

FFY 2026
Guidance
Manual



Physician National Interest Waiver (PNIW) and Letter of Attestation

Arkansas Primary Care Office
Arkansas Department of Health

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Introduction

Since 1990, the Immigration and Nationality Act (INA) has allowed individuals with exceptional abilities to waive the job offer requirement if the U.S. Citizenship and Immigration Services (USCIS) believes this waiver serves the national interest. A later amendment expanded this waiver to include certain professionals. This waiver is specifically for the second preference (EB-2) classification, which covers professionals with advanced degrees and those with exceptional ability, referred to as the “national interest waiver.”

The Nursing Relief for Disadvantaged Areas Act of 1999 modified the INA to create a national interest waiver (NIW) that exempts certain physicians from the Department of Labor’s permanent labor certification process if they are applying for advanced degree professional or exceptional ability status.

USCIS grants a Physician NIW of the job offer requirement, allowing physicians applying for advanced degree professional or exceptional ability classifications to bypass the permanent labor certification process (PERM).

Eligibility

The basic eligibility requirements for the physician are:

- The petitioner has filed a petition under [INA 203\(b\)\(2\)](#), along with the physician NIW request;
- The doctor commits to working full-time (40 hours per week) in a clinical practice that offers primary or specialized care in underserved areas or at a U.S. Department of Veterans Affairs (VA) health care facility for a total of 5 years. This period does not include any time spent in J-1 visa status, though it does account for any time that occurred before the application was filed.
- A federal agency or a state public health department that oversees medically underserved areas has decided that the doctor's work in these areas or at a VA

facility is beneficial for the public. This includes considering any past work and confirming that it was also in the public's interest.

- The physician must practice in primary care or specialty care. USCIS only considers NIW physicians in primary care or specialty care (including family or general medicine, pediatrics, general internal medicine, obstetrics and gynecology, and psychiatry). Dentists, chiropractors, podiatrists, and optometrists do not qualify as specialty physicians and, therefore, do not qualify for the NIW.
- The physician or employer must submit evidence showing that a geographic area is or was designated by HHS as having a shortage of health care professionals. The designation must be valid at the time the NIW employment began.
 - **NOTE:** If the area loses its HHS designation after the physician starts working, a physician can remain at the facility, and the time worked after that point qualifies as NIW employment so long as the employment continues to satisfy all other NIW requirements.

Evidence

Physicians seeking an NIW must submit the following supplemental documentation with the petition:

- An employment contract or commitment letter is needed for the required period of clinical medical practice. If the physician has not started the job, this letter must be issued and dated within six months before the petition is filed. However, this six-month rule does not apply to work that has already been completed or started before the petition's filing date.
- Evidence that the physician will provide full-time clinical medical service:
 - In a geographical area or areas designated by the Secretary of HHS as having a shortage of health care professionals and in a medical specialty that is within the scope of the Secretary's designation for the geographical area or areas; or
 - In a facility under the jurisdiction of the Secretary of VA.

- A letter from a federal agency or state public health department confirming that the physician's work is or will be in the public's interest. The letter must have been issued and dated 6 months prior to the date the petition is filed.
 - A letter of attestation from the public health department of a State, territory, or the District of Columbia must show that they have authority over the area where the foreign physician plans to work in clinical medicine. If the foreign physician wants to practice in more than one underserved area, letters from each area must be included.
- Evidence that the alien physician meets the admissibility requirements established by section 212(a)(5)(B) of the Act.
- Evidence of the Service-issued waivers, if applicable, of the requirements of sections 212(e) of the Act, if the foreign physician has been a J-1 nonimmigrant receiving medical training within the United States.
- The physician must provide evidence that he or she has passed parts I and II of the National Board of Medical Examiners (NBME) or an equivalent examination as determined by the Secretary of Health and Human Services. The NBME ceased to be administered in 1992. The United States Medical Licensing Examination (USMLE) was first administered in 1992 and is considered an equivalent examination.
- The physician is also required to provide evidence of competency in oral and written English. An Educational Commission for Foreign Medical Graduates (ECFMG) certification showing the physician has passed the English language proficiency test meets this requirement.

If a physician has worked with more than one employer, their record must show all their work in underserved areas or at a VA facility. The physician must also provide proof that they meet all other eligibility requirements for being classified as someone with an advanced degree or exceptional ability, other than the permanent labor certification.

Specifically, a physician needing a waiver for the J-1 foreign residency requirement must get this waiver as directed under [INA 212\(e\)](#) and fulfill all waiver conditions, including serving for 3 years, before USCIS can approve the physician's adjustment application.

NOTE: Physicians seeking a physician NIW must provide documentation to establish admissibility at the time of filing the petition.

Federal Laws

[8 CFR 204.12\(c\)](#)

[INA 203\(b\)\(2\)](#)

[INA 203\(b\)\(2\)\(B\)\(ii\)\(I\)](#)

[INA 212\(e\)](#)

Arkansas National Interest Waiver Letter of Attestation Qualifications

The Arkansas Physician National Interest Waiver Letter of Attestation will only be considered in the following situation:

- A qualified International Medical Graduate (IMG) physician placed through the Arkansas J-1 Visa Waiver Conrad Program is in the second year of their required three-year J-1 visa waiver commitment and requests a waiver to continue their medical practice in an underserved area of Arkansas.

NOTE: The aggregate Physician NIW five-year requirement will only recognize clinical medical practice time that is completed in the state of Arkansas.

Required Documentation

The following is the required documentation for requesting a Physician NIW Letter of Attestation from the State of Arkansas.

1. A letter from the IMG physician's attorney requesting a Physician National Interest Waiver (PNIW) letter of attestation should include the following:
 - a. The work site name, address, county, the underserved designation number, and the number of days and hours the physician will work at this site.
 - i. If more than one work site, list all additional sites and include the name, address, county, the underserved designation number, and the number of days and hours the physician will work at each site.
2. Evidence of a **current** Arkansas Medical License.
3. Evidence of H1-B status.
4. An employer contract containing the following information:
 - a. Physician's name and the medical specialty he/she will practice;
 - b. Name and address of employing facility and practice site;
 - i. If more than one practice site, list each site and include the name, address, and the days and hours at each site;
 - ii. Designation ID numbers for all practice sites or non-designated adjacent areas;
 - iii. Term of no less than five years;
 - iv. Statement that the physician will work a minimum of forty (40) hours weekly at an approved practice site(s);
 - v. Salary and other forms of financial support;
 - vi. The physician's starting date, on which they will commence working.
 - vii. Statement that the employer and physician agree to comply with applicable sections of the INA;
 - viii. Contract signed by the IMG physician and the head of the employing health care facility; and
 1. The date the contract was signed.

NOTE: Non-compete and/or non-solicitation clauses are not allowed.

Mailing Address

Email requests to: orhpc@arkansas.gov

NOTE: Once all documentation has been received, reviewed, and either denied or approved, the Arkansas Department of Health will send notification to the requesting attorney.

Resources

Chapter 5 - Advanced degree or exceptional ability. (2025, February 26). USCIS.

<https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5>

Chapter 6 - physician. (2025, February 26). USCIS. [https://www.uscis.gov/policy-](https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-6#footnote-9)

[manual/volume-6-part-f-chapter-6#footnote-9](https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-6#footnote-9)

Department of Justice, Immigration and Naturalization Service, & Howie, C. (2000).

National interest waivers for second preference Employment-Based immigrant physicians serving in medically underserved areas or at Department of Veterans Affairs facilities. In *Federal Register* (Vols. 65–65, Issue 173, pp. 53889–53890) [Report]. <https://www.govinfo.gov/content/pkg/FR-2000-09-06/pdf/00-22832.pdf>

EB-2 National Interest Waiver (NIW) - Adhikari Law PLLC.

<https://www.adhikarilaw.com/immigration-employment-family/employment-based-green-cards/eb-2-national-interest-waiver/>