and as required by federal regulation, 22 C.F.R. 41.63 and 8 U.S.C. 1184 (I), and these regulations, as amended from time to time; and

(4) at the time of the department's review, the applicant holds a license pursuant to Chapter 370 of the Connecticut General Statutes.

(d) [Each application] For applications submitted in accordance with subsection [(a)] (b)(2) of this section, [prior to April 1 of each fiscal year, shall be taken in order of submission if deemed complete, thereafter if the total number of applications has not reached thirty, applications shall be considered in order of submission and may include applications from a physician or surgeon who (1) agrees to practice medicine in a health care facility that is located in a geographic area designated by the United States Secretary of Health and Human Services as having a shortage of health care professionals, or (2) agrees to practice medicine in a health care facility that serves patients who reside in one or more geographic areas designated by the United States Secretary of Health and Human Services as having a shortage of health care professionals without regard to whether such facility is located within such a designated area, provided that in addition to the

requirements of Section 19a-2a-25(a), all of the following conditions are met:] the applications shall also include documentation of the following requirements:

(A) the health care facility where the applicant intends to work shall [document] attest that a minimum of thirty percent [(30%)] of the [applicant physician's] health care facility's patients reside in an area designated by the United States Secretary of Health and Human Services as having a shortage of health care professionals; and

(B) the health care facility where the applicant intends to work shall provide a description of why the physician's services are required and how the applicant physician's work will benefit the indigent and medically underserved[; and].

[(C) the health care facility shall provide letters of community support from at least three (3) community agencies stating that the J-1 placement is critical and will help alleviate health care access problems for the underserved population of the community.]

(e) [In no event shall the number of applications approved pursuant to subsection (d)(2) of this section exceed the federally designated maximum for Conrad Flex spots per fiscal year. In no event shall more than two waivers approved pursuant to subsection (d)(2) be recommended per health care facility in each fiscal year, unless by April 30 of that fiscal year the number of applications approved pursuant to subsection (d)(2) and recommended from all institutions do not reach the maximum for Conrad Flex spots for that fiscal year.] Any application deemed incomplete by the department shall not be eligible for recommendation to the director.

(f) If the number of applications deemed complete by the department are less than or equal to the maximum number permitted under federal law, the department shall forward and recommend to the director the said applications. In the event the department receives more than the maximum number of applications permitted under federal law, which the department deems complete in accordance with subsections (c) and (d) of this section, a randomized selection system shall determine the applications that may be forwarded to the director. The date, time, and place of the randomized selection system process, prescribed by the commissioner, shall be posted on the department's internet website. Nothing in this subsection shall require the department to recommend an application if the applicant is disqualified pursuant to subsection (k) of this section.

(g) Notwithstanding subsection (f) of this section, if the commissioner determines on or before June 1 before the new federal fiscal year that there is a shortage of physicians or surgeons in a specific specialty in a specific geographic location within the area designated by the Secretary of Health and Human Services as having a shortage of health care professionals, the department may forward to the director up to three applications deemed complete by the department for such specialty in a geographic location, and the commissioner may recommend up to three waivers in accordance with subsection (b)(2) of this section, even though such applications may not be one of the applications selected by the randomized selection system.

(h) Notwithstanding subsection (g) of this section, if the department recommends less than the maximum number of waivers permitted under federal law in accordance with subsections (f) and (g) of this section, the department shall continue receiving applications after October 15 and up to April 1, and recommend applications from applicants who qualify for a waiver under

subsection (b)(2) of this section, up to the maximum number permitted under federal law for that federal fiscal year.

(i) If the department receives and deems complete less than the maximum number of applications permitted under federal law, in accordance with subsections (c) and (d) of this section, the department shall post a notice on its internet website that it will continue to receive applications until April 1 of that federal fiscal year, or until the number of applications deemed complete reaches the maximum permitted under federal law, whichever occurs first. Any applications received after October 15 under this section shall be evaluated by the department in the order of their receipt and deemed complete pursuant to subsections (c) and (d) of this section without regard to the time frame specified in subsection (c) of this section. Any applications received and deemed complete before April 1 in accordance with subsection (b)(1) of this section shall take precedence over any applicant seeking waiver under subsection (b)(2) of this section.

(j) No applicant eligible for the Health and Human Services Exchange Visitor Program shall be considered as an applicant under this section.

(k) Notwithstanding subsections (a) through (i), inclusive, of this section, the department reserves the right to decline to recommend any individual request for a waiver when an applicant has submitted false or inaccurate information to the department, when an applicant's license is or has been the subject of a disciplinary action pursuant to Sections 19a-17 and 20-13c of the Connecticut General Statutes, when an applicant's license is the subject of an investigation or pending complaint pursuant to Sections 19a-12e, 19a-14, 19a-14a, 20-13d, or 20-13e, of the Connecticut General Statutes or when, in the Commissioner's sole discretion, an applicant's recommendation would not be in the best interest of the public health.

(l) Notwithstanding the provisions of subsections (c), (h), and (i) of this section, for purposes of the 2018-2019 federal fiscal year, the commissioner shall publish the time frame for submission of applications on the department's internet website.

Statement of Purpose: The amendment to sections 19a-2a-24 to 19a-2a-26 is to revise the process for the Department's receipt of Federal J1 Visa program applications. The current process is outdated and doesn't provide the Department with the ability to process the applications in an equitable manner. The Department committed to addressing Connecticut's evolving health care needs and address the rapidly changing needs of the underserved population in Connecticut as authorized by the federal regulations, 22 C.F.R. 41.63, (8) U.S.C. 1182 (e) and 8 U.S.C. 1184 (l). Under the current J1 Visa program, each state's Department of Health is authorized to recommend up to thirty international medical graduates per year to work in areas designated as Health Professional Shortage Areas, Medically Unserved Areas, or Medically Underserved Populations. Over the past few years, the Department has received over thirty applications for this program and it has been determined that a new process is necessary.