

Proposed Rules  
of the  
Tennessee Department of Health  
Bureau of Health Services Administration  
Community Services Division

Chapter 1200-20-11  
Rules and Regulations Governing the State Conrad J-1 Visa  
Waiver Program

Presented herein are proposed amendments of the Department of Health, Bureau of Health Services Administration, Community Service Division, submitted pursuant to Tennessee Code Annotated § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Bureau of Health Services Administration, Community Services Division, to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Community Services Division on the Sixth Floor of the Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee, 37247, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee, 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the text of the proposed amendments, contact:  
Alisa Malone, Sixth Floor, Cordell Hull Building, 425 5th  
Avenue North, Nashville, Tennessee, 37247, (615) 741-4545.

The text of the proposed amendments is as follows:

Amendments

Rule 1200-20-11-.02, Definitions, paragraph (13), entitled "Physician specialist," is amended by deleting the entire paragraph and substituting instead the following language, so that as amended, the paragraph shall read:

- (13) Physician specialist - a physician who has completed a residency in Family Practice Adolescent Medicine or Geriatric Medicine; or Internal Medicine Adolescent Medicine, Cardiovascular Disease, Critical Care Medicine, Endocrinology, Diabetes, & Metabolism, Emergency Medicine, Gastroenterology, Geriatric Medicine, Hematology, Hospitalists, Infectious Disease, Interventional Cardiology, Oncology, Nephrology, Neurology, Pulmonary Disease, Rheumatology; or Obstetrics & Gynecology Critical Care Medicine or Gynecologic Oncology; or Pediatric Adolescent Medicine, Developmental-Behavioral Pediatrics, Pediatric Cardiology, Pediatric Endocrinology, Pediatric Gastroenterology, Pediatric Hematology-Oncology, Pediatric Infectious Disease, Pediatric Nephrology, Pediatric Pulmonology, or Pediatric Critical Care Medicine; or Addiction Psychiatry, Child & Adolescent Psychiatry, or Geriatric Psychiatry; or General Orthopedic Surgery or General Surgery. If all slots permitted by federal law are not filled by June 30<sup>th</sup> of each year, at the Commissioner's discretion, a "specialist" may also include a physician who has completed a residency in a medical specialty or subspecialty other than one listed above, if the specialty or subspecialty is among those recognized by the American Board of Medical Specialties at the time the physician applies for placement through the J-1 visa waiver program.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.02, Definitions, paragraph (15), entitled "Rural Hospital," is amended by replacing the word "guidelines" with "requirements" in the first sentence.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, paragraph (1), is amended by placing a period "." after "General Internal Medicine," inserting a new sentence, and deleting the last sentence in the paragraph, so that as amended, the paragraph shall read:

- (1) The State Conrad J-1 Visa Waiver Program in Tennessee is limited to those primary care physicians who have completed a residency in one of the following medical specialties: Family Practice, General Pediatrics, Obstetrics, or General Internal Medicine. The State Conrad J-1 Visa Waiver Program is limited to those physician specialists who have completed a residency in Family Practice Adolescent Medicine or Geriatric Medicine; or Internal Medicine Adolescent Medicine, Cardiovascular Disease, Critical Care Medicine, Emergency Medicine, Endocrinology, Diabetes, & Metabolism, Gastroenterology, Geriatric Medicine, Hematology, Hospitalists, Infectious Disease, Interventional Cardiology, Oncology, Nephrology, Neurology, Pulmonary Disease, Rheumatology; or Obstetrics & Gynecology, Critical Care Medicine or Gynecologic Oncology; or Pediatric Adolescent Medicine, Developmental Behavioral Pediatrics, Pediatric Cardiology, Pediatric Endocrinology, Pediatric Gastroenterology, Pediatric Hematology- Oncology, Pediatric Infectious Disease, Pediatric Nephrology, Pediatric Pulmonology, or Pediatric Critical Care Medicine; or Addiction Psychiatry, Child & Adolescent Psychiatry, or Geriatric Psychiatry; or General Orthopedic Surgery or General Surgery.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, is amended by inserting a new paragraph (2) and renumbering the remaining paragraphs accordingly, so that as amended, new paragraph (2) shall read:

- (2) Health care practitioners who are placed must provide medical care to underserved Tennesseans. Each applicant must be supported by a sponsoring employer. A sponsoring employer will be considered for a J-1 visa waiver placement if the primary

purpose of the placement is the provision of health care services to those who live in underserved communities based on the criteria set forth herein.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, current paragraph (2), is amended by adding the following sentence to the beginning of the paragraph and leaving the remainder of the paragraph unchanged:

J-1 primary care physicians are placed only in rural areas of the State.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, current paragraph (3), is amended by deleting the entire paragraph and substituting instead the following language, so that as amended, the paragraph shall read:

- (3) At the discretion of the Department, the Department will also support and facilitate the placement of one (1) physician specialist per hospital in up to thirty percent (30%) of the slots permitted by federal law between October 1 and June 30 of each federal fiscal year in affiliation with the following hospitals, as designated by the Department, that are located in a HPSA or MUA: one of the top twenty (20) non-psychiatric hospitals with the highest percentage of total adjusted patient days for TennCare patients; or a Rural Referral Center hospital; or a Sole Community hospital; or a Medicare dependent hospital; or a rural hospital meeting the requirements for placement of a primary care physician. The top twenty non-psychiatric hospital list will be updated on an annual basis.

In addition, in accordance with 8 U.S.C.A. § 1184(l)(1)(D)(ii), the Department may also facilitate the placement of physician specialists in up to five (5) of the federally-permitted slots annually in affiliation with hospitals not located in a HPSA or MUA. A hospital requesting

participation under 8 U.S.C.A. § 1184(1)(1)(D)(ii) must demonstrate that fifty percent (50%) or more of its patients served reside in a HPSA or MUA.

Each physician specialist must agree to practice his or her specialty in affiliation with the hospital for a minimum of forty (40) hours per week and for a minimum of three (3) years. If the full complement of thirty percent (30%) of the slots for physician specialists has not been committed by April 1, an additional application from a facility which has already received a physician specialist slot between October 1 and March 31 will be accepted and applications for a physician specialist will also be accepted from Critical Access Hospitals located in a HPSA or MUA from April 1 to June 30 of each federal fiscal year. No more than one-third of the specialist slots may be granted in an urban HPSA from October 1 to June 30 of each year.

If the full complement of slots permitted by the federal law has not been committed by June 30, the percentage limitations on the number of slots allocated to specialty physicians and on the placement of specialty physicians, set forth above, shall no longer be applicable. After June 30, all slots permitted by the federal law shall be opened to all eligible sponsoring employers for primary care physicians and specialist physicians as previously described, for the final quarter of the year. Additionally, if all slots permitted by federal law are not filled by June 30<sup>th</sup> of each year, at the Commissioner's discretion, a physician who has completed a residency in a medical specialty or subspecialty other than one listed in (1) may be considered eligible for placement if the specialty or subspecialty is among those recognized by the American Board of Medical Specialties at the time the physician applies for placement through the J-1 visa waiver program. During the final quarter, priority for the specialist slots is given to specialists but primary care provider applications will be accepted if specialist slots are available and no other specialist provider application has been received and deemed eligible.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, current paragraph (4), is deleted in its entirety and the remaining paragraph renumbered accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.04, Eligibility, current paragraph (5), is amended by deleting the entire paragraph and substituting instead the following language, so that as amended, the paragraph shall read:

- (5) A physician specialist who requests placement as a primary care physician under the State Conrad J-1 Visa Waiver Program will be required to adhere to all rules and regulations herein specific to primary care physicians.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Rule 1200-20-11-.05, Application Review, Approval, Denial, paragraph (2), is amended by deleting the entire paragraph and substituting instead the following language, so that as amended, the paragraph shall read:

- (2) If an employer proposes to utilize the J-1 primary care physician at more than one (1) site located within a HPSA and/or MUA, either of which must also be located within a HRSA, or if an employer proposes to utilize the physician specialist in affiliation with more than one (1) hospital within a HPSA or MUA or the qualifying location, the name and location of each facility and a schedule of the days and hours that the physician will be available at each site must be included in the application.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-1-103, and 68-1-121.

Legal contact and/or party who will approve final copy:

Kassie Wiley  
Assistant General Counsel  
Office of General Counsel  
26<sup>th</sup> Floor, William R. Snodgrass Tennessee Tower  
312 8<sup>th</sup> Avenue North, Nashville, Tennessee, 37247-0120  
(615) 741-1611

Contact for disk acquisition:

Alisa Malone  
Sixth Floor, Cordell Hull Building  
415 5<sup>th</sup> Avenue, North  
Nashville, Tennessee, 37247  
(615)741-4545

Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

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Kenneth S. Robinson, M.D.  
Commissioner  
Tennessee Department of Health

I certify that this is an accurate and complete copy of proposed rules lawfully promulgated and adopted by the Department of Health, Bureau of Health Services on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

The Secretary of State is hereby instructed that, in the absence of a petition for rulemaking hearing being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days

after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

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Kenneth S. Robinson, M.D.  
Commissioner  
Tennessee Department of Health

Subscribed and sworn to before me this the \_\_\_\_ day of \_\_\_\_\_, 2006.

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Notary Public

My commission expires on the \_\_\_ day of \_\_\_\_\_, 200\_\_.

All proposed rules provided for herein have been examined by the Attorney General and Report of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

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Paul G. Summers  
Attorney General and Reporter

The proposed rules set out herein were properly filed in the Department of State on the 31st day of May, 2006, and in the absence of an appropriate petition calling for a rulemaking hearing, will be effective on the 28th day of September, 2006.