

116TH CONGRESS  
1ST SESSION

# H. R. 2895

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2019

Mr. SCHNEIDER (for himself, Mr. BACON, and Ms. FINKENAUER) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide incentives to physicians to practice in rural and medically underserved communities, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Conrad State 30 and  
5        Physician Access Reauthorization Act”.

6        **SEC. 2. CONRAD STATE 30 PROGRAM.**

7        (a) EXTENSION.—Section 220(c) of the Immigration  
8        and Nationality Technical Corrections Act of 1994 (Public  
9        Law 103–416; 8 U.S.C. 1182 note) is amended by striking

1 “September 30, 2015” and inserting “September 30,  
2 2021”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall take effect as if enacted on September  
5 30, 2018.

6 **SEC. 3. RETAINING PHYSICIANS WHO HAVE PRACTICED IN**  
7 **MEDICALLY UNDERSERVED COMMUNITIES.**

8 Section 201(b)(1) of the Immigration and Nationality  
9 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the  
10 end the following:

11 “(F)(i) Alien physicians who have completed  
12 service requirements of a waiver requested under  
13 section 203(b)(2)(B)(ii), including—

14 “(I) alien physicians who completed such  
15 service before the date of the enactment of the  
16 Conrad State 30 and Physician Access Act; and

17 “(II) the spouse or children of an alien  
18 physician described in subclause (I).

19 “(ii) Nothing in this subparagraph may be con-  
20 strued—

21 “(I) to prevent the filing of a petition with  
22 the Secretary of Homeland Security for classi-  
23 fication under section 204(a) or the filing of an  
24 application for adjustment of status under sec-  
25 tion 245 by an alien physician described in this

1           subparagraph before the date by which such  
2           alien physician has completed the service de-  
3           scribed in section 214(l) or worked full-time as  
4           a physician for an aggregate of 5 years at the  
5           location identified in the section 214(l) waiver  
6           or in an area or areas designated by the Sec-  
7           retary of Health and Human Services as having  
8           a shortage of health care professionals; or

9                     “(II) to permit the Secretary of Homeland  
10           Security to grant a petition or application de-  
11           scribed in subclause (I) until the alien has sat-  
12           isfied all of the requirements of the waiver re-  
13           ceived under section 214(l).”.

14 **SEC. 4. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

15           (a) **EXCEPTIONS TO 2-YEAR FOREIGN RESIDENCY**  
16 **REQUIREMENT.**—Section 214(l)(1) of the Immigration  
17 and Nationality Act (8 U.S.C. 1184(l)(1)) is amended—

18                     (1) in the matter preceding subparagraph (A),  
19           by striking “Attorney General” and inserting “Sec-  
20           retary of Homeland Security”;

21                     (2) in subparagraph (A), by striking “Director  
22           of the United States Information Agency” and in-  
23           serting “Secretary of State”;

1           (3) in subparagraph (B), by inserting “, except  
2 as provided in paragraphs (7) and (8)” before the  
3 semicolon at the end;

4           (4) in subparagraph (C), by striking clauses (i)  
5 and (ii) and inserting the following:

6           “(i) the alien demonstrates a bona fide  
7 offer of full-time employment at a health facil-  
8 ity or health care organization, which employ-  
9 ment has been determined by the Secretary of  
10 Homeland Security to be in the public interest;

11           “(ii) the alien—

12           “(I) has accepted employment with  
13 the health facility or health care organiza-  
14 tion in a geographic area or areas which  
15 are designated by the Secretary of Health  
16 and Human Services as having a shortage  
17 of health care professionals;

18           “(II) begins employment by the later  
19 of the date that is—

20           “(aa) 120 days after receiving  
21 such waiver;

22           “(bb) 120 days after completing  
23 graduate medical education or train-  
24 ing under a program approved pursu-  
25 ant to section 212(j)(1); or

1           “(cc) 120 days after receiving  
2           nonimmigrant status or employment  
3           authorization, if the alien or the  
4           alien’s employer petitions for such  
5           nonimmigrant status or employment  
6           authorization not later than 120 days  
7           after the date on which the alien com-  
8           pletes his or her graduate medical  
9           education or training under a pro-  
10          gram approved pursuant to section  
11          212(j)(1); and

12          “(III) agrees to continue to work for  
13          a total of not less than 3 years in the sta-  
14          tus authorized for such employment under  
15          this subsection, except as provided in para-  
16          graph (8).”; and

17          (5) in subparagraph (D), in the matter pre-  
18          ceding clause (i), by inserting “(except as provided  
19          in paragraph (8))”.

20          (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-  
21          FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-  
22          SERVED AREAS.—Section 214(l)(2)(A) of such Act (8  
23          U.S.C. 1184(l)(2)(A)) is amended to read as follows:

24                 “(A) Upon the request of an interested Federal  
25                 agency or an interested State agency for recommen-

1        dation of a waiver under this section by a physician  
2        who is maintaining valid nonimmigrant status under  
3        section 101(a)(15)(J) and a favorable recommenda-  
4        tion by the Secretary of State, the Secretary of  
5        Homeland Security may change the status of such  
6        physician to any status authorized for employment  
7        under this Act. The numerical limitations contained  
8        in subsection (g)(1)(A) shall not apply to any alien  
9        whose status is changed under this subparagraph.”.

10        (c) VIOLATION OF AGREEMENTS.—Section  
11        214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is  
12        amended by inserting “substantial requirement of an” be-  
13        fore “agreement entered into”.

14        (d) PHYSICIAN EMPLOYMENT IN UNDERSERVED  
15        AREAS.—Section 214(l) of such Act (8 U.S.C. 1184(l)),  
16        as amended by this section, is further amended by adding  
17        at the end the following:

18        “(4)(A) If an interested State agency denies the ap-  
19        plication for a waiver under paragraph (1)(B) from a phy-  
20        sician pursuing graduate medical education or training  
21        pursuant to section 101(a)(15)(J) because the State has  
22        requested the maximum number of waivers permitted for  
23        that fiscal year, the physician’s nonimmigrant status shall  
24        be extended for up to 6 months if the physician agrees  
25        to seek a waiver under this subsection (except for para-

1 graph (1)(D)(ii)) to work for an employer described in  
2 paragraph (1)(C) in a State that has not yet requested  
3 the maximum number of waivers.

4 “(B) Such physician shall be authorized to work only  
5 for the employer referred to in subparagraph (A) from the  
6 date on which a new waiver application is filed with such  
7 State until the earlier of—

8 “(i) the date on which the Secretary of Home-  
9 land Security denies such waiver; or

10 “(ii) the date on which the Secretary approves  
11 an application for change of status under paragraph  
12 (2)(A) pursuant to the approval of such waiver.”.

13 (e) CONTRACT REQUIREMENTS.—Section 214(l) of  
14 such Act, as amended by this section, is further amended  
15 by adding at the end the following:

16 “(5) An alien granted a waiver under paragraph  
17 (1)(C) shall enter into an employment agreement with the  
18 contracting health facility or health care organization  
19 that—

20 “(A) specifies the maximum number of on-call  
21 hours per week (which may be a monthly average)  
22 that the alien will be expected to be available and  
23 the compensation the alien will receive for on-call  
24 time;

25 “(B) specifies—

1           “(i) whether the contracting facility or or-  
2           ganization will pay the alien’s malpractice in-  
3           surance premiums;

4           “(ii) whether the employer will provide  
5           malpractice insurance; and

6           “(iii) the amount of such insurance that  
7           will be provided;

8           “(C) describes all of the work locations that the  
9           alien will work and includes a statement that the  
10          contracting facility or organization will not add addi-  
11          tional work locations without the approval of the  
12          Federal agency or State agency that requested the  
13          waiver; and

14          “(D) does not include a non-compete provision.

15          “(6) An alien granted a waiver under this subsection  
16          whose employment relationship with a health facility or  
17          health care organization terminates under paragraph  
18          (1)(C)(ii) during the 3-year service period required under  
19          paragraph (1) shall be considered to be maintaining lawful  
20          status in an authorized period of stay during the 120-day  
21          period referred to in items (aa) and (bb) of subclause (III)  
22          of paragraph (1)(C)(ii) or the 45-day period referred to  
23          in subclause (III)(cc) of such paragraph.”.

24          (f) RECAPTURING WAIVER SLOTS LOST TO OTHER  
25          STATES.—Section 214(l) of such Act, as amended by this

1 section, is further amended by adding at the end the fol-  
2 lowing:

3 “(7) If a recipient of a waiver under this subsection  
4 terminates the recipient’s employment with a health facil-  
5 ity or health care organization pursuant to paragraph  
6 (1)(C)(ii), including termination of employment because of  
7 circumstances described in paragraph (1)(C)(ii)(III), and  
8 accepts new employment with such a facility or organiza-  
9 tion in a different State, the State from which the alien  
10 is departing may be accorded an additional waiver by the  
11 Secretary of State for use in the fiscal year in which the  
12 alien’s employment was terminated.”.

13 (g) EXCEPTION TO 3-YEAR WORK REQUIREMENT.—  
14 Section 214(l) of such Act, as amended by this section,  
15 is further amended by adding at the end the following:

16 “(8) The 3-year work requirement set forth in sub-  
17 paragraphs (C) and (D) of paragraph (1) shall not apply  
18 if—

19 “(A)(i) the Secretary of Homeland Security de-  
20 termines that extenuating circumstances, including  
21 violations by the employer of the employment agree-  
22 ment with the alien or of labor and employment  
23 laws, exist that justify a lesser period of employment  
24 at such facility or organization; and

1           “(ii) the alien demonstrates, not later than 120  
2           days after the employment termination date (unless  
3           the Secretary determines that extenuating cir-  
4           cumstances would justify an extension), another  
5           bona fide offer of employment at a health facility or  
6           health care organization in a geographic area or  
7           areas which are designated by the Secretary of  
8           Health and Human Services as having a shortage of  
9           health care professionals, for the remainder of such  
10          3-year period;

11          “(B)(i) the interested State agency that re-  
12          quested the waiver attests that extenuating cir-  
13          cumstances, including violations by the employer of  
14          the employment agreement with the alien or of labor  
15          and employment laws, exist that justify a lesser pe-  
16          riod of employment at such facility or organization;  
17          and

18          “(ii) the alien demonstrates, not later than 120  
19          days after the employment termination date (unless  
20          the Secretary determines that extenuating cir-  
21          cumstances would justify an extension), another  
22          bona fide offer of employment at a health facility or  
23          health care organization in a geographic area or  
24          areas which are designated by the Secretary of  
25          Health and Human Services as having a shortage of

1 health care professionals, for the remainder of such  
2 3-year period; or

3 “(C) the alien—

4 “(i) elects not to pursue a determination of  
5 extenuating circumstances pursuant to sub-  
6 clause (A) or (B);

7 “(ii) terminates the alien’s employment re-  
8 lationship with the health facility or health care  
9 organization at which the alien was employed;

10 “(iii) demonstrates, not later than 45 days  
11 after the employment termination date, another  
12 bona fide offer of employment at a health facil-  
13 ity or health care organization in a geographic  
14 area or areas, in the State that requested the  
15 alien’s waiver, which are designated by the Sec-  
16 retary of Health and Human Services as having  
17 a shortage of health care professionals; and

18 “(iv) agrees to be employed for the remain-  
19 der of such 3-year period, and 1 additional year  
20 for each termination under clause (ii).”.

21 **SEC. 5. ALLOTMENT OF CONRAD 30 WAIVERS.**

22 (a) IN GENERAL.—Section 214(l) of the Immigration  
23 and Nationality Act (8 U.S.C. 1184(l)), as amended by  
24 section 4, is further amended by adding at the end the  
25 following:

1       “(8)(A)(i) All States shall be allotted a total of 35  
2 waivers under paragraph (1)(B) for a fiscal year if 90 per-  
3 cent of the waivers available to the States receiving at  
4 least 5 waivers were used in the previous fiscal year.

5       “(ii) When an allotment occurs under clause (i), all  
6 States shall be allotted an additional 5 waivers under  
7 paragraph (1)(B) for each subsequent fiscal year if 90  
8 percent of the waivers available to the States receiving at  
9 least 5 waivers were used in the previous fiscal year. If  
10 the States are allotted 45 or more waivers for a fiscal year,  
11 the States will only receive an additional increase of 5  
12 waivers the following fiscal year if 95 percent of the waiv-  
13 ers available to the States receiving at least 1 waiver were  
14 used in the previous fiscal year.

15       “(B) Any increase in allotments under subparagraph  
16 (A) shall be maintained indefinitely, unless in a fiscal year,  
17 the total number of such waivers granted is 5 percent  
18 lower than in the last year in which there was an increase  
19 in the number of waivers allotted pursuant to this para-  
20 graph, in which case—

21               “(i) the number of waivers allotted shall be de-  
22 creased by five for all States beginning in the next  
23 fiscal year; and

24               “(ii) each additional 5 percent decrease in such  
25 waivers granted from the last year in which there

1 was an increase in the allotment, shall result in an  
2 additional decrease of 5 waivers allotted for all  
3 States, provided that the number of waivers allotted  
4 for all States shall not drop below 30.”.

5 (b) ACADEMIC MEDICAL CENTERS.—Section  
6 214(l)(1)(D) of such Act is amended—

7 (1) in clause (ii), by striking “and” at the end;

8 (2) in clause (iii), by striking the period at the  
9 end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(iv) in the case of a request by an inter-  
12 ested State agency—

13 “(I) the head of such agency deter-  
14 mines that the alien is to practice medicine  
15 in, or be on the faculty of a residency pro-  
16 gram at, an academic medical center (as  
17 that term is defined in section  
18 411.355(e)(2) of title 42, Code of Federal  
19 Regulations, or similar successor regula-  
20 tion), without regard to whether such facil-  
21 ity is located within an area designated by  
22 the Secretary of Health and Human Serv-  
23 ices as having a shortage of health care  
24 professionals; and

1 “(II) the head of such agency deter-  
2 mines that—

3 “(aa) the alien physician’s work  
4 is in the public interest; and

5 “(bb) the grant of such waiver  
6 would not cause the number of the  
7 waivers granted on behalf of aliens for  
8 such State for a fiscal year (within  
9 the limitation in subparagraph (B)  
10 and subject to paragraph (6)) in ac-  
11 cordance with the conditions of this  
12 clause to exceed 3.”.

13 **SEC. 6. AMENDMENTS TO THE PROCEDURES, DEFINITIONS,**  
14 **AND OTHER PROVISIONS RELATED TO PHYSI-**  
15 **CIAN IMMIGRATION.**

16 (a) DUAL INTENT FOR PHYSICIANS SEEKING GRAD-  
17 UATE MEDICAL TRAINING.—Section 214(b) of the Immi-  
18 gration and Nationality Act (8 U.S.C. 1184(b)) is amend-  
19 ed by striking “(other than a nonimmigrant described in  
20 subparagraph (L) or (V) of section 101(a)(15), and other  
21 than a nonimmigrant described in any provision of section  
22 101(a)(15)(H)(i) except subclause (b1) of such section)”  
23 and inserting “(other than a nonimmigrant described in  
24 subparagraph (L) or (V) of section 101(a)(15), a non-  
25 immigrant described in any provision of section

1 101(a)(15)(H)(i) (except subclause (b1) of such section),  
2 and an alien coming to the United States to receive grad-  
3 uate medical education or training as described in section  
4 212(j) or to take examinations required to receive grad-  
5 uate medical education or training as described in section  
6 212(j))”.

7 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-  
8 FICATIONS.—

9 (1) PRACTICE AND GEOGRAPHIC AREA.—Sec-  
10 tion 203(b)(2)(B)(ii)(I) of the Immigration and Na-  
11 tionality Act (8 U.S.C. 1153(b)(2)(B)(ii)(I)) is  
12 amended by striking items (aa) and (bb) and insert-  
13 ing the following:

14 “(aa) the alien physician agrees to  
15 work on a full-time basis practicing pri-  
16 mary care, specialty medicine, or a com-  
17 bination thereof, in an area or areas des-  
18 ignated by the Secretary of Health and  
19 Human Services as having a shortage of  
20 health care professionals, or at a health  
21 care facility under the jurisdiction of the  
22 Secretary of Veterans Affairs; or

23 “(bb) the alien physician is pursuing  
24 such waiver based upon service at a facility  
25 or facilities that serve patients who reside

1 in a geographic area or areas designated  
2 by the Secretary of Health and Human  
3 Services as having a shortage of health  
4 care professionals (without regard to  
5 whether such facility or facilities are lo-  
6 cated within such an area) and a Federal  
7 agency, or a local, county, regional, or  
8 State department of public health deter-  
9 mines the alien physician's work was or  
10 will be in the public interest.”.

11 (2) FIVE-YEAR SERVICE REQUIREMENT.—Sec-  
12 tion 203(b)(2)(B)(ii) of the Immigration and Na-  
13 tionality Act (8 U.S.C. 1153(B)(ii)) is amended—

14 (A) by moving subclauses (II), (III), and  
15 (IV) 4 ems to the left; and

16 (B) in subclause (II)—

17 (i) by inserting “(aa)” after “(II)”;

18 and

19 (ii) by adding at the end the fol-  
20 lowing:

21 “(bb) The 5-year service requirement  
22 under item (aa) shall begin on the date on  
23 which the alien physician begins work in  
24 the shortage area in any legal status and  
25 not on the date on which an immigrant

1 visa petition is filed or approved. Such  
2 service shall be aggregated without regard  
3 to when such service began and without re-  
4 gard to whether such service began during  
5 or in conjunction with a course of graduate  
6 medical education.

7 “(cc) An alien physician shall not be  
8 required to submit an employment contract  
9 with a term exceeding the balance of the 5-  
10 year commitment yet to be served or an  
11 employment contract dated within a min-  
12 imum time period before filing a visa peti-  
13 tion under this subsection.

14 “(dd) An alien physician shall not be  
15 required to file additional immigrant visa  
16 petitions upon a change of work location  
17 from the location approved in the original  
18 national interest immigrant petition.”.

19 (c) TECHNICAL CLARIFICATION REGARDING AD-  
20 VANCED DEGREE FOR PHYSICIANS.—Section  
21 203(b)(2)(A) of the Immigration and Nationality Act (8  
22 U.S.C. 1153(b)(2)(A)) is amended by adding at the end  
23 the following: “An alien physician holding a foreign med-  
24 ical degree that has been deemed sufficient for acceptance  
25 by an accredited United States medical residency or fel-

1 lowship program is a member of the professions holding  
2 an advanced degree or its equivalent.”.

3 (d) SHORT-TERM WORK AUTHORIZATION FOR PHY-  
4 SICIANS COMPLETING THEIR RESIDENCIES.—

5 (1) IN GENERAL.—A physician completing  
6 graduate medical education or training described in  
7 section 212(j) of the Immigration and Nationality  
8 Act (8 U.S.C. 1182(j)) as a nonimmigrant described  
9 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.  
10 1101(a)(15)(H)(i))—

11 (A) shall have such nonimmigrant status  
12 automatically extended until October 1 of the  
13 fiscal year for which a petition for a continu-  
14 ation of such nonimmigrant status has been  
15 submitted in a timely manner and the employ-  
16 ment start date for the beneficiary of such peti-  
17 tion is October 1 of that fiscal year; and

18 (B) shall be authorized to be employed in-  
19 cident to status during the period between the  
20 filing of such petition and October 1 of such fis-  
21 cal year.

22 (2) TERMINATION.—The physician’s status and  
23 employment authorization shall terminate on the  
24 date that is 30 days after the date on which a peti-

1       tion described in paragraph (1)(A) is rejected, de-  
2       nied or revoked.

3           (3) AUTOMATIC EXTENSION.—A physician’s  
4       status and employment authorization will automati-  
5       cally extend to October 1 of the next fiscal year if  
6       all of the visas described in section 101(a)(15)(H)(i)  
7       of such Act that were authorized to be issued for the  
8       fiscal year have been issued.

9           (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES  
10       AND CHILDREN OF J–1 EXCHANGE VISITORS.—A spouse  
11       or child of an exchange visitor described in section  
12       101(a)(15)(J) of the Immigration and Nationality Act (8  
13       U.S.C. 1101(a)(15)(J)) shall not be subject to the require-  
14       ments under section 212(e) of such Act (8 U.S.C.  
15       1182(e)).

○