

All interested parties in the Texas Conrad 30 J-1 visa waiver program should become familiar with the codes, statutes and rules that establish and govern the waiver process. In this document you will find the Federal Codes, Texas Statutes, Texas Department of State Health Services Rules, Texas Conrad 30 Program Policy (including Responsibilities and Rights for Sponsors/Employers and Physicians seeking a waiver) and a J-1 Applicant Check-list, in that order.

Federal Codes: [TITLE 8](#) > [CHAPTER 12](#) > [SUBCHAPTER II](#) > [Part II](#)
§ 1182. Inadmissible aliens

(http://www.law.cornell.edu/uscode/html/uscode08/usc_sec_08_00001182----000-.html)

Scroll down to:

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

And: [TITLE 8](#) > [CHAPTER 12](#) > [SUBCHAPTER II](#) > [Part II](#)
§ 1184. Admission of nonimmigrants

(http://www.law.cornell.edu/uscode/html/uscode08/usc_sec_08_00001184----000-.html)

Scroll down to:

(l) Restrictions on waiver

Texas Statutes:

Health and Safety Code, Title 2. Health, Subchapter B. Powers and Duties of the Department

Sec. 12.0127. IMMIGRATION VISA WAIVERS FOR PHYSICIANS.

(a) The department, in accordance with 8 U.S.C. Section 1182(e), as amended, under exceptions provided by 8 U.S.C. Section 1184(l), as amended, may request waiver of the foreign country residence requirement for a qualified alien physician who agrees to practice medicine in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services, that has a current shortage of physicians.

(b) The department may charge a fee to cover the costs incurred by the department in administering the visa waiver program established under this section.

Added by Acts 2003, 78th Leg., ch. 143, Sec. 1, eff. Sept. 1, 2003.
(Can be found at: <http://www.statutes.legis.state.tx.us/>)

Texas DSHS Rules:

Texas Administrative Code

Title 25. Health Services

Part 1 – Department of State Health Services

Ch. 13 – Health Planning and Resource Development

Subchapter A – Recruitment of Physicians to Underserved Areas

§13.1 - §13.3

§13.1. Priorities for Waiver Recommendations.

(a) It is the intent of the Legislature that applications submitted under this program be prioritized by the Department of State Health Services (department) to the areas of greatest need and that the department consider relative specialty need as well, adhering to federal and state legislation (Health and Safety Code, §12.0127), therefore the Texas Conrad 30 Program will identify priorities for waiver recommendations for the coming year, and publish them on the Texas Conrad 30 website at <http://www.dshs.state.tx.us/chpr/j1info.shtm>, prior to May 1 of each year.

(b) The following criteria will be applied in prioritizing applications for waiver recommendations:

(1) Regular applications may be considered and approved before some or all flexible applications are considered;

(2) Some flexible applications may be approved based on considerations of the date the application is received by the department;

(3) Flexible applications may be considered only if there are less than 30 regular applications;

(4) The number of flexible applications approved will be limited to no more than the number allowed by federal or state law but may be less than the number allowed by federal law;

(5) The needs of medically underserved areas will always be of importance in establishing the department's priorities;

(6) The department will operate the program to conform to federal law as it may be amended.

§13.2. Application Fee.

The department shall collect a fee of \$2500 to \$5000 from each applicant who is granted a waiver of the two-year home residency requirement from the Bureau of Citizenship and Immigration Services. The Texas Conrad 30 Program has the option to assess the fee each year based on the cost of operating the program. The amount of the application fee will be identified on the Texas Conrad 30 Program website at <http://www.dshs.state.tx.us/chpr/j1info.shtm> by May 1 of each year. The fee shall be submitted to the department at the time of application. Part of the fees may be returned under the following circumstances:

(1) if the department recommends the waiver to the US Department of State, none of the application fee will be returned to the applicant;

(2) if the applicant withdraws the application before a recommendation is submitted by the department, 50% of the application fee will be returned to the applicant; or

(3) if at the time the application is received by the department, all 30 slots have been used for the fiscal year, 100% of the application fee will be returned to the applicant.

§13.3. Other Federal or State Requirements.

All waiver request applications must meet federal laws Title 8 United States Code §1184, and relevant provisions in Health and Safety Code, Chapter 12.

**Texas Conrad 30 J-1 Visa Waiver Program Policy Manual for
Fiscal Year 2010**

1) Purpose: The purpose of this Policy Manual is to describe and clarify policy as it relates to a favorable recommendation for J-1 physicians through this program. State law and Department of State Health Services rules allow for the program to set priorities for the program on an annual basis. The information in this Manual will be made available on the program’s web site by March 1st of each year.

2) Policy:

Number	Topic
<u>C30-2010.01</u>	Primary Care and Sub Specialty Professions
<u>C30-2010.02</u>	Shortage Designation Requirements
<u>C30-2010.03</u>	Employment Contract
<u>C30-2010.04</u>	Texas Medical License
<u>C30-2010.05</u>	Letters of Support
<u>C30-2010.06</u>	Application Fee
<u>C30-2010.07</u>	Mailing Address
<u>C30-2010.08</u>	Miscellaneous
<u>C30-2010.09</u>	Flex 10 Provision
<u>C30-2010.10</u>	State Hospital/Supported Living Center Placements
<u>C30-2010.11</u>	Notification
<u>C30-2010.12</u>	Responsibilities and Rights

C30-2010.01 – Primary Care and Sub Specialty Professions

Primary care and sub specialist physicians qualify for the program. Primary Care specialties include: Family Practice, Internal Medicine, Pediatrics, Psychiatry and Obstetrics/Gynecology. Sub Specialists include Hospitalist, Geriatrics, and all other physicians who have received additional Fellowship training.

C30-2010.02 – Shortage Designation Requirements

For Primary Care Physicians, eligible areas are limited to: Geographic Health Professional Shortage Areas (HPSAs), and Federally Qualified Health Centers (FQHCs), and Rural Health Clinics (RHCs) with "automatic" facility HPSA designation. Areas that are not eligible for Primary Care physician waivers include: population based HPSAs, Medically Underserved Areas or Populations (MUAs, MUPs), or facility HPSAs. RHCs that do not have an “automatic” facility HPSA designation are also not eligible, unless located in a geographic HPSA.

For Sub Specialty Physicians, eligible areas are limited to: Geographic Health Professional Shortage Areas (HPSAs), and FQHCs and RHCs with "automatic" facility

HPSA designation. ADDITIONALLY: Sub specialists may also be eligible for a waiver if they work in Geographic Medically Underserved Areas (MUAs.)

Areas that are not eligible include: population based HPSAs, Medically Underserved Populations (MUPs), or facility HPSAs. RHCs that do not have an “automatic” facility HPSA designation are also not eligible, unless located in a geographic HPSA.

C30-2010.03 – Employment Contract

Must Include:

- Statement that any amendments to the contract will adhere to State and Federal J-1 visa waiver requirements
- statement that termination can only be for cause, not mutual agreement
- statement that indicates the physician will begin working within 90 days of receiving the waiver and employment authorization from the USCIS
- field of practice of the provider
- list of benefits, insurance to be provided to physician
- estimated schedule of hours per week at each address
- amount of leave
- practice site(s) name, address and telephone number.

Cannot include:

- non compete clause
- liquidated damages clause
- remedies clause; (non solicitation clauses will be reviewed at on a case by case basis)

C30-2010.04 – Texas Medical License

Include in the application evidence of Texas licensure or proof that the Texas license application process has been initiated.

C30-2010.05 – Letters of Support

Include in the application a minimum of four but no more than six letters of support for the waiver that indicate the need for the physician in the area. Letters may be from community leaders such as the Mayor, the County Commissioners’ Court, school board members, hospital administrators, local health department etc. For sub specialty applicants, include support letters from local physicians.

C30-2010.06 – Application Fee

The application fee is \$2,500.00. Refund procedure is described in the Rules, on page 3 of this document. Please include the fee in the application packet.

C30-2010.07 – Mailing Address

Applications should be sent to:
Department of State Health Services
Cash Receipts Branch, MC 2003, J-1
1100 West 49th Street
Austin, TX 78756

Hand delivered applications are not accepted. Use an established overnight delivery service such as UPS, USPS, FedEx, etc.

C30-2010.08 – Miscellaneous

- Applications are considered on a first come-first served basis beginning on September 1st, 2009
- a duplicate copy of the application must be included
- employers cannot be a relative of the physician, or currently serving a J-1 obligation
- the physician's salary can be no less than the prevailing wage
- the health care facility must be operational at the time the application is submitted
- it is an expectation of the program that waiver recipients and their employers be available by telephone for periodic follow-up calls, and also be available for occasional site visits.

C30-2010.09 – Flex 10 Provision

For the Fiscal Year 2010 cycle, the program will consider Flex 10 applications on a first-come, first-served basis starting March 2, 2010. The Flex 10 provision allow State Conrad programs to recommend up to 10 of their 30 waiver slots to applicants whose practice location is not in a designated shortage area, but whose patient base reside in a designated shortage area.

Applications for the Flex 10 option will be accepted beginning March 2, 2010, **if there are still waiver slots available.** Applications for the Flex 10 option must include documentation that patients served by the facility reside in designated shortage areas. One waiver application per facility will be recommended. The program may consider additional applications from a facility, depending on the number of Flex 10 applications received and the number of waiver slots available.

C30-2010.10 – State Hospital/Supported Living Center Placements /Exception to Flex 10 Policy

A Flex 10 application may be considered before March 2, 2010 for physicians intending to be employed by a Texas State Hospital or State Supported Living Center that is not located in a designated shortage area.

C30-2010.11 – Notification

The employer and the J-1 physician must notify the department in writing within 10 days if the contract is breached or terminated.

C30-2010.12 – Responsibilities and Rights

Each J-1 waiver physician applicant and Sponsor must read and understand the Responsibilities and Rights. Please read the Responsibilities and Rights by going back to the main page (click the Back button) and hit the Responsibilities and Rights link.

J-1 Applicant Check-list

The following is a list of documents to be submitted for a waiver recommendation under the **Texas Conrad 30 Program**. Also provided here are suggestions from the **US Department of State** on how to put an application together that may speed up application review time. It will also speed up our review of applications so we recommend applications be assembled as follows:

Suggestions from US Department of State

- a) Do not include documents that are not required by DOS or the State of Texas.
- b) Limit use of staples, binders, tabs, two sided copies or pages larger or smaller than 8.5 x 11.
- c) The DOS waiver case file number should appear on every page of the application.
- d) Documents should be placed in the following order, separated by a colored divider page, appropriately labeled with the name of the document behind it:

Application Document Description and Document Order

1) **Data Sheet:** [DS-3035](#) (90K, PDF, [viewing information](#))

2) **Employment Contract:**

1. The physician and the head of the health care facility must sign the contract
2. The date that the contract is signed should be included in the contract
3. A minimum of 40 hours weekly to provide patient care only
4. A statement that the health care facility is located in a shortage area, or serves patients who reside in a shortage area (for Flex 10 provision)
5. Statement that physician agrees to begin employment within 90 days of waiver and employment authorization

3) **Physician Attestation:**

I, _____, hereby declare and certify, under penalty of the provisions of 18USC.1001, that:

I have sought or obtained the cooperation of the Texas Department of State Health Services which is submitting a State Health Agency request on behalf of me under the Conrad 30 program to obtain a waiver of the two-year home residency requirement.

I do not now have pending nor will I submit during the pendency of this request, another request to any U.S. Government department or agency or any equivalent, to act on my behalf in any matter relating to a waiver of my two-year home residence requirement.

4) **IAP-66/DS-2019 Forms** - Must be submitted in chronological order with the "Beginning a new program" first

- 5) **Letter From Facility** - that indicates a desire to hire physician
- 6) **Evidence of Shortage Designation Status**
- 7) **Personal Statement** - from physician regarding his/her reasons for not wishing to fulfill the two-year home country residence requirement to which the FMG agreed at the time of acceptance of exchange visitor status
- 8) **Curriculum Vitae**
- 9) **Explanation For Out of Status** - *if* FMG spent any period of time in some other visa status, out of status, or outside of the US
- 10) **Form G-28 or letterhead from law office** - *if* applicant is represented by attorney.
- 11) **I-94 Entry and Departure Cards** - Photo copies, front and back
- 12) **A "No Objection" Statement** - from the visitor's government *if* foreign government funding is involved

Texas Conrad 30 Required Items

- 1) Evidence of Texas licensure or proof that the Texas license application process has been initiated. (C30-2010.04)
- 2) Letters of Support (C30-2010.05)
- 3) Application fee (C30-2010.06)
- 4) Duplicate copy of application (C30-2010.08)