

116TH CONGRESS  
1ST SESSION

# S. 948

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

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IN THE SENATE OF THE UNITED STATES

MARCH 28, 2019

Ms. KLOBUCHAR (for herself, Ms. COLLINS, and Ms. ROSEN) introduced the following bill; which was read twice and 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 rec-

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

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

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

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

1 to seek a waiver under this subsection (except for para-  
2 graph (1)(D)(ii)) to work for an employer described in  
3 paragraph (1)(C) in a State that has not yet requested  
4 the maximum number of waivers.

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

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

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

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

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

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

1 “(B) specifies—

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

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

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

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

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

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

1 (f) RECAPTURING WAIVER SLOTS LOST TO OTHER  
2 STATES.—Section 214(l) of such Act, as amended by this  
3 section, is further amended by adding at the end the fol-  
4 lowing:

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

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

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

21 “(A)(i) the Secretary of Homeland Security de-  
22 termines that extenuating circumstances, including  
23 violations by the employer of the employment agree-  
24 ment with the alien or of labor and employment

1 laws, exist that justify a lesser period of employment  
2 at such facility or organization; and

3 “(ii) the alien demonstrates, not later than 120  
4 days after the employment termination date (unless  
5 the Secretary determines that extenuating cir-  
6 cumstances would justify an extension), another  
7 bona fide offer of employment at a health facility or  
8 health care organization in a geographic area or  
9 areas which are designated by the Secretary of  
10 Health and Human Services as having a shortage of  
11 health care professionals, for the remainder of such  
12 3-year period;

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

20 “(ii) the alien demonstrates, not later than 120  
21 days after the employment termination date (unless  
22 the Secretary determines that extenuating cir-  
23 cumstances would justify an extension), another  
24 bona fide offer of employment at a health facility or  
25 health care organization in a geographic area or

1 areas which are designated by the Secretary of  
2 Health and Human Services as having a shortage of  
3 health care professionals, for the remainder of such  
4 3-year period; or

5 “(C) the alien—

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

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

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

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

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

24 (a) IN GENERAL.—Section 214(l) of the Immigration  
25 and Nationality Act (8 U.S.C. 1184(l)), as amended by

1 section 4, is further amended by adding at the end the  
2 following:

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

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

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

23               “(i) the number of waivers allotted shall be de-  
24 creased by 5 for all States beginning in the next fis-  
25 cal year; and

1           “(ii) each additional 5 percent decrease in such  
2           waivers granted from the last year in which there  
3           was an increase in the allotment, shall result in an  
4           additional decrease of 5 waivers allotted for all  
5           States, provided that the number of waivers allotted  
6           for all States shall not drop below 30.”.

7           (b) ACADEMIC MEDICAL CENTERS.—Section  
8           214(l)(1)(D) of such Act is amended—

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

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

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

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

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

1           ices as having a shortage of health care  
2           professionals; and

3                   “(II) the head of such agency deter-  
4           mines that—

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

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

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

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

1 subparagraph (L) or (V) of section 101(a)(15), a non-  
2 immigrant described in any provision of section  
3 101(a)(15)(H)(i) (except subclause (b1) of such section),  
4 and an alien coming to the United States to receive grad-  
5 uate medical education or training as described in section  
6 212(j) or to take examinations required to receive grad-  
7 uate medical education or training as described in section  
8 212(j))”.

9 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-  
10 FICATIONS.—

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

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

1           “(bb) the alien physician is pursuing  
 2           such waiver based upon service at a facility  
 3           or facilities that serve patients who reside  
 4           in a geographic area or areas designated  
 5           by the Secretary of Health and Human  
 6           Services as having a shortage of health  
 7           care professionals (without regard to  
 8           whether such facility or facilities are lo-  
 9           cated within such an area) and a Federal  
 10          agency, or a local, county, regional, or  
 11          State department of public health deter-  
 12          mines the alien physician’s work was or  
 13          will be in the public interest.”.

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

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

19           (B) in subclause (II)—

20           (i) by inserting “(aa)” after “(II)”;  
 21          and

22           (ii) by adding at the end the fol-  
 23          lowing:

24           “(bb) The 5-year service requirement  
 25          under item (aa) shall begin on the date on

1 which the alien physician begins work in  
2 the shortage area in any legal status and  
3 not on the date on which an immigrant  
4 visa petition is filed or approved. Such  
5 service shall be aggregated without regard  
6 to when such service began and without re-  
7 gard to whether such service began during  
8 or in conjunction with a course of graduate  
9 medical education.

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

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

22 (c) TECHNICAL CLARIFICATION REGARDING AD-  
23 VANCED DEGREE FOR PHYSICIANS.—Section  
24 203(b)(2)(A) of the Immigration and Nationality Act (8  
25 U.S.C. 1153(b)(2)(A)) is amended by adding at the end

1 the following: “An alien physician holding a foreign med-  
2 ical degree that has been deemed sufficient for acceptance  
3 by an accredited United States medical residency or fel-  
4 lowship program is a member of the professions holding  
5 an advanced degree or its equivalent.”.

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

8 (1) IN GENERAL.—A physician completing  
9 graduate medical education or training described in  
10 section 212(j) of the Immigration and Nationality  
11 Act (8 U.S.C. 1182(j)) as a nonimmigrant described  
12 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.  
13 1101(a)(15)(H)(i))—

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

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

1           (2) TERMINATION.—The physician’s status and  
2           employment authorization shall terminate on the  
3           date that is 30 days after the date on which a peti-  
4           tion described in paragraph (1)(A) is rejected, de-  
5           nied or revoked.

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

12          (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES  
13          AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse  
14          or child of an exchange visitor described in section  
15          101(a)(15)(J) of the Immigration and Nationality Act (8  
16          U.S.C. 1101(a)(15)(J)) shall not be subject to the require-  
17          ments under section 212(e) of such Act (8 U.S.C.  
18          1182(e)).

○