

117TH CONGRESS
1ST SESSION

S. 1810

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

IN THE SENATE OF THE UNITED STATES

MAY 25, 2021

Ms. KLOBUCHAR (for herself, Ms. COLLINS, Ms. ROSEN, Ms. ERNST, Mr. KING, Mr. THUNE, Mrs. CAPITO, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 “on the date that
2 is 3 years after the date of the enactment of the Conrad
3 State 30 and Physician Access Reauthorization Act”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect as if enacted on September
6 30, 2018.

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

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

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

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

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

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

22 “(I) to prevent the filing of a petition with
23 the Secretary of Homeland Security for classi-
24 fication under section 204(a) or the filing of an
25 application for adjustment of status under sec-

1 tion 245 by an alien physician described in this
 2 subparagraph before the date by which such
 3 alien physician has completed the service de-
 4 scribed in section 214(l) or worked full-time as
 5 a physician for an aggregate of 5 years at the
 6 location identified in the section 214(l) waiver
 7 or in an area or areas designated by the Sec-
 8 retary of Health and Human Services as having
 9 a shortage of health care professionals; or

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

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

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

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

22 (2) in subparagraph (A), by striking “Director
 23 of the United States Information Agency” and in-
 24 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, as amended by this
17 section, is further amended by adding at the end the fol-
18 lowing:

19 “(4)(A) If an interested State agency denies an appli-
20 cation for a waiver under paragraph (1)(B) from a physi-
21 cian pursuing graduate medical education or training pur-
22 suant to section 101(a)(15)(J) because the State has re-
23 quested 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) during
7 the period beginning on the date on which a new waiver
8 application is filed with such State and ending on the ear-
9 lier of—

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

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

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

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

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

1 the compensation the alien will receive for on-call
2 time;

3 “(B) specifies—

4 “(i) whether the contracting facility or or-
5 ganization—

6 “(I) has secured medical malpractice
7 liability protection for the alien under sec-
8 tion 224(g) of the Public Health Service
9 Act (42 U.S.C. 233(g)); or

10 “(II) will pay the alien’s malpractice
11 insurance premiums;

12 “(ii) whether the employer will provide
13 malpractice insurance for the alien; and

14 “(iii) the amount of such liability protec-
15 tion that will be provided;

16 “(C) describes all of the work locations that the
17 alien will work and includes a statement that the
18 contracting facility or organization will not add addi-
19 tional work locations without the approval of the
20 Federal agency or State agency that requested the
21 waiver; and

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

23 “(6) An alien granted a waiver under this subsection
24 whose employment relationship with a health facility or
25 health care organization terminates under paragraph

1 (1)(C)(ii) during the 3-year service period required under
2 paragraph (1) shall be considered to be maintaining lawful
3 status in an authorized period of stay during the 120-day
4 period referred to in items (aa) and (bb) of subclause (III)
5 of paragraph (1)(C)(ii) or the 45-day period referred to
6 in subclause (III)(cc) of such paragraph.”.

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

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

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

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

4 “(A)(i) the Secretary of Homeland Security de-
5 termines that extenuating circumstances, including
6 violations by the employer of the employment agree-
7 ment with the alien or of labor and employment
8 laws, exist that justify a lesser period of employment
9 at such facility or organization; and

10 “(ii) the alien demonstrates, not later than 120
11 days after the employment termination date (unless
12 the Secretary determines that extenuating cir-
13 cumstances would justify an extension), another
14 bona fide offer of employment at a health facility or
15 health care organization in a geographic area or
16 areas which are designated by the Secretary of
17 Health and Human Services as having a shortage of
18 health care professionals, for the remainder of such
19 3-year period;

20 “(B)(i) the interested State agency that re-
21 quested the waiver attests that extenuating cir-
22 cumstances, including violations by the employer of
23 the employment agreement with the alien or of labor
24 and employment laws, exist that justify a lesser pe-

1 riod of employment at such facility or organization;
2 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; or

13 “(C) the alien—

14 “(i) elects not to pursue a determination of
15 extenuating circumstances pursuant to sub-
16 clause (A) or (B);

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

20 “(iii) demonstrates, not later than 45 days
21 after the employment termination date, another
22 bona fide offer of employment at a health facil-
23 ity or health care organization in a geographic
24 area or areas, in the State that requested the
25 alien’s waiver, which are designated by the Sec-

1 retary of Health and Human Services as having
2 a shortage of health care professionals; and
3 “(iv) agrees to be employed for the remain-
4 der of such 3-year period, and 1 additional year
5 for each termination under clause (ii).”.

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

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

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

15 “(ii) When an allotment occurs under clause (i), all
16 States shall be allotted an additional 5 waivers under
17 paragraph (1)(B) for each subsequent fiscal year if 90
18 percent of the waivers available to the States receiving at
19 least 5 waivers were used in the previous fiscal year. If
20 the States are allotted 45 or more waivers for a fiscal year,
21 the States will only receive an additional increase of 5
22 waivers the following fiscal year if 95 percent of the waiv-
23 ers available to the States receiving at least 1 waiver were
24 used in the previous fiscal year.

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

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

10 “(ii) each additional 5 percent decrease in such
11 waivers granted from the last year in which there
12 was an increase in the allotment, shall result in an
13 additional decrease of 5 waivers allotted for all
14 States, provided that the number of waivers allotted
15 for all States shall not drop below 30.”.

16 (b) ACADEMIC MEDICAL CENTERS.—Section
17 214(l)(1)(D) of such Act (8 U.S.C. 1184(l)(1)(D)) is
18 amended—

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

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

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

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

1 “(I) the head of such agency deter-
2 mines that the alien is to practice medicine
3 in, or be on the faculty of a residency pro-
4 gram at, an academic medical center (as
5 that term is defined in section
6 411.355(e)(2) of title 42, Code of Federal
7 Regulations, or similar successor regula-
8 tion), without regard to whether such facil-
9 ity is located within an area designated by
10 the Secretary of Health and Human Serv-
11 ices as having a shortage of health care
12 professionals; and

13 “(II) the head of such agency deter-
14 mines that—

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

17 “(bb) the grant of such waiver
18 would not cause the number of the
19 waivers granted on behalf of aliens for
20 such State for a fiscal year (within
21 the limitation in subparagraph (B)
22 and subject to paragraph (6)) in ac-
23 cordance with the conditions of this
24 clause to exceed 3.”.

1 **SEC. 6. AMENDMENTS TO THE PROCEDURES, DEFINITIONS,**
2 **AND OTHER PROVISIONS RELATED TO PHYSI-**
3 **CIAN IMMIGRATION.**

4 (a) DUAL INTENT FOR PHYSICIANS SEEKING GRAD-
5 UATE MEDICAL TRAINING.—Section 214(b) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1184(b)) is amend-
7 ed by striking “(other than a nonimmigrant described in
8 subparagraph (L) or (V) of section 101(a)(15), and other
9 than a nonimmigrant described in any provision of section
10 101(a)(15)(H)(i) except subclause (b1) of such section)”
11 and inserting “(other than a nonimmigrant described in
12 subparagraph (L) or (V) of section 101(a)(15), a non-
13 immigrant described in any provision of section
14 101(a)(15)(H)(i) (except subclause (b1) of such section),
15 and an alien coming to the United States to receive grad-
16 uate medical education or training as described in section
17 212(j) or to take examinations required to receive grad-
18 uate medical education or training as described in section
19 212(j))”.

20 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-
21 FICATIONS.—

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

1 “(aa) the alien physician agrees to
2 work on a full-time basis practicing pri-
3 mary care, specialty medicine, or a com-
4 bination thereof, in an area or areas des-
5 ignated by the Secretary of Health and
6 Human Services as having a shortage of
7 health care professionals, or at a health
8 care facility under the jurisdiction of the
9 Secretary of Veterans Affairs; or

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

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

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

3 (B) in subclause (II)—

4 (i) by inserting “(aa)” after “(II)”;
5 and

6 (ii) by adding at the end the fol-
7 lowing:

8 “(bb) The 5-year service requirement
9 under item (aa) shall begin on the date on
10 which the alien physician begins work in
11 the shortage area in any legal status and
12 not on the date on which an immigrant
13 visa petition is filed or approved. Such
14 service shall be aggregated without regard
15 to when such service began and without re-
16 gard to whether such service began during
17 or in conjunction with a course of graduate
18 medical education.

19 “(cc) An alien physician shall not be
20 required to submit an employment contract
21 with a term exceeding the balance of the 5-
22 year commitment yet to be served or an
23 employment contract dated within a min-
24 imum time period before filing a visa peti-
25 tion under this subsection.

1 “(dd) An alien physician shall not be
2 required to file additional immigrant visa
3 petitions upon a change of work location
4 from the location approved in the original
5 national interest immigrant petition.”.

6 (c) TECHNICAL CLARIFICATION REGARDING AD-
7 VANCED DEGREE FOR PHYSICIANS.—Section
8 203(b)(2)(A) of the Immigration and Nationality Act (8
9 U.S.C. 1153(b)(2)(A)) is amended by adding at the end
10 the following: “An alien physician holding a foreign med-
11 ical degree that has been deemed sufficient for acceptance
12 by an accredited United States medical residency or fel-
13 lowship program is a member of the professions holding
14 an advanced degree or its equivalent.”.

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

17 (1) IN GENERAL.—A physician completing
18 graduate medical education or training described in
19 section 212(j) of the Immigration and Nationality
20 Act (8 U.S.C. 1182(j)) as a nonimmigrant described
21 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.
22 1101(a)(15)(H)(i))—

23 (A) shall have such nonimmigrant status
24 automatically extended until October 1 of the
25 fiscal year for which a petition for a continu-

1 ation of such nonimmigrant status has been
2 submitted in a timely manner and the employ-
3 ment start date for the beneficiary of such peti-
4 tion is October 1 of that fiscal year; and

5 (B) shall be authorized to be employed in-
6 cident to status during the period between the
7 filing of such petition and October 1 of such fis-
8 cal year.

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

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

20 (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES
21 AND CHILDREN OF J–1 EXCHANGE VISITORS.—A spouse
22 or child of an exchange visitor described in section
23 101(a)(15)(J) of the Immigration and Nationality Act (8
24 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-

1 ments under section 212(e) of such Act (8 U.S.C.
2 1182(e)).

3 **SEC. 7. ANNUAL CONRAD STATE 30 J-1 VISA WAIVER PRO-**
4 **GRAM STATISTICAL REPORT.**

5 The Director of U.S. Citizenship and Immigration
6 Services shall submit an annual report to Congress and
7 to the Department of Health and Human Services that
8 identifies the number of aliens admitted during the most
9 recently concluded fiscal year as a result of the Conrad
10 State 30 J–1 Visa Waiver Program established under sec-
11 tions 212(e) and 214(l) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1182(e) and 1184(l)), broken down
13 by State.

○