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Policy Alert

SUBJECT: Physician National Interest Waivers

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to confirm the evidentiary requirements for physicians seeking a national interest waiver of the job offer requirement based on work in an underserved area or at a U.S. Department of Veterans Affairs facility.

Background

The Immigration and Nationality Act (INA)¹ states that an employer can file an Immigrant Petition for Alien Workers ([Form I-140](#)) for a person of exceptional ability or a member of the professions with an advanced degree.² Under this immigrant visa classification, employers are generally required to obtain a permanent labor certification from the U.S. Department of Labor. The INA, however, provides a waiver of the job offer requirement if doing so is in the national interest.

In the case of physicians who have worked or agree to work full time in areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs, the job offer requirement, and therefore the permanent labor certification requirement, may be waived.³ To qualify for this waiver, a federal agency or a state department of public health must have determined that the physician's work is in the public interest.⁴

USCIS is now updating its guidance to confirm that, for physician national interest waiver petitions, the required contracts and public health letters need to be dated within 6 months immediately before the petition filing date only for work that the physician has not yet started.⁵ The 6-month requirement does not apply to work that the physician has already started or completed before the petition filing date.

¹ See [INA 203\(b\)\(2\)\(B\)\(i\)](#). In addition, see [8 CFR 204.5\(k\)\(4\)\(ii\)](#).

² See [8 CFR 204.5\(k\)\(1\)](#).

³ See [INA 203\(b\)\(2\)\(B\)\(ii\)\(I\)](#).

⁴ See [INA 203\(b\)\(2\)\(B\)\(ii\)\(I\)](#).

⁵ See [8 CFR 204.12\(c\)](#).

This guidance, contained in Volume 6 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

Policy Highlights

- Confirms that, when a physician has yet to start the relevant work, the required employment contract or employment commitment letter must be issued and dated within 6 months before the filing date of the petition.
- Confirms that, when a petitioner has yet to start the relevant work, the required public interest letter from a federal agency or state department of public health must be issued and dated within 6 months before the filing date of the petition.

Summary of Changes

Affected Section: Volume 6 > Part F > Chapter 6 > Section B, Physician National Interest Waiver

- Revises the first two bullets and first full paragraph of subsection 3 (Evidence).

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 6: Immigrants, Part F, Employment-Based Classification, Chapter 6, Physician [\[6 USCIS-PM F.6\]](#).