



STATE OF ALABAMA DEPARTMENT OF  
**PUBLIC HEALTH**

Donald E. Williamson, MD  
State Health Officer

December 10, 2014

TO: Interested Parties

**SUBJECT: Alabama Guidelines and Procedures, Requests for National Interest Waiver Letter of Attestation for Alien Physicians**

Alabama's National Interest Waiver (NIW) guidelines and procedures are hereby revised to: update past service demonstration data; reaffirm that NIW physicians must be employed by an Alabama licensed medical facility or physician located in the state; require NIW physicians to be board eligible or board certified in the discipline for which they are approved to work; and update NIW program contact information. These revised guidelines and procedures are effective immediately and supercede previous editions. Changes from previous editions are highlighted in **bold type**.

All NIW physician requests should be directed to the Alabama Department of Public Health, Office of Primary Care and Rural Health, at the address contained in the enclosed NIW guidelines and procedures.

Any questions about the NIW physician program in Alabama should be directed to the Program Administrator, at telephone (334) 206-5396, fax (334) 206-5434, or email: J-1WaiverInbox@adph.state.al.us.

Sincerely,



Donald E. Williamson, M.D.  
State Health Officer

DW/JD/CL/GB  
Enclosure

## Alabama Guidelines for Physician National Interest Waiver (NIW) Support Letter Applications

1. General Requirements:
  - 1.1 The first major requisite before requesting a Letter of Attestation for an NIW physician is to make a good-faith effort to recruit an American physician. This recruitment effort must be documented in the support letter application. See paragraph 5 of the Alabama National Interest Waiver Physician Guidelines for an explanation of the kind of recruitment documentation required. Note: NIW applications for physicians currently serving under a J-1 waiver that was processed and/or approved through the Alabama Department of Public Health may reference the applicable supporting documents previously submitted for the J-1 waiver in lieu of providing duplicate documents in the NIW application (see Section 4).
  - 1.2 Alien physicians who request NIWs must make application through an Alabama licensed medical facility or physician **located in the state** that is willing to offer them employment: A) to provide primary medical care, sub-specialty care, or mental health care; B) at least 40 hours per week; and C) for a minimum of five (5) years or longer unless the physician qualifies for the three (3) year service provision under the applicable NIW Rules and Regulations. This employment shall commence within three (3) months from the date the NIW waiver is granted. The employment offer must be contained in an employment contract between the applicant facility or physician and NIW physician.
  - 1.3 Any physician qualifying for a primary care practice, either clinic-based or emergency department-based, must commit to providing not less than 40 hours of primary care per week in a primary care Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP). Clinic-based primary care physicians may not count travel, on-call time, *scheduled* after-hour emergency room coverage, in-patient care, or hospital rounds toward the NIW physician's minimum 40-hour work week. However, these physicians are expected to adhere to community standards regarding hospital emergency department coverage.
  - 1.4 NIW placement applications will not be reviewed until all necessary documents and materials are received by the Alabama Office of Primary Care and Rural Health (AOPCRH). *Completed* applications will be processed on a first-come, first-serve basis. However, prospective applicants may provide a letter of intent to submit an application in order to determine if an area will qualify for an NIW physician placement. This letter should affirm that the area is designated as a HPSA, MUA, or MUP and thoroughly document the condition of medical underservice, to include the existing physician-to-population ratio and the impact on the community if the NIW physician is not approved. Letters of intent are not considered applications and will not serve as placeholders pending receipt of completed applications.

2. Site Eligibility:
  - 2.1 Prospective J-1 physician employers must have operations that are principally engaged in and have an established record of providing the type of service for which the physician waiver is being requested.
  - 2.2 NIW placements will only be recommended for Alabama geographical areas or sites which are designated as HPSAs, MUAs, or MUPs by the Health Resources and Services Administration. 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, and how these conditions will be alleviated by the NIW physician's service. In addition, for sub-specialty physicians, the application must contain letters of support from cognizant governmental leaders and professional entities representing the local service area's medical profession at large. These letters of support should be addressed to the State Health Officer, Donald E. Williamson, M.D. One of the letters of support must be from the president of the county medical society where the physician will practice.
  - 2.3 Primary care placements may be based full time (at least 40 hours per week) in a hospital emergency department.
  - 2.4 Primary care placements in a clinic-based practice will provide *primary care* services at least 40 hours per week in the clinic and are also expected to adhere to community standards regarding hospital emergency department coverage.
  - 2.5 All NIW physician placements must accept Medicare and Medicaid patients and will 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, primary care emergency department placements may employ 'no-charge, no-pay' guidelines, which must be applied to the same population group and publicized in the same manner as a sliding fee scale.
  - 2.6 All placement applications must be accompanied by an implementation plan describing how the employer will apply a sliding fee scale (or "no-charge, no-pay" guidelines) to reduce the payment obligation for uninsured, medically indigent patients with household incomes at or below 200 percent of the Federal Poverty Level. 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-charge, no-pay" guidelines) and implementation plan to the NIW physician's practice. The public notice shall be posted in the patient 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. *Employers and NIW physicians are hereby put on notice that these requirements are considered to be an important, integral part of the NIW physician's waiver service obligation. Compliance with these requirements shall be subject to audit during unannounced site visits and other monitoring methods.*
  - 2.7 Applications for primary care NIW physician placements requested for Special Population HPSA designations and MUAs are required to include a written demonstration that the service site routinely provides services to Medicare, Medicaid, and uninsured medically indigent patients regardless of their ability to pay. This demonstration must cover the previous three (3) years and must measure the site's performance against the quantity (percentage) of these patients in both the placement county and the state as a whole. A form is attached for use in submitting the employer's past service demonstration data (Attachment 6). Sub-specialty NIW

placements are not required to demonstrate this past service but must fully comply with service guidelines throughout the NIW sub-specialist's waiver obligation.

- 2.8 If multiple NIW physician applications are received for the same location, preference will be given to applications that demonstrate the highest indications of need.  
*Example:* If the population-to-physician ratio in an area is such that only one placement is available, preference will be given to the application that provides the strongest evidence or commitment to serving the underserved of the area.
- 2.9 Sites receiving waiver approval must agree to report to the AOPCRH on the status of the placement's activities at least every six (6) months during the physician's NIW service obligation. A form is attached for this purpose (Attachment 7). Failure to provide these reports in a timely and accurate manner and/or failure to demonstrate good faith in utilizing an NIW physician's services in accordance with these guidelines 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 NIW physician's noncompliance with visa waiver requirements could result in deportation proceedings against the NIW physician.
3. Physician Requirements:
  - 3.1 Any physician qualifying for a primary care placement must commit to providing not less than 40 hours of primary care per week in a HPSA, MUP, or MUA. Primary care physicians are defined as those who have completed residency training *and* who are board eligible or board certified in any of the following specialties: Family Practice, General Internal Medicine, General Pediatrics, or Obstetrics/Gynecology. Psychiatrists must commit to providing not less than 40 hours per week of mental health services in a mental health HPSA. Sub-specialists must commit to providing not less than 40 hours per week of sub-specialty care in a HPSA, MUP, or MUA.
  - 3.2 Placements are responsible to the United States Citizens and Immigration Service (USCIS) for obtaining/maintaining appropriate visa status during their waiver work commitment.
  - 3.3 Placements must have an unrestricted license to practice medicine from the Alabama Medical Licensure Commission or have made application to the Commission prior to submitting a waiver application. **In addition, all placements must have completed their respective residency and/or fellowship training and must be board eligible or board certified in the medical specialty for which the waiver is being requested.** A copy of the license or license application must be included with the waiver request.

## APPLICATION CONTENTS

4. Required content of NIW Applications for Physicians currently under a J-1 service obligation in Alabama:
  - 4.1 NIW applications for physicians currently serving under a J-1 waiver that was processed and/or approved through the Alabama Department of Public Health may be abbreviated. This abbreviated request must contain:
    - a. A letter from the J-1 physician's current, approved employer, requesting the waiver and containing all the information enumerated under the "waiver request letter" section of these procedures (page 8).
    - b. An addendum to the current J-1 employment contract that contains: (1) the NIW Liquidated Damages Clause specified in these NIW procedures; (2) a provision that incorporates the NIW Physician Affidavit and Agreement and NIW Physician Guidelines into the contract; and, (3) an extension of the original J-1 waiver employment contract term to cover a cumulative period of at least five (5) years.

Note: The time previously served in J-1 waiver service may be counted toward the three (3) or five (5) year NIW waiver service required by the USCIS to the extent that applicable statutes and USCIS rules and regulations allow the counting of such previous service and provided the previous service was satisfactorily rendered by the physician under applicable J-1 waiver program terms and conditions. Other terms of the employment agreement: e.g., salary and benefits, are subject to agreement between the physician and employer provided they remain compliant with J-1 and NIW waiver requirements.
    - c. A signed and notarized *National Interest Waiver Physician Affidavit and Agreement*, accompanied by a copy of the *Alabama National Interest Waiver Guidelines*. The *Guidelines* must be included in the application but do not need a signature, since they are incorporated by reference in the *Affidavit*. A copy of both documents is attached to these procedures.(Attachments 1 and 2)
5. Required content of NIW Applications for Physicians not currently under J-1 Visa Waiver service obligation in Alabama:
  - 5.1 Letter from the employer to the State Health Officer, with the prescribed content (see enclosed letter outline, page 8) Note the following requirements:
    - a. Employer's eligibility requirement: Prospective NIW physician employers must establish that they have operations that are well established and principally engaged in providing the type of care that will be provided by the NIW physician.
    - b. For clinic-based primary care physicians, travel, on-call time, *scheduled* emergency room coverage, in-patient care and hospital rounds shall not be

counted toward the physician's minimum 40-hour, in-clinic, primary care work week requirement. *However*, these physicians are expected to adhere to community standards regarding hospital emergency department coverage.

- c. Sliding fee scale (or "no-charge, no-pay" guidelines) and implementation plan: A commitment must be made by both the employer and the NIW physician to use a sliding fee scale (or alternatively, if an emergency department-based practice, "no-charge, no-pay" guidelines) to reduce the payment obligation of uninsured, medically indigent patients. Use of the sliding fee scale "no-charge, no-pay" guidelines must be detailed in an implementation plan which must be developed by the employer and included in the application.
- d. Certification requirement: The employer must certify that he/she has read and understands the requirements of the NIW physician's waiver service commitment and that the employer will structure the NIW physician's practice so as to facilitate compliance with these requirements.

5.2 The employer's letter must be accompanied by:

- a. The employer's sliding fee scale or "no-charge, no-pay" guidelines showing the reduced fee schedule for uninsured low income patients.
- b. An implementation plan describing how the employer will apply the sliding fee scale or "no-charge, no-pay" guidelines to reduce the payment obligation for uninsured, medically indigent patients with household incomes at or below 200 percent of the Federal Poverty Level.
- c. If the placement is for primary care or mental health services in a HPSA, MUA, or MUP, a description of how this population is to be served should be included along with a written demonstration of the extent of past service to patients enrolled in Medicare, Medicaid, and the uninsured medically indigent patients. This demonstration must cover the previous three (3) years and must measure the site's performance against the quantity (percentage) of these patients in both the placement county and the state as a whole. A form is attached for use in submitting the employer's past service demonstration data (Attachment 6). Sub-specialty NIW placements are not required to demonstrate past service but must fully comply with service guidelines throughout the NIW sub-specialist's waiver obligation. However, sub-specialists must provide letters of support from cognizant governmental leaders and professional entities representing the local service area's medical profession at large. These letters of support should be addressed to the State Health Officer, Donald E. Williamson, M.D.
- d. A copy of the public notice which the employer must post in the patient waiting room, advising patients of the practice site's commitment to serve all patients regardless of their ability to pay or their enrollment in Medicare or Medicaid. A sample notice is attached (Attachment 3).

Special Note: Employers and NIW physicians are hereby put on notice that use of the above referenced sliding fee scale (or for emergency department-based physicians, a “no-pay” guideline) is considered to be an important, integral part of the NIW physician’s waiver service obligation. Compliance with these requirements shall be subject to audit during unannounced site visits and other monitoring methods. Findings of noncompliance may be referred to the Alabama State Board of Medical Examiners and could ultimately lead to invocation of remedies such as legal proceedings for false statements, reprimand, fine, revocation of the state medical license, and/or deportation proceedings against the NIW physician.

- 5.3 Completed U.S. Department of State (DOS) *Data Sheet (DS 3035)* and all related information required by the DOS. Also, a copy of the physician’s Duration of Status card (I-94) or other U.S. immigration documents affirming the physician’s lawful presence in the United States. (For more details, see DOS web site: <https://jlvvisa waiver recommendation.state.gov>)
- 5.4 Current Alabama National Interest Waiver Physician Guidelines (**July 2014** edition) and National Interest Waiver Physician Affidavit and Agreement (**July 2014** edition). (The Affidavit must be signed by the physician and employer, and notarized; the Guidelines must be included in the application but a signature is not required since it is incorporated by reference in the Affidavit.)
- 5.5 Copy of the employment agreement between the employer and physician. (Must be signed by both parties.) The employment contract:
  - a. Must contain VERBATIM the *NIW Visa Liquidated Damages Clause* which is included as Attachment 4.
  - b. Must not contain any non-compete clauses.
  - c. Must commit clinic-based primary care physicians to at least 40 hours of in-clinic primary medical care per week, excluding time spent on in-patient care, hospital rounds, and travel (except for incidental, unscheduled emergency room calls) and must affirm that the physician will adhere to community standards regarding hospital emergency department coverage.
  - d. Must include a target date for the physician to start work, with the caveat that he/she must start within 90 days after approval of the waiver.
  - e. Must not contain any blanks, subject to later entries.
  - f. Must not pre-date any physician recruiting documentation.
- 5.6 Curriculum Vitae (CV) of physician, plus letters of recommendation and medical credentials (including Alabama Medical License).

- 5.7 All copies of any Form DS-2019s (formerly IAP-66) and other U.S. immigration documentation attesting to the physician's current legal status and history of stay in the U.S.
- 5.9 Copies of advertisement and supporting documentation which demonstrate good faith efforts within the previous six (6) months to notify American physicians of this job availability. Advertisements are to include both national (i.e., outside Alabama) and in-state publications. National publications include newspapers and/or magazines with wide, national circulation. In addition, include correspondence with in-state medical schools and residency programs (copies of actual advertisements in medical journals, newspapers, etc. are to be included. Merely stating that advertisements were made is not sufficient. Publication dates of advertisements should be well before any employment contract dates to allow time for any response and consideration of American physicians). Important note: all recruitment must be done in advance of consummating an employment contract with the physician.
- 6. Application Submittal:
  - 6.1 One complete, tabbed application package is to be submitted. *NOTE: Use of the exact forms in the NIW guidelines and procedures will expedite the review process.*
  - 6.2 AOPCRH will review the application for compliance prior to recommending approval of a Letter of Attestation by the State Health Officer.

Application Submittal: Send the completed Letter of Attestation application to:

Mailing Address

Physical Address

Alabama Department of Public Health  
 Office of Primary Care and Rural Health  
 Attn: **J-1/NIW Program Manager**  
 Tower/Suite 1040  
 P.O. Box 303017  
 Montgomery, AL 36130-3017

Alabama Department of Public Health  
 Office of Primary Care and Rural Health  
 Attn: **J-1/NIW Program Manager RSA**  
 RSA Tower/Suite 1040  
 201 Monroe Street  
 Montgomery, AL 36104

Telephone: 334-206-5396  
 Facsimile: 334-206-5434  
 Email: **J-1WaiverInbox@adph.state.al.us**



REQUIRED CONTENT OF  
WAIVER REQUEST LETTER FROM EMPLOYER

Donald E. Williamson, M.D.  
State Health Officer  
Alabama Department of Public Health  
RSA Tower, Suite 1040  
P.O. Box 303017  
Montgomery, AL 36130-3017

Dear Dr. Williamson:

INCLUDE THE FOLLOWING:

1. Name of doctor, medical specialty (including any sub-specialty or fellowship training), and type of 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, in a sub-specialty care setting, psychiatry placement in clinic-based practice or in a mental hospital (the latter requires a federal facility shortage designation).
2. **Certification that the employer is an Alabama licensed medical facility or physician located in the State of Alabama.**
3. Employer identity (e.g., Community Health Center (CHC), Federally Qualified Health Center (FQHC), private for-profit, private not-for-profit).
4. 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, **and that the physician is board eligible or board certified in the service to be provided.**
5. Complete address of the practice location(s), to include name of the facility, street address, city, county, nine digit zip code, telephone number, and (if available) email address. If a physician is to practice at multiple locations, a separate practice (work) schedule is to be provided for each individual practice site.
6. A statement and analysis of why the physician is needed. This should include but not be limited to an analysis of the supply of physicians in the proposed service area(s) versus the patient population in the area(s) and a 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 governmental leaders and professional entities who represent the local service area's medical profession at large. These letters of support should be addressed to the State Health Officer, Donald E. Williamson, M.D.

7. A statement by the head of the health care facility at which the foreign medical graduate will be employed, that the facility is located in an area designated by the Health Resources and Services Administration (HRSA) as a Health Professional Shortage Area (HPSA), a Mental Health Care HPSA, a Medically Underserved Population (MUP), or a Medically Underserved Area (MUA), as applicable, and provides medical care to both Medicaid and Medicare eligible patients and to indigent uninsured patients. The statement shall also list the HPSA, MUP, or MUA identifier number of the designation as assigned by the Secretary of Health and Human Services and shall include the Federal Information Processing Series county code and census tract or block numbering area number (assigned by the Bureau of the Census) or the 9-digit zip code of the area where the facility is located.
8. Assurance that primary care or mental health physicians will provide in-clinic primary care or mental health care a minimum of 40 hours per week in the HPSA, MUP, or MUA. Also, for clinic-based primary care physicians, assurance that the 40 hours will *exclude* time spent on call, inpatient care, hospital rounds, *scheduled* after-hour coverage or travel, and assurance that the physician will adhere to community standards regarding hospital emergency department coverage. Time spent on *unscheduled* emergency room calls during the physician's regularly scheduled clinic hours may be counted toward the physician's basic 40 hour per week in-clinic obligation. However, such unscheduled emergency room calls are to be considered an exception and shall not become a routine part of the physician's regularly scheduled, 40 hour-per-week clinic practice.
9. Date employment is targeted to begin and duration of employment along with a statement that says in no event will employment start later than 90 days following waiver approval.
10. Certification that the practice site(s) will employ a sliding fee scale by which to progressively reduce the customary charges for care provided to the uninsured medically indigent whose household income is at or below 200 percent of the Federal Poverty Level. For emergency department-based primary care physicians, "no-charge, no-pay" guidelines may be substituted for a sliding fee scale. A copy of the sliding fee scale or "no-charge, no-pay" guidelines, an implementation plan explaining how the scale or guidelines will be implemented by clinic staff, and a public notice are to be included as attachments to the letter. Note: the scale or "no-charge, no-pay" guidelines 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.
11. Certification that the practice site(s) will post a public notice, announcing: a) the employer's guidelines 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-charge, no-pay" guidelines available for those who qualify.

12. For primary care physicians, if the HPSA designation is based on underservice to a special population (e.g., low income, poverty population, or medically indigent), if the area is an MUA or MUP, then a demonstration of how the physician will serve that special population is required. Sub-specialty NIW placements are not required to demonstrate this past service but must fully comply with the service guidelines throughout the NIW sub-specialist's waiver obligation. (Note: This demonstration is *not* required for CHCs or FQHCs. However, evidence of CHC or FQHC status [i.e., copy of the federal Notice of Award] must be provided in the application package.) To assist in the review of this demonstration, the State of Alabama has adopted the following National Health Service Corps (NHSC) standards to establish non-discrimination among program participants. The NHSC standards require the following demonstration:
  - a. The percentage of patients served by the practice who are provided health services at a reduced or no charge because of an inability to pay for services is equal to or greater than the percentage of the patients unable to pay for services in the state in which the practice is located.
  - b. The percentage of patients under Medicare for whom assignment is accepted is not less than 80 percent of the percentage of patients under Medicare in the state in which the practice is located.
  - c. The percentage of patients under Medicaid for whom assignment is accepted is not less than the percentage of patients under Medicaid in the state in which the practice is located.

The above demonstration should at least include the employer's record of meeting these standards over the previous three (3) years. Separate instructions and a past service demonstration form are attached. Failure to meet the above past service standards will render the employer ineligible for the NIW program in Alabama.

13. Acknowledgment that all of the terms and conditions of the physician's NIW Physician Affidavit and Agreement have been incorporated into the employment agreement.
14. Acknowledgment that the employment agreement does not modify or amend any of the terms or conditions of the physician's NIW Physician Affidavit and Agreement.
15. Certification that the employer has read and understands the requirements of the NIW physician's waiver service commitment, including the NIW Physician Affidavit and Agreement, and that the employer will structure the NIW physician's practice so as to facilitate the NIW physician's compliance with these requirements.

16. Acknowledgment and agreement that AOPCRH will monitor compliance with NIW physician service requirements by means such as unannounced site visits, periodic reports, and interviews with clinic staff; that the AOPCRH will refer any violations it deems to be significant 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. Also, that violations may prompt deportation proceedings against the NIW physician.
17. Must include a statement as follows: "I hereby certify that I have read and fully understand and will comply with the Alabama NIW Physician Guidelines, and that all of the information contained in this letter is true to the best of my knowledge and belief."

Attachments  
National Interest Waiver Physician Program Requirements  
Applicable to Alabama

1. National Interest Waiver Physician Affidavit and Agreement, **July 2014** Edition, 3 pages
2. Alabama National Interest Waiver Physician Guidelines, **July 2014**, 2 pages
3. Example of Public Notice, 1 page
4. Liquidated Damages Clause, 1 page
5. Data Sheet/Immigration Status Documentation Requirements, 1 page
6. Special Instructions for Past Service Demonstration, July 2014 Edition, 3 pages
7. National Interest Waiver Physician Practice Status Report, July 2014 Edition, 2 pages
8. NIW Application Checklist, July 2014 Edition, 2 pages

**NATIONAL INTEREST WAIVER PHYSICIAN AFFIDAVIT AND AGREEMENT**

I, \_\_\_\_\_, being duly sworn, hereby request the Alabama State Health Officer to review my application for the purpose of recommending approval of my National Interest Waiver (NIW) by issuance of a formal letter of attestation, 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 the Alabama Department of Public Health (ADPH), 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 Alabama State Health Officer's desire to improve the availability of medical care in regions designated by the Health Resources and Services Administration (HRSA) as Health Professional Shortage Areas (HPSAs), Medically Underserved Populations (MUPs), or Medically Underserved Areas (MUAs) in the State of Alabama.
3. I understand and agree that in consideration for a letter of attestation and any resultant 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 the indigent, for a minimum of forty (40) hours per week within a HRSA designated HPSA, MUP, or MUA located in the State of Alabama. I also understand that if I am a primary care clinic-based physician, this 40 hours shall be exclusive of travel, in-patient care, or hospital rounds and that I will be expected to adhere to community standards regarding hospital emergency department coverage. Such service shall commence not later than 90 days after I receive notification of approval by both the United States Citizenship and Immigration Service (USCIS) and shall continue for a minimum of five (5) years or longer unless I qualify for the three (3) year service provision under the applicable NIW Rules and Regulations.
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 the ADPH. I certify that I will practice:

\_\_\_ Primary care in a clinical setting.

\_\_\_ Primary care in an emergency department.

\_\_\_Psychiatric care in a clinical setting.

\_\_\_Sub-specialty care in\_\_\_\_\_.

5. I agree to incorporate all the terms of this NIW Physician Affidavit and Agreement into any and all employment agreements I enter pursuant to paragraph 3 and to include in each such agreement the liquidated damages clause, of \$250,000 payable to the employer. (A copy of all employment agreements is attached to this request.) 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 three (3) or five (5) year service requirement, as applicable to my specific waiver request. In the event of a transfer to another employer or practice location(s), a formal transfer notification request must be submitted to the AOPCRH under the guidelines established by the AOPCRH for such actions.

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 NIW Physician Affidavit and Agreement.

7. I also agree to incorporate all terms of this NIW Physician Affidavit and Agreement into any employment agreement I enter pursuant to paragraph 3.

8. I understand and agree that I will provide health services to individuals without discriminating against them because (a) they are unable to pay for those services or (b) payment for those health services will be made under Medicare or Medicaid.

9. I have read and fully understand the "Alabama National Interest Waiver Physician Guidelines," a copy of which is attached to this request.

10. I expressly understand that this waiver request must ultimately be approved by the USCIS, and I agree to provide written notification of the specific location and nature of my practice to the AOPCRH at the time I receive notification from the USCIS and commence rendering services in the State of Alabama.

11. I declare and certify, under penalty of the provisions of 18 U.S.C. 1001, that I do not 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 the Alabama Department of Public Health to act on my behalf in any matter relating to my NIW request.

12. I understand and acknowledge that if I willfully fail to comply with the terms of this NIW Physician Affidavit and Agreement, the ADPH will notify the USCIS and recommend deportation proceedings be instituted against me. Additionally, any and all other measures available to the ADPH and/or the Alabama State Board of Medical Examiners will be taken in the event of my non-compliance.

**NIW Physician Certification:**

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

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name of NIW Physician)

\_\_\_\_\_  
(Signature of NIW Physician)

Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Notary Public)

**Employer Certification:**

I certify that I have read and understand the above guidelines to which this NIW Physician has committed and that I will structure the NIW physician's employment to facilitate his/her compliance with these requirements.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name of Employer)

\_\_\_\_\_  
(Signature of Employer)



## **Alabama National Interest Waiver Guidelines**

The Alabama Department of Public Health (ADPH) is committed to assisting all residents of the state in obtaining access to quality, affordable health care. Accordingly, the State Health Officer is prepared to consider recommending a National Interest Waiver (NIW) on behalf of alien physicians under certain conditions. The Alabama NIW guidelines for physicians is totally discretionary and voluntary and may be modified or terminated at any time without notice. In all instances, the State Health Officer reserves the right of discretion to recommend or decline to recommend any request for an NIW.

These guidelines are the ADPH's minimum requirements:

1. Physician NIW requests must be sponsored by an employer who is a medical provider **that is located and licensed** within the state, and who has an established record of and current operations in providing primary care, sub-specialty care, or mental health care, respectively. Requests will be considered only upon the written recommendation of the employer.
2. The physician must agree to provide primary **or sub-specialty** medical care for at least forty (40) hours a week at a site in a Health Professional Shortage Area (HPSA), a Medically Underserved Population (MUP), or Medically Underserved Area (MUA), as designated by the Health Resources and Services Administration (HRSA), for a minimum of five (5) years or longer. Time previously satisfactorily served under a J-1 waiver in the state will be counted toward the five (5) year NIW obligation, unless the USCIS rules that such time shall not be counted, in which case the full five (5) years must be served.
3. All physicians who apply under the Alabama NIW waiver program shall practice no less than 40 hours per week in the HPSA, MUP, or MUA for which they were approved. In addition, primary care placements in a clinic-based practice shall provide services at least 40 hours per week *in the clinic* and shall also adhere to community standards regarding hospital emergency department coverage.
4. The facility or practice sponsoring the physician must agree to provide health services to individuals without discriminating against them because (a) they are unable to pay for those services or (b) payment for those health services will be made under Medicare and Medicaid. The sponsor may charge no more than the usual and customary rate prevailing in the HPSA in which services are provided. In addition, charges must be discounted on a sliding fee scale for persons at or below 200 percent of poverty. Alternatively, for emergency department-based primary care physicians, "no-charge, no-pay" guidelines may be substituted for a sliding fee scale. Persons with third party insurance may be charged the full fee for service. A notice must be posted in a conspicuous location in the patient waiting area at the practice site notifying patients of the charges for service as required in this paragraph. Such notice must contain at least the information set forth in the sample notice which is attached to these guidelines.

5. The sponsor must demonstrate that it has made a reasonably good faith effort to recruit an American doctor for the job opportunity in the same salary range without success during the six (6) months immediately preceding the request for waiver. The sponsor shall demonstrate, with such supporting documentation as the ADPH may require, that it has undertaken such recruitment through a reasonable number of appropriate sources including but not limited to advertisements in newspapers and medical journals of national and statewide circulation most likely to bring responses from able, willing, qualified, and available U.S. doctors and job opportunity notices placed in appropriate medical schools including all medical schools in the state in which the hospital or clinic is located.
6. The employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete clause which prevents or discourages the physician from continuing to practice in any HPSA after the period of obligation under these guidelines has expired.
7. The physician, prior to employment, must **be board eligible or board certified in the service to be provided, and must be** licensed by the State of Alabama.
8. The physician must not have been “out of status” (as defined by the Citizenship and Immigration Service of the United States Department of Homeland Security) for more than 180 days since receiving a visa under 8 U.S.C. 1182 (j) of the Immigration and Nationality Act, as amended. The physician shall provide the ADPH all copies of forms DS-2019 (formerly IAP-66) and every other document needed to verify status.
9. The physician must sign and have notarized the “*National Interest Waiver Physician Affidavit and Agreement*” prior to consideration by the State Health Officer of the request and must comply with the terms and conditions set forth in that document.
10. All requests approved initially by the Alabama State Health Officer and approved subsequently by the Citizenship and Immigration Service of the United States Department of Homeland Security will be subject to review by Alabama Office of Primary Care and Rural Health (AOPCRH) for compliance with this guidelines statement and other applicable laws. A sponsor’s failure to comply in good faith with these waiver guidelines will be considered in the evaluation of other applications involving the same sponsor and may be reported to the Alabama State Board of Medical Examiners at the discretion of the State Health Officer.
11. Sites receiving waiver approval must agree to report to the AOPCRH on the status of the placement’s activities at least every six (6) months during the physician’s NIW service obligation, using report forms provided by the AOPCRH. Failure to provide these reports in a timely and accurate manner and/or failure to demonstrate good faith in utilizing a NIW 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 NIW physician’s noncompliance with visa waiver requirements could result in deportation proceedings against the NIW physician.

# **N O T I C E**

## **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. In addition, 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 or 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.

### **Alabama NIW Physician Liquidated Damages Clause**

Any breach or non-fulfillment of conditions will be considered a substantial breach of this agreement by you. 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 minimum of (EITHER THREE YEARS, FIVE YEARS, OR SUCH OTHER TIME PERIOD AS APPLICABLE UNDER NIW RULES AND REGULATIONS) and that, considering that precise damages are difficult to calculate, you will agree to pay to (NAME OF EMPLOYER) the sum of \$250,000.00 for failure to fulfill your minimum (EITHER THREE YEARS, FIVE YEARS, OR SUCH OTHER TIME PERIOD AS APPLICABLE UNDER NIW RULES AND REGULATIONS) 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 minimum of (EITHER THREE YEARS, FIVE YEARS, OR SUCH OTHER TIME PERIOD AS APPLICABLE UNDER NIW RULES AND REGULATIONS) years, EXCEPT THAT, the full-time practice of medicine at another licensed medical facility, in a Health Professional Shortage Area or Medically Underserved Area (as defined by Health Resources and Services Administration) within 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 regarding additional Liquidated Damage Clauses:*

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

**U. S. DEPARTMENT OF STATE**  
***DATA SHEET(DS 3035)***

FOR THE LATEST U.S. DEPARTMENT OF STATE (DOS) DATA SHEET  
AND RELATED DOCUMENTATION INSTRUCTIONS SEE WEBSITE  
**<https://j1visaw.aiverrecommendation.state.gov>**

IN ADDITION TO A DATA SHEET, COPIES OF DS-2019s (formerly  
IAP-66), I-94, AND OTHER U.S. IMMIGRATION DOCUMENTS ARE  
REQUIRED IN ATTESTATION OF THE NIW PHYSICIAN'S  
DURATIN OF STAY AND LEGAL PRESENCE IN THE U.S.

**Special Instructions for Past Service Demonstration  
To Special Population Groups**

(Applicable to primary care physicians who will practice in Special Population Health Professional Shortage Areas [HPSAs] or Special Population Medically Underserved Areas [MUAs])

Placement of J-1 physicians to practice primary care under the Alabama National Interest Waiver (NIW) 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), a Medically Underserved Area (MUA) or a Medically Underserved Population (MUP). This letter 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 an NIW physician waiver.

Special population HPSAs, or MUAs are areas which generally have enough primary care physicians but lack physicians who serve the low income/medically indigent. MUPs are population groups that are medically underserved. The specific objective of placing an NIW physician in such an area is to accentuate the services available to this underserved group. Therefore, the application cover letter from the prospective NIW employer must include a demonstration attesting to the employer's past three (3) year's 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 three (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, explaining how his/her past service percentages were computed. *In order to be eligible for an NIW physician waiver, the employer must be in substantial compliance with the past service standards for all three patient categories.*

The past service demonstration is an essential prerequisite to any NIW waiver application for a special population HPSA, MUA, or service to an MUP and must be included with the employer's cover letter to the State Health Officer.

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\*\*](mailto:J-1WaiverInbox@adph.state.al.us).

# Alabama Statewide Patient Statistics

July 2014

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 an NIW visa waiver application.

1. Approximate Percentage of Medically Indigent People in Alabama (Source: Current Population Survey [http://www.census.gov/hhes/www/cpssc/cps\\_table\\_creator.html](http://www.census.gov/hhes/www/cpssc/cps_table_creator.html)):

<u>Year</u>	<u>Population</u>	<u>Uninsured</u>	<u>Percentage</u>
2011	4,717,000	732,000	15.5%
2012	4,765,000	622,000	13.1%
2013	4,817,000	711,000	14.8%

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>
2010	4,838,286	1,026,429	21.2%
2011	4,802,740	1,070,781	22.3%
2012	4,845,389	1,110,037	22.9%

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>
2010	4,785,570	836,560	17.5%
2011	4,801,627	865,042	18.0%
2012	4,817,528	898,707	18.7%

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 NIW Physicians proposed for a special population Health Professional Shortage Area,  
 Medically Underserved Area, or Medically Underserved Population

**PROPOSED NIW PRACTICE COUNTY:** \_\_\_\_\_ **EMPLOYER:** \_\_\_\_\_

**EMPLOYER'S STATUS: FOR-PROFIT ENTITY** \_\_\_\_\_ **NOT-FOR-PROFIT ENTITY:** \_\_\_\_\_  
**ENROLLED IN MEDICAID PATIENT 1<sup>ST</sup> PROGRAM? YES** \_\_\_\_\_ **NO** \_\_\_\_\_ (If yes, attach copy of agreement with Medicaid)

Year	Patient Category	Statewide Percentage	County Percentage (Optional, see instructions below)	ARC or State Service Standard	Employer's Past Service (Year & Percentage) (Attach Explanation)	Difference (Service Standard % Minus Employer's %)
2011	Uninsured Medically Indigent	15.5				
2012	"	13.1				
2013	"	14.8				
2010	Medicaid	21.2				
2011	"	22.3				
2012	"	22.9				
2010	Medicare	17.5				
2011	"	18.0				
2012	"	18.7				

Instructions for completing this form:

1. Attach documentation explaining the source of data used by the employer to compute 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 "Statewide Percentage" and 'Employer's Past Service Percentage.'
3. Any negative (-) difference between the Statewide Percentage 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 NATIONAL INTEREST WAIVER PHYSICIAN PRACTICE STATUS REPORT

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

Applicable to Physicians With Approved NIW Visa Waivers

This report is to be completed by each physician approved under Alabama's National Interest Waiver Program. This report must be completed when the physician first starts work under his/her NIW and each 6 months thereafter, until the physician completes his/her waiver service obligation. If the physician is currently under J-1 waiver service at the same location, continued reporting on the usual 6-month reporting cycle is acceptable, except that this NIW report form must be used during the NIW service period.

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 \_\_\_\_\_

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) \_\_\_\_\_  
(Street)  
 During Report Period: (If additional practice sites, list on separate sheet of paper) \_\_\_\_\_  
(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 \_\_\_\_\_
- 31 - 36 Month Report:            I have been practicing at above location(s) for 31-36 months, from \_\_\_\_\_ to \_\_\_\_\_
- 37 - 42 Month Report:            I have been practicing at above location(s) for 37-42 months, from \_\_\_\_\_ to \_\_\_\_\_
- 43 - 48 Month Report:            I have been practicing at above location(s) for 43-48 months, from \_\_\_\_\_ to \_\_\_\_\_
- 49 - 54 Month Report:            I have been practicing at above location(s) for 49-54 months, from \_\_\_\_\_ to \_\_\_\_\_
- Final Report:                      I have completed 55-60 months service at above location(s), from \_\_\_\_\_ to \_\_\_\_\_, and:  
 55 - 60 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 (Subspecialists 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 1<sup>st</sup> participants which I have agreed to accept: \_\_\_\_\_

I hereby certify *under penalty of licensure action and possible revocation of my NIW waiver* that I, the undersigned physician, personally delivered the type of health care services for which my NIW 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 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/NIW 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

## NIW WAIVER APPLICATION CHECKLIST

July 2014

Physician Name: \_\_\_\_\_ Employer: \_\_\_\_\_

Underserved Type: \_\_\_\_\_ Site: \_\_\_\_\_

Type Service: **Psychiatrist Mental Hospital** \_\_\_\_\_ **Psychiatrist in Clinical Practice** \_\_\_\_\_

**PC Clinical Practice** \_\_\_\_\_ **PC Emergency Department** \_\_\_\_\_ **Sub-specialist in** \_\_\_\_\_

\_\_\_\_\_ G-28(s) if attorney used

\_\_\_\_\_ For NIW physician, if attorney so representing.

\_\_\_\_\_ For employer, if attorney so representing.

\_\_\_\_\_ Letter from Employer to State Health Officer.

\_\_\_\_\_ Date employment is to begin and the employment duration.

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

\_\_\_\_\_ **Certification that employer is licensed and located in Alabama.**

\_\_\_\_\_ **Certification that the physician is board eligible or board certified in the service to be provided.**

\_\_\_\_\_ Include letters of support from cognizant governmental leaders and professional entities who represent the local service area's medical profession at large. (Optional for primary care and mental health professionals)

\_\_\_\_\_ Name of physician, medical specialty, sub-specialty, type practice, and license status.

\_\_\_\_\_ **For PC or mental health placements, 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.

\_\_\_\_\_ 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 hours.

\_\_\_\_\_ Certification that the physician will practice primary care **or subspecialty care** 40-hours per week.

\_\_\_\_\_ For primary care physicians in clinical practice, certification that 40 hours will exclude time for travel, inpatient care, on-call, scheduled emergency room coverage or hospital rounds, and that the physician will adhere to community standards regarding hospital emergency department coverage.

\_\_\_\_\_ If special population HPSA, MUA, or MUP, 3-year demonstration of service to the poor, Medicaid, and Medicare. (N/A to FQHC/CHC, but they must provide

evidence of status) Note: Sub-specialty NIW placements are not required to demonstrate past service but must fully comply with the service guidelines throughout the NIW sub-specialist's waiver obligation.

\_\_\_\_\_ Copy of sliding fee scale or for ER physicians, a "no-charge, no-pay" guidelines, implementation plan, and public notice, plus written commitment to their use.

(Scale or guidelines must begin discounting service to patients w/incomes below 200% of FPL)

\_\_\_\_\_ Shortage area ID# and nine-digit zip code.

\_\_\_\_\_ Certification that service will be provided to those on Medicaid, Medicare, and indigent uninsured patients.

(Continued on reverse side)

Attachment 8

\_\_\_\_\_ Acknowledgement 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 NIW visa waiver, reprimand, fine, and/or revocation of State medical license.

\_\_\_\_\_ Acknowledgement that all terms and conditions of physician's NIW Physician Guidelines and Affidavit and Agreement are incorporated into the employment agreement.

\_\_\_\_\_ Acknowledgement that employment does not modify or amend any terms or conditions of physician's NIW Waiver Affidavit and Agreement.

\_\_\_\_\_ Certification of Truth.

Immigration Documents:

\_\_\_\_\_ Visa Data Sheet and Duration of Status Card (I-94), Showing "D/S", plus other evidence of current legal status in the U.S.

\_\_\_\_\_ DS-2019 Forms (formerly IAP-66), if applicable.

\_\_\_\_\_ No time gaps between forms.

\_\_\_\_\_ Physician not out of status.

\_\_\_\_\_ Physician not obligated to return to home country.

\_\_\_\_\_ NIW Visa Waiver Guidelines.

\_\_\_\_\_ NIW Physician Affidavit and Agreement.

\_\_\_\_\_ Signed by both the employer and the NIW physician, and notarized.

\_\_\_\_\_ Contract between employer and physician.

\_\_\_\_\_ Contains NIW Liquidated Damages Clause.

\_\_\_\_\_ Contains no non-compete clause.

\_\_\_\_\_ All terms and conditions of physician's NIW Visa Guidelines Affidavit and Agreement statement included in contract.

\_\_\_\_\_ Commits physician to 40 hours per week in a HPSA, MUA, or MUP excluding inpatient care, rounds, and travel for clinic-based primary care physicians.

\_\_\_\_\_ Affirms that clinic-based PC physicians will adhere to community standards for ER coverage.

\_\_\_\_\_ Includes target start-work date, with provision that physician must start within 90 days of waiver approval.

\_\_\_\_\_ Does not pre-date recruiting advertisements.

\_\_\_\_\_ Contains no blanks, subject to later entries.

\_\_\_\_\_ Physician CV, Medical Credentials, and Residency Letters of Recommendation. USMLE

\_\_\_\_\_ Certification of Completion (For Part 1, Part 2 and Part 3).

\_\_\_\_\_ Copies of recruiting advertisements and supporting documentation.

\_\_\_\_\_ Publication dates in advance of employment contract date.

\_\_\_\_\_ Ads targeted to specific locale/specialty.

\_\_\_\_\_ Evidence of coordination with state medical schools.

\_\_\_\_\_ \*Letter from Health Officer to Dept. of State, Waiver Review Div.

\_\_\_\_\_ \*Proof of HPSA, MUA, or MUP

\_\_\_\_\_ \*Letter to employer with copy to physician, providing the NIW Support Letter.

\_\_\_\_\_ \*Record entered into database.