



STATE OF ALABAMA DEPARTMENT OF
PUBLIC HEALTH

Thomas M. Miller, M.D.
State Health Officer

January 18, 2017

To Whom It May Concern:

Subject: Revised State-30 J-1 Visa Waiver Guidelines and Procedures

The Alabama State-30 J-1 Visa Waiver Guidelines and Procedures are hereby revised to: update past service demonstration data; add reference to the Delta Regional Authority J-1 Visa Waiver Program; allow use of the Alabama waiver program as an alternative to other waiver programs; and make other minor administrative changes. These revised guidelines and procedures are effective immediately and supersede previous editions. Changes from previous editions are highlighted in **bold type**.

Any questions about the Alabama State-30 J-1 Visa Waiver Program may be directed to the program manager at telephone (334) 206-5396 or by email to: J-1WaiverInbox@adph.state.al.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Miller".

Thomas M. Miller, M.D.
State Health Officer

TM/JD/CL/GB
Enclosure

**ALABAMA DEPARTMENT OF PUBLIC HEALTH
GUIDELINES AND PROCEDURES
FOR PLACING HEALTH DEPARTMENT-SPONSORED
J-1 VISA WAIVER FOREIGN PHYSICIANS**

The Alabama Department of Public Health (ADPH) is committed to improving health care access for Alabamians residing in unserved or underserved areas of our state. Under Public Law 103-416, and subsequent legislation, state health departments are authorized to sponsor J-1 visa waivers for a predetermined number of physicians each fiscal year (October 1 through September 30).

The placement of J-1 visa waiver physicians in Alabama's underserved communities is considered a temporary solution to meeting the state's health professional needs until more stable alternatives can be implemented. These J-1 Visa Placement Policies are intended to facilitate an orderly and equitable placement of ADPH-sponsored J-1 visa physicians in eligible Health Professional Shortage Areas (HPSAs) and Medically Underserved Areas (MUAs) of Alabama.

Three other J-1 physician visa waiver programs exist in Alabama in addition to the State-30 program: the Appalachian Regional Commission (ARC); Delta Regional Authority (DRA); and the U.S. Department of Health and Human Services (HHS). More can be learned about these programs by visiting their respective web sites or the ADPH web page at <http://www.adph.org/ruralhealth>. Any application that qualifies for consideration under these other programs may be submitted under that program in lieu of the State-30 program.

Since participation in the State-30 waiver program is at the discretion of ADPH, both interpretation and application of these policies and procedures rests solely with ADPH, which will consult with federal agencies **and other entities** as appropriate.

Guidelines for ADPH-Sponsored J-1 Visa Waiver Physician Placements

1. The employer's first major requisite before requesting a J-1 visa waiver is to make a good-faith effort to recruit an American physician. This recruitment effort must be documented in the waiver application. See paragraph 2.9 of the waiver procedures for an explanation of the three levels of recruitment documentation required for national, in-state, and Alabama medical school recruitment. *All advertising and recruitment must be specifically targeted to the employment opportunity (e.g., practice type, specific location, and specific position) and must have been done through established publishing media during the 6-month time frame immediately prior to submission of a J-1 waiver application. A sufficient amount of time must be allowed after publishing the advertisement and before any employment contract is consummated with a J-1 physician in order to provide interested American physicians a reasonable response time. Generalized advertisements such as are commonly run by recruitment firms on a continuous basis, and Internet-only based advertisements do not satisfy this advertising requirement and are unacceptable in place of hard-copy published advertisements.*
 - 1.1 For the national and in-state advertisements, evidence of advertising must be submitted in the form of actual copies showing the publication title and publication date. For Alabama medical school recruitment, a written acknowledgement of receipt from the applicable school contacts must be provided.
 - 1.2 J-1 visa physicians who request waivers of their 2-year home residency requirement must make application through an Alabama licensed medical facility or physician that is physically located in the state and that is willing to offer them employment: A) to provide medical care; B) at least 40 hours per week; C) for a minimum 3-year period, which commences within 90 days from the date the waiver is approved by the U.S. Bureau of Citizenship and Immigration Services. This offer must be contained in an employment contract between the applicant facility or physician and J-1 physician.
 - 1.3 Of the 30 slots available per year, at least 10 will be **reserved** for primary care or psychiatric physician placements. Up to 20 slots may be available for sub-specialty physician placements to provide full-time sub-specialty services if these slots are not requested for primary care or psychiatry. No more than two sub-specialty waiver applications may be submitted for the same employer in any given program year (October 1-September 30); however, if there are unused slots as of April 1, an additional two sub-specialty applications per employer, per program year may be allowed.
 - 1.4 Sub-specialty physician placements will be made on a first-come, first-serve basis, based on documentation of community need. Rural hospitals participating in the Medicare Rural Hospital Flexibility Program (FLEX), and other Alabama employers located in non Metropolitan Statistical Areas, are allowed to submit sub-specialist applications beginning on the first work day of October each year. Other sub-specialist applications will not be accepted before the first Monday of the first full work week in January of each year (e.g., Monday, January 9, 2017).

Any such application received before that date will not be eligible for consideration until after first considering all other applications that are received on that Monday. In the event multiple sub-specialist applications are received at the same time, and these applications cumulatively exceed the maximum of 20 that are allowable each program year (October 1-September 30), preference will be given to the application(s) that provides valid information showing the higher indications of need. Any sub-specialty applications received after depletion of available allocations will be returned without action. A waiver application will not be accepted in the current program year for a J-1 sub-specialty physician who will not be available to start work until June or after of the following year.

- 1.5 Applications will not be placed in the queue for consideration until they have been determined by ADPH to be in total compliance with all of the Alabama State-30 waiver requirements.
- 1.6 Due to limited resources, any J-1 waiver applications which are received with obvious deficiencies, such as the absence of the U.S. Department of State Case Number on each page of the application, can no longer be accepted for review and will be returned without action.
- 1.7 Primary care and sub-specialty placements will be made in either Primary Care HPSAs or MUAs. Psychiatric placements will be made in mental health HPSAs.
- 1.8 Primary care physicians must have completed a residency and be board certified or board eligible in one of the following disciplines: family practice, internal medicine, pediatrics, or obstetrics-gynecology. Sub-specialists must be board eligible or board certified in the sub-specialty services they will provide. Physicians with sub-specialty training will be accepted for primary care placements; however, any physician qualifying for a primary care slot must commit to providing not less than 40 hours of **direct**, primary care per week in a Primary Care HPSA or MUA. Time in sub-specialty practice does not count towards the 40 hours.
- 1.9 Primary care placements may be based full time (at least 40 hours per week) in a hospital emergency department, **provided a triage system is in place.**
- 1.10 Primary care placements in a clinic-based practice will provide services at least 40 hours per week in the clinic and are also expected to adhere to community standards regarding hospital emergency department coverage.
- 1.11 All state J-1 physician placements must accept Medicare/Medicaid patients and not deny services to anyone because of inability to pay. A sliding fee scale must be offered to all patients whose household income is at or below 200 percent of the Federal Poverty Level, and a public notice to this effect must be conspicuously posted in the patient reception area. Alternatively, emergency departments may employ a 'no-pay' policy, which must be applied to the same population group and publicized in the same manner as a sliding fee scale.
- 1.12 Placement applications will not be reviewed until all necessary documents and materials are received by ADPH. Completed applications will be processed on a first-come, first-serve basis, with preference being given to primary care and

mental health placements as well as to hospitals participating in the FLEX Program. Prospective applicants may provide a letter of intent to submit an application in order to determine if an area will qualify for a J-1 placement. This letter should affirm that the area is designated as a HPSA or MUA and thoroughly document the condition of medical underservice, to include the existing physician-to-population ratio and the impact on the community if the J-1 physician is not approved. Letters of intent are not considered applications and will not serve as place-holders pending receipt of completed applications.

- 1.13 **An application that is eligible for the State-30 waiver program may be processed under either that program or another eligible program, at the discretion of the applicant.**

Employer and Site Eligibility Requirements:

- 1.14 Prospective J-1 physician employers must have operations that are located in Alabama and must be principally engaged in and have an established record of providing the type of service for which the physician waiver is being requested.
- 1.15 Placements will be made only in Alabama geographical areas or sites which are designated as HPSAs or MUAs by the United States Public Health Service. A current analysis of medical underservice must be provided. This analysis must clearly explain the conditions of underservice, including the prevailing physician-to-underserved population ratio, how these conditions will be alleviated by the J-1's service, and the impact in the event the J-1 waiver is not approved. In addition, for sub-specialist placements, the application must also include letters of support from cognizant medical and governmental leaders who represent the community to be served.
- 1.16 All placement applications must be accompanied by a sliding fee scale, a public notice of the availability of a sliding (discounted) fee, AND an implementation plan describing how the employer will apply the scale to reduce the payment obligation for uninsured, medically indigent patients with household incomes below 200 percent of the Federal Poverty Level. The sliding fee scale must include proportionate fee discounts, starting with a zero or nominal fee for patients with a household income at or below 100 percent of the Federal Poverty Level. Payment of the discounted sliding fee must be accepted by the employer as a full and final payment by the patient for the services rendered by the employer. Alternatively, emergency departments may employ a 'no-pay' policy, which must be applied to the same population group, publicized, and described in an implementation plan in the same manner as a sliding fee scale. In addition, the application cover letter to the State Health Officer shall include a firm commitment by the employer to apply the sliding fee scale or 'no-pay' policy and implementation plan to the J-1's practice. The public notice shall be posted in the waiting room and shall include the practice site's commitment to serve all patients regardless of their ability to pay or their enrollment in Medicare or Medicaid (**Attachment 2**). Employers and J-1 physicians are hereby put on notice that these requirements are considered to be an important, integral part of the J-1 physician's waiver service obligation. Compliance with these requirements shall be subject to audit during unannounced site visits and other monitoring methods.

- 1.17 Primary care and mental health J-1 placements requested for Special Population HPSA designations or MUAs are required to include a written demonstration that the service site routinely provides services to Medicare, Medicaid, and uninsured medically indigent patients without regard to their ability to pay. This demonstration must cover the previous 3 years and must measure the site's performance against the quantity (percentage) of these patients in the general population. A form is attached for use in submitting the employer's past service demonstration data (Attachment 4). Sub-specialty J-1 placements are not required to demonstrate this past service but must fully comply with this service policy throughout the J-1 sub-specialist's waiver service obligation. Federally Qualified Health Centers are exempt from this past service documentation requirement.
- 1.18 If and when the number of available State J-1 waiver allocations becomes scarce, and no other waiver program is available for use, preference will be given to areas and/or practice sites that provide valid information showing the higher indications of need. *Example:* If the population-to-physician ratio in an area is such that only one placement is available, and multiple applications are received for that one placement, then preference will be given to the application that provides the strongest commitment of service to the underserved population of the area.
- 1.19 Sites receiving waiver approval must agree to report to ADPH on the status of their J-1's placement's activities at the beginning of the J-1 physician's employment and every 6 months thereafter during the 3-year waiver service period. The Alabama J-1 Physician Practice Status Report form is attached for this purpose (Attachment 5). Failure to provide these reports in a timely and accurate manner and/or failure to demonstrate good faith in utilizing a J-1 physician's services in accordance with these policies will jeopardize future eligibility for placements and will be cause for reporting to the Alabama Board of Medical Examiners for the Board's consideration. This referral could ultimately lead to invocation of remedies such as a reprimand, fine, or revocation of the State medical license. In addition, the J-1's noncompliance with visa waiver requirements could result in deportation proceedings against the J-1 physician.
- 1.20 Any relocation of the J-1 physician to a different practice site or transfer to a new employer during the physician's J-1 waiver service obligation must be formally requested and must be approved in writing by the State Health Officer in advance of the relocation or transfer. Violation of this policy will be reported to applicable federal authorities and to the Alabama State Board of Medical Examiners for appropriate action, including but not limited to the application of remedies by the board for professional misconduct. Any such violation may also adversely affect the employer's future eligibility for participation in the J-1 physician waiver program.

J-1 Physician/Placement Eligibility

- 1.21 Primary care physicians, psychiatrists, and sub-specialty trained physicians are eligible to apply for a State-30 J-1 waiver, subject to the priority restrictions defined earlier in this policy for sub-specialty placements. Placements of primary care physicians are limited to those who have successfully completed a residency training program and are board eligible or board certified in one of the below specialties:

Family Practice
General Internal Medicine (including geriatrics)
General Pediatrics
Obstetrics/Gynecology

- 1.22 If the J-1 physician is obligated to return to his/her home country, as required by Section 214(k)(1)(A) of Public Law 103-416, then the physician must obtain a no objection letter from the country to which he/she is obligated to return. The United States Department of State (DOS) has interpreted this obligation to apply when indicated by the J-1's Form DS 2019 (formerly Form IAP-66). The DOS, Waiver Review Division (DOS-WRD) should be contacted on any question about the appropriateness of obtaining a no objection letter.
- 1.23 Placements must have an unrestricted license to practice medicine from the Alabama Medicaid Licensure Commission or have made application to the Commission prior to submitting a waiver application. A copy of the license or license application must be included with the waiver request.
- 1.24 Placements must not have been "out-of-status," as defined by the United States Citizenship and Immigration Service (USCIS), for more than 45 days prior to the state's receipt of their *completed* waiver application. This time period is critical in order to facilitate processing the physician's waiver request to the USCIS prior to the physician being unlawfully present for 180 days or more, the time limit beyond which the physician is subject to a compulsory 3-year debarment from re-entry into the U.S.

Application Procedure ADPH-Sponsored J-1 Physician Visa Waiver

2. Application procedures for ADPH sponsored J-1 visa physician placements were developed by ADPH in compliance with Public Law 103-416, as subsequently amended and implemented by federal rules and regulations. Interpretation of these procedures rests solely with ADPH in consultation with the appropriate federal **and state** agencies.

Applicants are required to submit the following completed J-1 application documents:

- 2.1 A cover letter from the applicant (prospective employer) to the State Health Officer, **Thomas M. Miller, M.D.** This letter shall include the following information as a minimum:
 - A. A request for ADPH to sponsor a J-1 visa waiver application for the physician to practice either primary care, mental health care, or sub-specialty care, stating where the practice will be conducted; i.e.; in a clinical practice, in an emergency department, or in a sub-specialty care setting.
 - B. Certification that the employer is an Alabama licensed medical facility or physician located in the State of Alabama.
 - C. Name of doctor, medical specialty (including any sub-specialty training), and status of license to practice medicine in Alabama. A copy of the license or, if not yet issued, a copy of the license application, must be included in the waiver request.
 - D. Certification that the employer has operations that are well established and principally engaged in providing the type of care that will be practiced by the J-1 physician.
 - E. Employer's identity (e.g., Community Health Center [CHC], Federally Qualified Health Center [FQHC], private for profit, private not-for-profit).
 - F. A comprehensive justification of need for the physician, to include but not limited to an analysis of the supply of such physicians in HPSA or MUA versus the patient population, and statement of the impact of not having the needed physician in terms of patient morbidity and mortality. In addition, for sub-specialty physicians, the application must contain letters of support from cognizant medical and governmental leaders who represent the community to be served. One of the support letters must be from the president of the county medical society where the physician will practice.
 - G. A statement, with evidence, that the geographic sites(s) in Alabama at which the physician will practice medicine is currently designated as a HPSA or MUA by the United States Public Health Service.
 - H. Approximate date employment is expected to begin, plus a statement that the physician will start work no later than 90 days after the waiver is approved by USCIS.

- I. Statement by the head of the medical facility at which the J-1 physician will practice, attesting to the facility's intent to serve those enrolled in Medicaid, Medicare, and indigent uninsured patients.
- J. Certification that the practice sites will employ a sliding fee scale (or, if an emergency department is the placement site, a 'no-pay' policy) by which to progressively reduce (or eliminate) the customary charges for care provided to the uninsured medically indigent whose household income is less than 200 percent of the Federal Poverty Level. The sliding fee scale must include proportionate fee discounts, starting with a zero or nominal fee for patients with a household income at or below 100 percent of the Federal Poverty Level. Payment of the discounted sliding fee must be accepted by the employer as full and final payment by the patient for the services rendered by the employer. A copy of the sliding fee scale or 'no-pay' certification, a plan explaining how the scale or 'no-pay' policy will be implemented by clinic staff, and a public notice (see subparagraph K below) are to be included as attachments to the letter. Note: the scale or 'no-pay' policy must be based on the current Federal Poverty Guidelines, which are updated annually and published in the Federal Register in February or March of each calendar year.
- K. Certification that the practice site(s) will post a public notice, announcing: a) the employer's policy to provide medical care to all patients without regard to their ability to pay or their enrollment in Medicaid or Medicare, and; b) that the practice has a sliding fee scale or 'no-pay' policy for those who qualify. A copy of the notice is to be included as an attachment to the letter. (A sample notice is included as Attachment 2).
- L. If the placement is for primary care or mental health services in a special population HPSA or a MUA, a description of how this special population is to be served. In addition, a demonstration of the extent of past service to patients enrolled in Medicaid, Medicare, and the uninsured medically indigent during the previous 3 years. This demonstration of past service is to be measured against the percent that these categories of patients existed in the population and is to project how this service will be impacted by the J-1 physician's employment. A form is enclosed to accommodate reporting past service percentages (Attachment 4). FQHCs are exempt from this past service documentation requirement. **The state standards that are shown are the latest available at this publishing. The employer's data should be for the most recent 3 years.**
- M. Statement on results of efforts to recruit American physicians for this position. (Note the three levels of documentation needed as described in Procedure 2.9; i.e., copies of recruitment ads in national media, in-state media, and evidence of written coordination with the state's two medical schools.) All recruitment must have been done within the 6-month time frame preceding the submission of the J-1 waiver application and *in advance* of the employment contract with the J-1 physician.

- N. Complete physical and mailing address, including 9-digit zip code of all practice sites, plus the phone number and email address of the J-1 physician and the employer. If more than one site, a work schedule is to be included for each location. Also, include the identifier number of HPSA or MUA. (This identifier may be obtained at www.hpsafind.hrsa.gov.)
 - O. Assurance that the J-1 physician will provide at least 40 hours per week for the type of care for which their application is being submitted (i.e., primary clinical care, primary emergency department care, mental health care, or sub-specialty care) in HPSA or MUA. In addition, assurance will be provided that primary care placements in a clinic-based practice will adhere to community standards regarding hospital emergency department coverage. Time spent on travel, hospital rounds, or in-patient care by physicians placed in clinic-based practices will not count towards the 40-hour work week requirement.
 - P. Acknowledgment that all terms and conditions of the Alabama State-30 Physician's J-1 Visa Policy Affidavit and Agreement have been incorporated into the employment agreement.
 - Q. Acknowledgment that ADPH will monitor compliance with State-30 waiver service requirements; that ADPH will refer significant violations to the Alabama State Board of Medical Examiners for the Board's consideration; and, that such referral could ultimately lead to the invocation of remedies such as reprimands, fines, or revocation of the state medical license.
 - R. Acknowledgment that the employment agreement does not modify or amend any of the terms or conditions of the Alabama State-30 Physician's J-1 Visa Policy Affidavit and Agreement.
 - S. Statement that the employer has read and understands the Alabama State-30 J-1 policies/procedures and agrees to them, and that all information contained in this cover letter is true to the best of his/her knowledge.
- 2.2 A copy of the "letter of no objection" from the J-1 physician's country of nationality or last residence if required by the DOS-WRD. (See paragraph 1.22 of "Policy" section above for information on when the letter is required.) The no objection letter should note clearly that the request for the no objection letter was made pursuant to Public Law 103-416. The following or similar language will suffice:

"Pursuant to Public Law 103-416, the Government of (physician's country of nationality or last residence) has no objection if (name and address of the J-1 physician) does not return to (country of nationality/last residence) to satisfy the 2-year foreign residency requirement of Section 212(e) of the Immigration and Nationality Act."

NOTE: The original of the no objection letter must be included in the waiver application.

- 2.3 A signed and notarized “J-1 Visa Waiver Policy Affidavit and Agreement.” (A copy of the J-1 Waiver Policy Affidavit and Agreement is included as Attachment 1). This Affidavit and Agreement must be signed by both the J-1 physician and the employer.
- 2.4 A current DOS “Data Sheet” (DS3035) with all items completed or marked “Not Applicable or Unknown.” Also, a copy of the physician’s Duration of Status card (I-94), indicating “D/S” status or other U.S. Immigration documents affirming the physician’s lawful presence in the U.S. (The latest DOS *Data Sheet* and related instructions for obtaining the required DOS “Case Number” may be found at the below DOS web site):
<https://j1visawaiverrecommendation.state.gov/accessController.asp?page=7>
- 2.5 A signed employment contract between the J-1 physician and the applicant named in the waiver application, to include:
- A. The name, address, phone number, and email address of the applicant, and the name, address, phone number, and email address of the proposed practice site(s). Service sites are limited to HPSAs or MUAs within the State of Alabama.
 - B. A statement of agreement by the J-1 physician that he or she will satisfy all requirements set forth in Section 214(k)(1)(B) and (C) of the Immigration and Nationality Act and the requirements of the Alabama State-30 J-1 waiver policy and procedures.
 - C. The employment contract shall specify a term of employment of at least 3 years, shall include an anticipated start date, and shall include a statement that work shall commence within 90 days after the waiver is approved by the U.S. Bureau of Citizenship and Immigration Services. In addition, the contract shall affirm that no transfer, assignment, or other modification affecting the terms or conditions of the contract will be effected unless extenuating circumstances are shown to exist, as determined by ADPH, and approved by the U.S. Attorney General, in accordance with applicable federal rules and regulations.
 - D. The following clause is to be included verbatim in all J-1 Visa physician employment contracts:

Any breach or non-fulfillment of the conditions will be considered a substantial breach of this agreement by physician. If there is such a breach, (NAME OF EMPLOYER) may, at its option terminate this agreement immediately. In addition, it is agreed that (NAME OF EMPLOYER) will be substantially damaged by your failure to remain at (NAME OF EMPLOYER) in the practice of medicine for a period of 36 months and that, considering that precise damages are difficult to calculate, you will agree to pay to (NAME OF EMPLOYER) the sum of \$250,000 for failure to fulfill your 36 month contract. In addition to liquidated damages, (NAME OF EMPLOYER) will recover from you any other consequential damages, and reasonable attorney’s fees, due to the failure to provide services to (NAME OF EMPLOYER) for a period of 36 months, EXCEPT THAT, the full-time practice of medicine at another licensed medical facility, in a HPSA or MUA in the State of Alabama shall be considered the same as full-time practice of medicine at (NAME OF EMPLOYER) for purpose of this paragraph.

In the event of a dispute under this paragraph, either party may submit this matter to binding arbitration.

Note to applicant regarding additional employer damages:

Any other clause mandating consequential or liquidated damages being paid to the employer must be separate from the above ADPH clause. The ADPH takes no position with respect to the inclusion of such additional contractual agreement.

- E. The contract shall not contain a restrictive covenant or non-compete clause which prevents or discourages the physician from continuing to practice in any HPSA or MUA after the period of J-1 waiver service obligation has expired.
- 2.6 Copies of all forms issued to the J-1 physician seeking the waiver, including DS-2019 (formerly IAP-66), Certificates of Eligibility for Exchange Visitor (J-1) Status, Form I-94 with a Duration of Stay (D/S) Stamp, and any other documentation needed to verify visa and/or training status.
- 2.7 Documentation of residency training, including certificate of completion or letter from the residency director and letters of recommendation from the residency training staff.
- 2.8 A complete copy of the J-1 physician's curriculum vitae.
- 2.9 Copies of advertisements for this job published in newspapers, journals, state medical schools, mail-outs, etc., and other supporting documentation which demonstrates good faith efforts in giving American physicians an opportunity to apply. The dates of published recruitment materials should be well in advance of the employment contract signature dates to allow adequate time for response and consideration of any American physician applicants. Recruitment advertising for American physicians shall include the employer's name and address and the specific practice address for which the physician is being recruited, if different from the employer's address. Published dates should be within the previous 6 months, although inclusion of information on earlier recruitment efforts is encouraged. Advertisements should be conducted at three levels: (1) in publications which are national in scope, i.e., outside the State of Alabama; (2) in-state publications; and, (3) written notifications to Alabama's medical schools. Examples of out-of-state publications which are acceptable include newspapers with national circulation (such as the Atlanta Journal or Washington Post) or medical journals (such as JAMA or the New England Journal of Medicine). Additional documentation may also be included regarding written statements of other recruitment activity including phone conversations, personal visits, etc. NOTE: All advertising and recruitment documentation provided in satisfaction of the above requirements must be specifically targeted to the employment opportunity and must have been accomplished through established publishing media. Generalized advertisements such as are commonly run by recruitment firms on a continuous basis, and Internet-only based advertisements do not satisfy this advertising requirement.
- 2.10 Any other documents or information needed to determine the appropriateness of requesting a waiver.

2.11 The application is to be submitted in original and one copy. All documents must bear the DOS Case Number. The copy must be tabbed to expedite the review and approval process. The DOS requires the original to not be tabbed. Neither packet is to be bound or stapled. The application shall be delivered to the below address:

NOTE: Use of the exact forms in this packet will make it more expedient to determine if the application is complete.

Mail application to:

Alabama Department of Public Health
Office of Primary Care and Rural Health
Attn: J-1 Program Manager
201 Monroe Street/Suite 1040/RSA Tower
P.O. Box 303017
Montgomery, AL 36130-3017
Office Phone: (334) 206-5396
FAX: (334) 206-5434
Email: J-1WaiverInbox@adph.state.al.us

Courier, UPS, Federal Express, etc. to:

Alabama Department of Public Health
Office of Primary Care and Rural Health
Attn: J-1 Program Manager
201 Monroe Street/Suite 1040
Montgomery, AL 36104
Office Phone: (334) 206-5396
FAX: (334) 206-5434
Email: J-1WaiverInbox@adph.state.al.us

ADPH Review and Program Monitoring Process

3. The State-30 J-1 Visa Waiver Program is administered through ADPH's Office of Primary Care and Rural Health (OPCRH). The following steps describe the review and monitoring process used in administration of the program. The OPCRH will:
 - A. Provide upon request J-1 waiver guidelines containing instructions and documents needed for participation in the state's waiver program and answer inquiries regarding the feasibility of participating in the program.
 - B. Review all documents submitted to ADPH by the applicant to ensure compliance with policies and procedures.
 - C. Provide technical assistance to the applicant when necessary and practical in completing any documents not meeting program requirements.
 - D. Review completed application documents and render a decision on whether the application meets placement standards and if the ADPH will sponsor the waiver request.
 - E. Submit applications approved by ADPH for sponsorship to the Department of State, Waiver Review Division (DOS-WRD) with a letter from the State Health Officer which recommends that a waiver of the 2-year home residence requirement be granted because it is in the public interest.
 - F. Assign acceptable applications a sequential number, obtain requisite approvals within the ADPH, and submit the application to the DOS-WRD under a letter of recommendation by the State Health Officer.
 - G. Notify the applicant of ADPH's decision and actions regarding the application.
 - H. Track compliance with J-1 Waiver policies/procedures, including location and activities of physician during the 3-year waiver obligation period, and report noted instances of program violations to the Alabama Board of Medical Examiners. Monitor program compliance through unannounced site visits, audits of periodic status reports, interviews with clinic staff, and other means deemed appropriate by ADPH.

For further information, contact:

Alabama Department of Public Health
Office of Primary Care and Rural Health
Attn: J-1 Program Manager
201 Monroe Street/Suite 1040/P.O. Box 303017
Montgomery, AL 36130-3017
Telephone: (334) 206-5396 Fax: (334) 206-5434
Email: J-1WaiverInbox@adph.state.al.us

List of Attachments
Alabama State-30 J-1 Physician Waiver Program

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|--------------|---|
| Attachment 1 | J-1 Visa Waiver Policy Affidavit and Agreement (Revised May 2016),
2 pages |
| Attachment 2 | Example of Public Notice, 1 page |
| Attachment 3 | J-1 Data Sheet Instructions, 1 page |
| Attachment 4 | Special Instructions for Past Service Demonstration, March 2016 ,
3 pages |
| Attachment 5 | J-1 Physician Practice Status Report (Revised July 2014), 2 pages |
| Attachment 6 | J-1 Visa Waiver Application Checklist, May 2016 , 2 pages |

J-1 Visa Waiver Policy Affidavit and Agreement
(May 2016 Edition)

I, _____, being duly sworn, hereby request the Alabama State Health Officer acting in his capacity as director of the Alabama Department of Public Health (ADPH) to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

1. I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless ADPH, the State Health Officer, any and all ADPH employees, agents, and assignees from any action or lack of action made in connection with this request.
2. I further understand and acknowledge that the entire basis for the consideration of my request is the State Health Officer's voluntary policy and desire to improve the availability of primary medical care, mental health, and sub-specialty care in regions designated by the United States Public Health Service (USPHS) as Health Professional Shortage Areas (HPSAs) or Medically Underserved Areas (MUAs) in Alabama.
3. I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical care, mental health care, or sub-specialty care services to patients, including those enrolled in Medicare, Medicaid, and the uninsured medically indigent with incomes at or below 200 percent of the Federal Poverty Level, for a minimum of 40 hours per week, within a USPHS designated HPSA or MUA located in Alabama. I also understand that if I am a primary clinical care physician, this 40 hours shall be exclusive of travel, in-patient care, or hospital rounds. Finally, I understand that I am required to commence service not later than 90 days after I receive the necessary approvals by the United States Bureau of Citizenship and Immigration Services (USCIS) and shall continue for at least 3 years thereafter.
4. I understand that primary care physicians approved for clinical practice must practice at least 40 hours per week of primary care in the clinic, and that they are also expected to adhere to community standards regarding hospital emergency department coverage. I also understand that primary care physicians may practice full-time in an emergency department if so approved by ADPH. I certify that I will practice:

 ____ Primary care in a clinical setting.

 ____ Primary care in an emergency department.

 ____ Psychiatric care.

 ____ Subspecialty care in _____
5. I agree to incorporate all the terms of this J-1 Visa Waiver Affidavit and Agreement into any and all employment agreements I enter pursuant to paragraph 3 and to include in each such agreement a liquidated damages clause of \$250,000 payable to the employer. This damages clause shall be activated by my termination of employment, initiated by my employer for cause or by me for any reason, only if my termination occurs before fulfilling the minimum 3-year service obligation.
6. I further agree that any employment agreement I enter pursuant to paragraph 3 shall not contain any provision which modifies or amends any of the terms of this J-1 Visa Waiver Affidavit and Agreement.

7. I understand and agree that all medical care rendered pursuant to paragraph 3 shall be in a Medicare and Medicaid certified hospital or healthcare clinic or mental health facility which has an open, non-discriminatory admissions policy and that will accept uninsured medically indigent patients on a sliding fee basis, or alternatively, if an emergency department, on a 'no-pay' basis.
8. I expressly understand that this waiver of my foreign service requirement must ultimately be approved by the USCIS, and I agree to provide written notification in a manner approved by ADPH of the specific location and nature of my practice to the Alabama contact at the time I commence rendering services in Alabama, and on a semi-annual basis thereafter, and immediately upon becoming aware of any impending change in location if prior to the semi-annual report.
9. I understand and acknowledge that if I willfully fail to comply with the terms of this J-1 Visa Waiver Affidavit and Agreement, the State Health Officer will notify the USCIS and the Alabama Board of Medical Examiners and recommend deportation proceedings be instituted against me. Additionally, any and all other measures available to the State Health Officer will be taken in the event of my non-compliance.
10. I hereby declare and certify, under penalty of the provisions of 18 U.S.C. 1001, that I do not now have pending nor am I submitting during the pendency of this request, another request to any United States Government department or agency or any State Department of Public Health, or equivalent, other than ADPH, to act on my behalf in any matter relating to a waiver of my 2-year home-country physical presence requirement.
11. I understand and I agree to meet the requirements set forth in Section 214 (k)(1)(B) and (C) of the Immigration and Nationality Act as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and subsequent federal laws, rules and regulations.

J-1 Physician Certification:

I declare under the penalties of perjury that the foregoing is true and correct.

(Date)

(Printed Name of J-1 Physician)

(Signature of J-1 Physician)

Subscribed and sworn before me this _____ day of _____, 20_____.

Employer Certification:

I certify that I have read and understand the above policy to which this J-1 physician is committed and that I will structure the J-1 physician's employment to facilitate his/her compliance with these requirements.

(Date)

(Printed Name of Employer)

(Signature of Employer)

NOTICE

THIS PRACTICE HAS ADOPTED THE FOLLOWING POLICIES FOR CHARGES FOR HEALTH CARE SERVICES

We will charge persons receiving health services at the usual and customary rate prevailing in this area. Health services will be provided at no charge, or at reduced charge, to persons unable to pay for services. Persons will be charged for services to the extent that payment will be made by a third party authorized or under legal obligation to pay the charges.

We will not discriminate against any person receiving health services because of his/her inability to pay for services, or because payment for the health services will be made under Part A or B of Title XVIII ("Medicare") or Title XIX ("Medicaid") of the Social Security Act.

We will accept assignment under the Social Security Act for all services for which payment may be made under Part B of Title XVIII ("Medicare") of the Act.

We have an agreement with the state agency which administers the state plan for medical assistance under Title XIX ("Medicaid") of the Social Security Act to provide services to persons entitled to medical assistance under the plan.

U.S. DEPARTMENT OF STATE
DATA SHEET

THE LATEST U.S. DEPARTMENT OF STATE (DOS) DATA SHEET AND RELATED INSTRUCTIONS FOR OBTAINING THE REQUIRED DOS "CASE NUMBER" MAY BE FOUND AT THE BELOW DOS WEB SITE:

<https://travel.state.gov/content/visas/en/study-exchange/student/residency-waiver.html>

Special Instructions for Past Service Demonstration

March 2016

Placement of J-1 physicians to practice primary care or mental health care under the Alabama State-30 program, Appalachian Regional Commission (ARC) program, or National Interest Waiver program requires proof of past service to Medicaid, Medicare, and uninsured medically indigent patients when the medically underserved area is a *special population* Health Professional Shortage Area (HPSA) and the employer is not a Federally Qualified Health Center. This instruction further explains this requirement and elaborates on the kind of documentation that is needed from the employer in order to determine the employer's eligibility to sponsor a J-1 physician waiver.

Special population HPSAs are areas which generally have enough primary care physicians but lack physicians who serve the low income/medically indigent. The specific objective of placing a J-1 physician in such an area is to accentuate the services available to this underserved group. Therefore, the application cover letter from the prospective J-1 employer must include a demonstration attesting to the employer's past 3 years of service to this special population. The enclosed form and instructions have been developed to assist in providing this past service record.

As noted on the demonstration form, evidence of past service is required for each of the past 3 years, for three categories of patients: Medicaid, Medicare, and uninsured medically indigent. The service standards against which these categories are to be compared are also shown on the form and explained in the additional enclosure. Please note that supporting documentation is also required from the employer, substantiating how the employer's past service percentages were calculated. In order to be eligible for a J-1 physician waiver, the employer must be in substantial compliance with the past service standards for all three patient categories. **The state standards that are shown are the latest available at this publishing. The employer's data should be for the most recent 3 years.**

The past service demonstration is an essential prerequisite to any J-1 waiver application for a special population HPSA and must be included with the employer's cover letter to the ARC Co-Chairman or the State Health Officer, **Thomas M. Miller, M.D.** depending upon which J-1 waiver program is being used.

Any questions about the past service demonstration should be directed to the Alabama J-1 program administrator at telephone 334-206-5396 or Email: J-1WaiverInbox@adph.state.al.us.

Alabama Statewide Patient Statistics

March 2016

The following percentages are to be used as a baseline for comparison with prospective employer's past service, where such a comparison is required as part of the J-1 visa waiver application.

1. Approximate Percentage of Medically Indigent People in Alabama (Source: Current Population Survey <http://www.census.gov/cps/data/cpstablecreator.html>):

<u>Year</u>	<u>Population</u>	<u>Uninsured</u>	<u>Percentage</u>
2013	4,817,000	711,000	14.8%
2014	4,755,000	746,000	15.7%
2015	4,768,000	522,000	10.9%

2. Approximate Percentage of Medicaid Eligibles in Alabama (Source: Alabama Medicaid Statistics on-line.)

<u>Year</u>	<u>Population</u>	<u>Eligibles</u>	<u>Percentage</u>
2012	4,845,389	1,110,037	22.9%
2013	4,878,189	1,095,266	22.5%
2014	4,849,377	1,206,970	24.9%

3. Approximate Percentage of Medicare Enrollees in Alabama (Source: Centers for Medicare and Medicaid Services, Medicare Enrollment Reports-on-line.)

<u>Year</u>	<u>Population</u>	<u>Enrollees</u>	<u>Percentage</u>
2013	4,833,722	822,695	19.1%
2014	4,849,769	947,310	19.5%
2015	4,865,816	968,010	19.9%

Source: Current Population Survey on-line table creator population data and Centers for Medicare and Medicaid Services, Medicare Enrollment Reports on-line.

Questions about the above formulae may be directed to 334-206-5396, or Email: J-1WaiverInbox@adph.state.al.us

DEMONSTRATION OF PAST SERVICE TO SPECIAL POPULATION

Applicable to State-30, NIW, or ARC Physicians proposed for a special population Health Professional Shortage Area,
Medically Underserved Area, or Medically Underserved Population

PROPOSED PRACTICE COUNTY:_____ **EMPLOYER:**_____

EMPLOYER'S STATUS: FOR-PROFIT ENTITY _____ **NOT-FOR-PROFIT ENTITY:**_____

ENROLLED IN MEDICAID PATIENT 1ST PROGRAM? YES ____ **NO** ____ (If yes, attach copy of agreement with Medicaid)

Year	Patient Category	Statewide Percentage	County Percentage (Optional, see instructions below)	State Service Standard	Employer's Past Service (Year & Percentage) (Attach Explanation)	Difference (Service Standard % Minus Employer's %)
2013	Uninsured Medically Indigent	14.8		14.8		
2014	"	15.7		15.7		
2015	"	10.9		10.9		
2012	Medicaid	22.9		22.9		
2013	"	22.5		22.5		
2014	"	24.9		24.9		
2013	Medicare	19.1		19.1		
2014	"	19.5		19.5		
2015	"	19.9		19.9		

Instructions for completing this form:

1. Attach documentation, explaining the source of data used by the employer to compute the percentages. Entries also need to be computed and entered in the 'County Percentage' column where the county percentages differ significantly from the statewide percentages.
2. In the last column labeled 'Difference', show the + or - difference between the column labeled "State Service Standard" and 'Employer's Past Service Percentage.'
3. Any negative (-) difference between the State Service Standard and Employer's Percentages would indicate the employer has not provided a proportionate share of medical care to the medically underserved population and is, therefore, not eligible to sponsor a NIW physician. The burden of proof rests on the employer to provide documented evidence and justification to the contrary. This explanation may include a comparison of the employer's service record against county percentages if they differ significantly from statewide percentages.

ALABAMA J-1 PHYSICIAN PRACTICE STATUS REPORT

Revised July 2014 (Previous editions are obsolete and should not be used)

Applicable to Physicians With Approved J-1 Visa Waivers Under the Alabama State-30 and ARC Waiver Programs

This report is to be completed by each physician approved under Alabama's State-30 Visa Waiver Program or the Appalachian Regional Commission's (ARC) Visa Waiver Program. The report must be completed when the physician first starts work and each 6 months thereafter, until the physician completes his/her 3-year waiver service obligation.

Please type or print all entries except signatures.

PART 1 - TO BE COMPLETED BY REPORTING PHYSICIAN:

Physician's Name: _____
(First Name) (Middle Initial) (Last Name)

Type Service (Circle One): Primary Care Clinical Practice *Primary Care Emergency Department
Psychiatrist *Sub-specialist in _____ (*Not Applicable to ARC)

During this report period, I have practiced medicine at a total of _____ practice sites, as named below.

Practice Site(s): _____
(Practice Site(s) Name)
Practice Address(es) _____
During Report Period: (If additional practice sites, list on separate sheet of paper) (Street)

(City) (County) (State) (Zip Code)
Practice Telephone #(s): _____ - _____ - _____ Email Address: _____

Report Number (circle one):

Initial Report: I began practicing at this location(s) on (insert date): _____

6 Month Report: I have been practicing at above location(s) for 6 months, from _____ to _____

7 - 12 Month Report: I have been practicing at above location(s) for 7-12 months, from _____ to _____

13 -18 Month Report: I have been practicing at above location(s) for 13-18 months, from _____ to _____

19 - 24 Month Report: I have been practicing at above location(s) for 19-24 months, from _____ to _____

25 - 30 Month Report: I have been practicing at above location(s) for 25-30 months, from _____ to _____

Final Report: I have completed 31-36 months service at above location(s), from _____ to _____, and:

31 - 36 Months _____ I intend to remain at this location
_____ I do not intend to remain at this location

My typical work schedule during this reporting period has been as follows: (Example of entry: From 8 AM to 5 PM, less 1 hour for meal break = 8 actual work hours.)

Monday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Tuesday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Wednesday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Thursday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Friday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Saturday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours
Sunday: From _____ to _____ less _____ hour meal break = _____ actual in-clinic work hours

Total Hours Worked Each Week: _____

(Continued on reverse)

PART 1 - CONTINUED

The number of patients I have treated during this reporting period were as follows:

	<u>Number</u>	<u>Percentage</u>
a. Total number of patient visits (Sub-specialists should include all visits, but primary care physicians should not include telephone consultations or hospital visits)	_____	100 %
b. Number of patient visits for whom a <i>Medicare</i> claim was submitted:	_____	_____ %
c. Number of patient visits for whom a <i>Medicaid</i> claim was submitted:	_____	_____ %
d. Number of patient visits wherein services were rendered at a rate less than the usual and customary fee under a sliding fee scale:	_____	_____ %
e. Number of patient visits for which no charge was made (based on inability to pay):	_____	_____ %
f. Number of patient visits covered by private insurance:	_____	_____ %
g. Number of uninsured, self-pay visits who paid full charges:	_____	_____ %
h. Number of patients who did not pay and inability to make further contact with patients	_____	_____ %

My *Medicare* Provider Number(s) is (are): _____

My *Medicaid* Provider Number(s) is (are): _____

Number of Alabama Medicaid Patient 1st participants which I have agreed to accept: _____

I hereby certify *under penalty of licensure action and possible revocation of my J-1 waiver* that I, the undersigned physician, personally delivered the type of healthcare services for which my J-1 waiver was approved at the above address at least 40 hours per week I further certify that my practice is using the sliding fee scale or 'no-pay' policy submitted with my waiver application for uninsured patients with household incomes at or below 200 percent of the Federal Poverty Level. All the information reported on this form is true to the best of my knowledge and belief.

(Physician's Signature) (Date) (Telephone #) (Email Address)

PART 2 - TO BE COMPLETED BY SPONSOR/EMPLOYER:

I hereby certify *under penalty of licensure action and other liability for fraudulent claims* that the information provided on this report is true and correct to the best of my knowledge and belief. I further certify that this organization uses the sliding fee scale or 'no-pay' policy submitted with the above J-1 physician's waiver application to discount payment fees for uninsured patients with household incomes at or below 200 percent of the Federal Poverty Level.

Organization

Employer's Signature

Date

Printed/Typed Name

Telephone Number

Title

E-mail Address

Please return this completed form to:

Alabama Department of Public Health
Office of Primary Care and Rural Health
ATTN: J-1 Program Manager 201 Monroe
St., Suite 1040
P.O. Box 303017
Montgomery, AL 36130-3017
Email: J-1WaiverInbox@adph.state.al.us

If you have questions regarding completion of this form, call: (334) 206-5396 or Fax: (334) 206-5434 or (334) 206-0340

J-1 VISA WAIVER APPLICATION CHECKLIST
May 2016

Physician Name: _____ Employer: _____

Underserved Type: _____ Site: _____

J-1 Waiver Program: State (ADPH) _____ ARC _____

_____ No more than two sub-specialty applications from same employer in same program year before April 1.
No more than four applications per employer after April 1.

_____ G-28(s) if attorney used
_____ For J-1 physician, if attorney so representing.
_____ For employer, if attorney so representing.

_____ Letter from Employer to Federal Co-Chairman or State Health Officer.

_____ Name of physician, medical specialty, and date license awarded.

_____ Certification that employer is licensed and located in Alabama.

_____ Statement of need for physician, including a physician-to-population ratio analysis and other relevant critical health indicators.

_____ If a sub-specialty physician, include letters of need and support from medical and governmental leaders who represent the community.
(optional for ARC and State-30 primary care and mental health physicians)

_____ For ARC primary care physicians, certification that they have not started or completed any fellowship or sub-specialty training other than geriatrics.
(Note: Not applicable to psychiatrist)

_____ For primary care and mental health physicians, certification that the employer is principally engaged in and has an established record of providing primary care or mental health care, respectively, and that the employer is not principally engaged in providing sub-specialty medical services.

_____ For subspecialist: certification that they are board eligible or board certified in the service to be performed.

_____ Employer's business type (e.g., private for-profit, private non-profit, Community Health Center, or Federally Qualified Health Center).

_____ Address of practice geographic location. If multiple, need locations, addresses, phone numbers, and work schedule.

_____ For primary care physicians, certification that physician will practice primary care 40 hours per week excluding time for travel, inpatient care, on-call, scheduled emergency room coverage, or hospital rounds, AND that the physician will provide after-hour coverage consistent with other staff physicians or requirements in the community.

_____ If primary care or mental health physician in special population HPSA, 3-year demonstration of service to the uninsured poor, Medicaid, and Medicare. (N/A to FQHC/CHC, but they must provide evidence of status)

_____ Copy of sliding fee scale, implementation plan, and public notice, plus written commitment to their use. (Scale must begin discounting service to patients w/incomes below 200 percent of FPL and must provide nominal fee at 100 percent and below.)

_____ Shortage area ID # and 9-digit zip code.

_____ Letter from employer (continued):

(Continued on reverse side)

- _____ Certification by responsible agent that service will be provided to those on Medicaid, Medicare, and indigent uninsured patients.
 - _____ Acknowledgment that the ADPH will monitor compliance with waiver program requirements and will refer significant violations to the Alabama State Board of Medical Examiners for consideration. Further, that such violations could ultimately lead to remedies such as revocation of the J-1 visa waiver, reprimand, fine, and/or revocation of state medical license.
 - _____ Acknowledgment that all terms and conditions of physician's J-1 Visa Policy Affidavit and Agreement are incorporated into the employment agreement.
 - _____ Acknowledgment that employment does not modify or amend any terms or conditions of physician's J-1 Visa Policy Affidavit and Agreement.
 - _____ Certification of truth statement.
 - _____ For State-30 sub-specialists: Current fiscal year applications are not acceptable for J-1s who will not be available to commence work until June or after of following fiscal year.
 - _____ J-1 Visa Data Sheet and (DS3035) Duration of Status Card (94), showing "DIS".
 - _____ J-1 Visa Waiver Policy (N/A for State-30 Program).
 - _____ J-1 Visa Waiver Policy Affidavit and Agreement.
 - _____ Signed by J-1 and notarized.
 - _____ Signed by employer (State-30 applications only).
 - _____ Contract between employer and physician.
 - _____ Contains J-1 Visa Liquidated Damages Clause.
 - _____ Contains no non-compete clause.
 - _____ If ARC application, contains no "no cause" termination clause.
 - _____ Incorporates reference to all terms and conditions of physician's J-1 Visa Policy Affidavit and Agreement.
 - _____ Physician CV, Medical Credentials, and Residency Letters of Recommendation.
 - _____ USMLE Certification of Completion (For Part 1, Part 2, and Part 3).
 - _____ Form DS 2019 (IAP 66 Forms).
 - _____ No time gaps between forms.
 - _____ Physician not out of status for more than 6 months (ARC) or 45 days (State).
 - _____ Physician not obligated to return to home country.
 - _____ Forms do not evidence past or present enrollment in sub-specialty or fellowship training.
 - _____ Copies of recruiting advertisement and supporting documentation.
 - _____ Publication dates in advance of employment contract date.
 - _____ Ads identify specific locale/specialty and cite salary range \geq J-1's pay.
 - _____ Evidence of coordination with state medical schools.
 - _____ Contains no "general" or internet recruitment ads.
 - _____ *Letter from Governor/Health Officer to Federal Co-Chairman/Dept of State, Waiver Review Division.
 - _____ *Proof of HPSA or MUA (State only).
 - _____ *Letter to employer notifying submission to ARC/Dept of State, Waiver Review Division.
 - _____ *Record entered into database.
- These items to be completed by the Alabama Department of Public Health (ADPH).