

[117H3541]



(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. SCHNEIDER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Conrad State 30 and  
5 Physician Access Reauthorization Act”.

6 **SEC. 2. CONRAD STATE 30 PROGRAM.**

7 (a) EXTENSION.—Section 220(c) of the Immigration  
8 and Nationality Technical Corrections Act of 1994 (Public  
9 Law 103–416; 8 U.S.C. 1182 note) is amended by striking

1 “September 30, 2015” and inserting “on the date that  
2 is 3 years after the date of the enactment of the Conrad  
3 State 30 and Physician Access Reauthorization Act”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall take effect as if enacted on September  
6 30, 2018.

7 **SEC. 3. RETAINING PHYSICIANS WHO HAVE PRACTICED IN**  
8 **MEDICALLY UNDERSERVED COMMUNITIES.**

9 Section 201(b)(1) of the Immigration and Nationality  
10 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the  
11 end the following:

12 “(F)(i) Alien physicians who have completed  
13 service requirements of a waiver requested under  
14 section 203(b)(2)(B)(ii), including—

15 “(I) alien physicians who completed such  
16 service before the date of the enactment of the  
17 Conrad State 30 and Physician Access Act; and

18 “(II) the spouse or children of an alien  
19 physician described in subclause (I).

20 “(ii) Nothing in this subparagraph may be con-  
21 strued—

22 “(I) to prevent the filing of a petition with  
23 the Secretary of Homeland Security for classi-  
24 fication under section 204(a) or the filing of an  
25 application for adjustment of status under sec-

tion 245 by an alien physician described in this subparagraph before the date by which such alien physician has completed the service described in section 214(l) or worked full-time as a physician for an aggregate of 5 years at the location identified in the section 214(l) waiver or in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals; or

“(II) to permit the Secretary of Homeland Security to grant a petition or application described in subclause (I) until the alien has satisfied all of the requirements of the waiver received under section 214(l).”.

**SEC. 4. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

(a) **EXCEPTIONS TO 2-YEAR FOREIGN RESIDENCY REQUIREMENT.**—Section 214(l)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(2) in subparagraph (A), by striking “Director of the United States Information Agency” and inserting “Secretary of State”;

1           (3) in subparagraph (B), by inserting “, except  
2           as provided in paragraphs (7) and (8)” before the  
3           semicolon at the end;

4           (4) in subparagraph (C), by striking clauses (i)  
5           and (ii) and inserting the following:

6                   “(i) the alien demonstrates a bona fide  
7                   offer of full-time employment at a health facil-  
8                   ity or health care organization, which employ-  
9                   ment has been determined by the Secretary of  
10                  Homeland Security to be in the public interest;  
11                  and

12                   “(ii) the alien—

13                           “(I) has accepted employment with  
14                           the health facility or health care organiza-  
15                           tion in a geographic area or areas which  
16                           are designated by the Secretary of Health  
17                           and Human Services as having a shortage  
18                           of health care professionals;

19                           “(II) begins employment by the later  
20                           of the date that is—

21                                   “(aa) 120 days after receiving  
22                                   such waiver;

23                                   “(bb) 120 days after completing  
24                                   graduate medical education or train-

1 ing under a program approved pursu-  
2 ant to section 212(j)(1); or

3 “(cc) 120 days after receiving  
4 nonimmigrant status or employment  
5 authorization, if the alien or the  
6 alien’s employer petitions for such  
7 nonimmigrant status or employment  
8 authorization not later than 120 days  
9 after the date on which the alien com-  
10 pletes his or her graduate medical  
11 education or training under a pro-  
12 gram approved pursuant to section  
13 212(j)(1); and

14 “(III) agrees to continue to work for  
15 a total of not less than 3 years in the sta-  
16 tus authorized for such employment under  
17 this subsection, except as provided in para-  
18 graph (8).”; and

19 (5) in subparagraph (D), in the matter pre-  
20 ceding clause (i), by inserting “(except as provided  
21 in paragraph (8))”.

22 (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-  
23 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-  
24 SERVED AREAS.—Section 214(l)(2)(A) of such Act (8  
25 U.S.C. 1184(l)(2)(A)) is amended to read as follows:

1           “(A) Upon the request of an interested Federal  
2           agency or an interested State agency for rec-  
3           ommendation of a waiver under this section by a  
4           physician who is maintaining valid nonimmigrant  
5           status under section 101(a)(15)(J) and a favorable  
6           recommendation by the Secretary of State, the Sec-  
7           retary of Homeland Security may change the status  
8           of such physician to any status authorized for em-  
9           ployment under this Act. The numerical limitations  
10          contained in subsection (g)(1)(A) shall not apply to  
11          any alien whose status is changed under this sub-  
12          paragraph.”.

13          (c)     VIOLATION     OF     AGREEMENTS.—Section  
14          214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is  
15          amended by inserting “substantial requirement of an” be-  
16          fore “agreement entered into”.

17          (d)     PHYSICIAN EMPLOYMENT IN UNDERSERVED  
18          AREAS.—Section 214(l) of such Act, as amended by this  
19          section, is further amended by adding at the end the fol-  
20          lowing:

21          “(4)(A) If an interested State agency denies an appli-  
22          cation for a waiver under paragraph (1)(B) from a physi-  
23          cian pursuing graduate medical education or training pur-  
24          suant to section 101(a)(15)(J) because the State has re-  
25          quested the maximum number of waivers permitted for

1 that fiscal year, the physician's nonimmigrant status shall  
2 be extended for up to 6 months if the physician agrees  
3 to seek a waiver under this subsection (except for para-  
4 graph (1)(D)(ii)) to work for an employer described in  
5 paragraph (1)(C) in a State that has not yet requested  
6 the maximum number of waivers.

7 “(B) Such physician shall be authorized to work only  
8 for the employer referred to in subparagraph (A) during  
9 the period beginning on the date on which a new waiver  
10 application is filed with such State and ending on the ear-  
11 lier of—

12 “(i) the date on which the Secretary of Home-  
13 land Security denies such waiver; or

14 “(ii) the date on which the Secretary approves  
15 an application for change of status under paragraph  
16 (2)(A) pursuant to the approval of such waiver.”.

17 (e) CONTRACT REQUIREMENTS.—Section 214(l) of  
18 such Act, as amended by this section, is further amended  
19 by adding at the end the following:

20 “(5) An alien granted a waiver under paragraph  
21 (1)(C) shall enter into an employment agreement with the  
22 contracting health facility or health care organization  
23 that—

24 “(A) specifies the maximum number of on-call  
25 hours per week (which may be a monthly average)

1       that the alien will be expected to be available and  
2       the compensation the alien will receive for on-call  
3       time;

4           “(B) specifies—

5               “(i) whether the contracting facility or or-  
6       ganization—

7               “(I) has secured medical malpractice  
8       liability protection for the alien under sec-  
9       tion 224(g) of the Public Health Service  
10      Act (42 U.S.C. 233(g)); or

11              “(II) will pay the alien’s malpractice  
12      insurance premiums;

13              “(ii) whether the employer will provide  
14      malpractice insurance for the alien; and

15              “(iii) the amount of such liability protec-  
16      tion that will be provided;

17              “(C) describes all of the work locations that the  
18      alien will work and includes a statement that the  
19      contracting facility or organization will not add addi-  
20      tional work locations without the approval of the  
21      Federal agency or State agency that requested the  
22      waiver; and

23              “(D) does not include a non-compete provision.

24              “(6) An alien granted a waiver under this subsection  
25      whose employment relationship with a health facility or



1 health care organization terminates under paragraph  
2 (1)(C)(ii) during the 3-year service period required under  
3 paragraph (1) shall be considered to be maintaining lawful  
4 status in an authorized period of stay during the 120-day  
5 period referred to in items (aa) and (bb) of subclause (III)  
6 of paragraph (1)(C)(ii) or the 45-day period referred to  
7 in subclause (III)(cc) of such paragraph.”.

8 (f) RECAPTURING WAIVER SLOTS LOST TO OTHER  
9 STATES.—Section 214(l) of such Act, as amended by this  
10 section, is further amended by adding at the end the fol-  
11 lowing:

12 “(7) If a recipient of a waiver under this subsection  
13 terminates the recipient’s employment with a health facil-  
14 ity or health care organization pursuant to paragraph  
15 (1)(C)(ii), including termination of employment because of  
16 circumstances described in paragraph (1)(C)(ii)(III), and  
17 accepts new employment with such a facility or organiza-  
18 tion in a different State, the State from which the alien  
19 is departing may be accorded an additional waiver by the  
20 Secretary of State for use in the fiscal year in which the  
21 alien’s employment was terminated.”.

22 (g) EXCEPTION TO 3-YEAR WORK REQUIREMENT.—  
23 Section 214(l) of such Act, as amended by this section,  
24 is further amended by adding at the end the following:

1       “(8) The 3-year work requirement set forth in sub-  
2 paragraphs (C) and (D) of paragraph (1) shall not apply  
3 if—

4           “(A)(i) the Secretary of Homeland Security de-  
5 termines that extenuating circumstances, including  
6 violations by the employer of the employment agree-  
7 ment with the alien or of labor and employment  
8 laws, exist that justify a lesser period of employment  
9 at such facility or organization; and

10          “(ii) the alien demonstrates, not later than 120  
11 days after the employment termination date (unless  
12 the Secretary determines that extenuating cir-  
13 cumstances would justify an extension), another  
14 bona fide offer of employment at a health facility or  
15 health care organization in a geographic area or  
16 areas which are designated by the Secretary of  
17 Health and Human Services as having a shortage of  
18 health care professionals, for the remainder of such  
19 3-year period;

20          “(B)(i) the interested State agency that re-  
21 quested the waiver attests that extenuating cir-  
22 cumstances, including violations by the employer of  
23 the employment agreement with the alien or of labor  
24 and employment laws, exist that justify a lesser pe-

1       riod of employment at such facility or organization;  
2       and

3           “(ii) the alien demonstrates, not later than 120  
4       days after the employment termination date (unless  
5       the Secretary determines that extenuating cir-  
6       cumstances would justify an extension), another  
7       bona fide offer of employment at a health facility or  
8       health care organization in a geographic area or  
9       areas which are designated by the Secretary of  
10      Health and Human Services as having a shortage of  
11      health care professionals, for the remainder of such  
12      3-year period; or

13           “(C) the alien—

14               “(i) elects not to pursue a determination of  
15              extenuating circumstances pursuant to sub-  
16              clause (A) or (B);

17               “(ii) terminates the alien’s employment re-  
18              lationship with the health facility or health care  
19              organization at which the alien was employed;

20               “(iii) demonstrates, not later than 45 days  
21              after the employment termination date, another  
22              bona fide offer of employment at a health facil-  
23              ity or health care organization in a geographic  
24              area or areas, in the State that requested the  
25              alien’s waiver, which are designated by the Sec-

1           retary of Health and Human Services as having  
2           a shortage of health care professionals; and  
3           “(iv) agrees to be employed for the remain-  
4           der of such 3-year period, and 1 additional year  
5           for each termination under clause (ii).”.

6   **SEC. 5. ALLOTMENT OF CONRAD 30 WAIVERS.**

7       (a) IN GENERAL.—Section 214(l) of the Immigration  
8   and Nationality Act (8 U.S.C. 1184(l)), as amended by  
9   section 4, is further amended by adding at the end the  
10   following:

11       “(9)(A)(i) All States shall be allotted a total of 35  
12   waivers under paragraph (1)(B) for a fiscal year if 90 per-  
13   cent of the waivers available to the States receiving at  
14   least 5 waivers were used in the previous fiscal year.

15       “(ii) When an allotment occurs under clause (i), all  
16   States shall be allotted an additional 5 waivers under  
17   paragraph (1)(B) for each subsequent fiscal year if 90  
18   percent of the waivers available to the States receiving at  
19   least 5 waivers were used in the previous fiscal year. If  
20   the States are allotted 45 or more waivers for a fiscal year,  
21   the States will only receive an additional increase of 5  
22   waivers the following fiscal year if 95 percent of the waiv-  
23   ers available to the States receiving at least 1 waiver were  
24   used in the previous fiscal year.

1       “(B) Any increase in allotments under subparagraph  
2 (A) shall be maintained indefinitely, unless in a fiscal year,  
3 the total number of such waivers granted is 5 percent  
4 lower than in the last year in which there was an increase  
5 in the number of waivers allotted pursuant to this para-  
6 graph, in which case—

7           “(i) the number of waivers allotted shall be de-  
8 creased by 5 for all States beginning in the next fis-  
9 cal year; and

10          “(ii) each additional 5 percent decrease in such  
11 waivers granted from the last year in which there  
12 was an increase in the allotment, shall result in an  
13 additional decrease of 5 waivers allotted for all  
14 States, provided that the number of waivers allotted  
15 for all States shall not drop below 30.”.

16       (b) ACADEMIC MEDICAL CENTERS.—Section  
17 214(l)(1)(D) of such Act (8 U.S.C. 1184(l)(1)(D)) is  
18 amended—

19           (1) in clause (ii), by striking “and” at the end;

20           (2) in clause (iii), by striking the period at the  
21 end and inserting “; and”; and

22           (3) by adding at the end the following:

23           “(iv) in the case of a request by an inter-  
24 ested State agency—

1           “(I) the head of such agency deter-  
2           mines that the alien is to practice medicine  
3           in, or be on the faculty of a residency pro-  
4           gram at, an academic medical center (as  
5           that term is defined in section  
6           411.355(e)(2) of title 42, Code of Federal  
7           Regulations, or similar successor regula-  
8           tion), without regard to whether such facil-  
9           ity is located within an area designated by  
10          the Secretary of Health and Human Serv-  
11          ices as having a shortage of health care  
12          professionals; and

13           “(II) the head of such agency deter-  
14          mines that—

15                   “(aa) the alien physician’s work  
16                   is in the public interest; and

17                   “(bb) the grant of such waiver  
18                   would not cause the number of the  
19                   waivers granted on behalf of aliens for  
20                   such State for a fiscal year (within  
21                   the limitation in subparagraph (B)  
22                   and subject to paragraph (6)) in ac-  
23                   cordance with the conditions of this  
24                   clause to exceed 3.”.

1 **SEC. 6. AMENDMENTS TO THE PROCEDURES, DEFINITIONS,**  
2 **AND OTHER PROVISIONS RELATED TO PHYSI-**  
3 **CIAN IMMIGRATION.**

4 (a) DUAL INTENT FOR PHYSICIANS SEEKING GRAD-  
5 UATE MEDICAL TRAINING.—Section 214(b) of the Immi-  
6 gration and Nationality Act (8 U.S.C. 1184(b)) is amend-  
7 ed by striking “(other than a nonimmigrant described in  
8 subparagraph (L) or (V) of section 101(a)(15), and other  
9 than a nonimmigrant described in any provision of section  
10 101(a)(15)(H)(i) except subclause (b1) of such section)”  
11 and inserting “(other than a nonimmigrant described in  
12 subparagraph (L) or (V) of section 101(a)(15), a non-  
13 immigrant described in any provision of section  
14 101(a)(15)(H)(i) (except subclause (b1) of such section),  
15 and an alien coming to the United States to receive grad-  
16 uate medical education or training as described in section  
17 212(j) or to take examinations required to receive grad-  
18 uate medical education or training as described in section  
19 212(j))”.

20 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-  
21 FICATIONS.—

22 (1) PRACTICE AND GEOGRAPHIC AREA.—Sec-  
23 tion 203(b)(2)(B)(ii)(I) of the Immigration and Na-  
24 tionality Act (8 U.S.C. 1153(b)(2)(B)(ii)(I)) is  
25 amended by striking items (aa) and (bb) and insert-  
26 ing the following:

1           “(aa) the alien physician agrees to  
2           work on a full-time basis practicing pri-  
3           mary care, specialty medicine, or a com-  
4           bination thereof, in an area or areas des-  
5           ignated by the Secretary of Health and  
6           Human Services as having a shortage of  
7           health care professionals, or at a health  
8           care facility under the jurisdiction of the  
9           Secretary of Veterans Affairs; or

10           “(bb) the alien physician is pursuing  
11           such waiver based upon service at a facility  
12           or facilities that serve patients who reside  
13           in a geographic area or areas designated  
14           by the Secretary of Health and Human  
15           Services as having a shortage of health  
16           care professionals (without regard to  
17           whether such facility or facilities are lo-  
18           cated within such an area) and a Federal  
19           agency, or a local, county, regional, or  
20           State department of public health deter-  
21           mines the alien physician’s work was or  
22           will be in the public interest.”.

23           (2) FIVE-YEAR SERVICE REQUIREMENT.—Sec-  
24           tion 203(b)(2)(B)(ii) of the Immigration and Na-  
25           tionality Act (8 U.S.C. 1153(B)(ii)) is amended—



1 (A) by moving subclauses (II), (III), and  
2 (IV) 4 ems to the left; and

3 (B) in subclause (II)—

4 (i) by inserting “(aa)” after “(II)”;  
5 and

6 (ii) by adding at the end the fol-  
7 lowing:

8 “(bb) The 5-year service requirement  
9 under item (aa) shall begin on the date on  
10 which the alien physician begins work in  
11 the shortage area in any legal status and  
12 not on the date on which an immigrant  
13 visa petition is filed or approved. Such  
14 service shall be aggregated without regard  
15 to when such service began and without re-  
16 gard to whether such service began during  
17 or in conjunction with a course of graduate  
18 medical education.

19 “(cc) An alien physician shall not be  
20 required to submit an employment contract  
21 with a term exceeding the balance of the 5-  
22 year commitment yet to be served or an  
23 employment contract dated within a min-  
24 imum time period before filing a visa peti-  
25 tion under this subsection.

1           “(dd) An alien physician shall not be  
2           required to file additional immigrant visa  
3           petitions upon a change of work location  
4           from the location approved in the original  
5           national interest immigrant petition.”.

6       (c) TECHNICAL CLARIFICATION REGARDING AD-  
7 VANCED DEGREE FOR PHYSICIANS.—Section  
8 203(b)(2)(A) of the Immigration and Nationality Act (8  
9 U.S.C. 1153(b)(2)(A)) is amended by adding at the end  
10 the following: “An alien physician holding a foreign med-  
11 ical degree that has been deemed sufficient for acceptance  
12 by an accredited United States medical residency or fel-  
13 lowship program is a member of the professions holding  
14 an advanced degree or its equivalent.”.

15       (d) SHORT-TERM WORK AUTHORIZATION FOR PHY-  
16 SICIANS COMPLETING THEIR RESIDENCIES.—

17           (1) IN GENERAL.—A physician completing  
18           graduate medical education or training described in  
19           section 212(j) of the Immigration and Nationality  
20           Act (8 U.S.C. 1182(j)) as a nonimmigrant described  
21           in section 101(a)(15)(H)(i) of such Act (8 U.S.C.  
22           1101(a)(15)(H)(i))—

23           (A) shall have such nonimmigrant status  
24           automatically extended until October 1 of the  
25           fiscal year for which a petition for a continu-

1           ation of such nonimmigrant status has been  
2           submitted in a timely manner and the employ-  
3           ment start date for the beneficiary of such peti-  
4           tion is October 1 of that fiscal year; and

5           (B) shall be authorized to be employed in-  
6           cident to status during the period between the  
7           filing of such petition and October 1 of such fis-  
8           cal year.

9           (2) TERMINATION.—The physician's status and  
10          employment authorization shall terminate on the  
11          date that is 30 days after the date on which a peti-  
12          tion described in paragraph (1)(A) is rejected, de-  
13          nied or revoked.

14          (3) AUTOMATIC EXTENSION.—A physician's  
15          status and employment authorization will automati-  
16          cally extend to October 1 of the next fiscal year if  
17          all of the visas described in section 101(a)(15)(H)(i)  
18          of such Act that were authorized to be issued for the  
19          fiscal year have been issued.

20          (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES  
21          AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse  
22          or child of an exchange visitor described in section  
23          101(a)(15)(J) of the Immigration and Nationality Act (8  
24          U.S.C. 1101(a)(15)(J)) shall not be subject to the require-

1 ments under section 212(e) of such Act (8 U.S.C.  
2 1182(e)).

3 **SEC. 7. ANNUAL CONRAD STATE 30 J-1 VISA WAIVER PRO-**  
4 **GRAM STATISTICAL REPORT.**

5 The Director of U.S. Citizenship and Immigration  
6 Services shall submit an annual report to Congress and  
7 to the Department of Health and Human Services that  
8 identifies the number of aliens admitted during the most  
9 recently concluded fiscal year as a result of the Conrad  
10 State 30 J-1 Visa Waiver Program established under sec-  
11 tions 212(e) and 214(l) of the Immigration and Nation-  
12 ality Act (8 U.S.C. 1182(e) and 1184(l)), broken down  
13 by State.