Department of Homeland Security

§ 204.13

visa petition if the decision became final before November 12, 1999, without prejudice to the filing of a new visa petition with a national interest waiver request that comports with section 203(b)(2)(B)(ii) of the Act.

(e) May physicians file adjustment of status applications? Upon approval of a second preference employment-based immigrant petition, Form I-140, and national interest waiver based on a full-time clinical practice in a shortage area or areas of the United States, an alien physician may submit Form I-485, Application to Register Permanent Residence or Adjust Status, to the appropriate Service Center. The Service will not approve the alien physician’s application for adjustment of status until the alien physician submits evidence documenting that the alien physician has completed the period of required service. Specific instructions for alien physicians filing adjustment applications are found in §245.18 of this chapter.

(f) May a physician practice clinical medicine in a different underserved area? Physicians in receipt of an approved Form I-140 with a national interest waiver based on full-time clinical practice in a designated shortage area and a pending adjustment of status application may apply to the Service if the physician is offered new employment to practice full-time in another underserved area of the United States.

(1) If the physician beneficiary has found a new employer desiring to petition the Service on the physician’s behalf, the new petitioner must submit a new Form I-140 (with fee) with all the evidence required in paragraph (c) of this section, including a copy of the approval notice from the initial Form I-140. If approved, the new petition will be matched with the pending adjustment of status application. The beneficiary will retain the priority date from the initial Form I-140. The Service will calculate the amount of time the physician was between practices so as to adjust the count of the aggregate time served in an underserved area. This calculation will be based on the evidence the physician submits pursuant to the requirements of §245.18(d) of this chapter. An approved change of practice to another underserved area does not constitute a new 6-year period in which the physician must complete the aggregate 5 years of service.

(2) If the physician intends to establish his or her own practice, the physician must submit a new Form I-140 (with fee) with all the evidence required in paragraph (c) of this section, including the special requirement of paragraph (c)(1)(ii) of this section and a copy of the approval notice from the initial Form I-140. If approved, the new petition will be matched with the pending adjustment of status application. The beneficiary will retain the priority date from the initial Form I-140. The Service will calculate the amount of time the physician was between practices so as to adjust the count of the aggregate time served in an underserved area. This calculation will be based on the evidence the physician submits pursuant to the requirements of §245.18(d) of this chapter. An approved change of practice to another underserved area does not constitute a new 6-year period in which the physician must complete the aggregate 5 years of service.

(g) Do these provisions have any effect on physicians with foreign residence requirements? Because the requirements of section 203(b)(2)(B)(ii) of the Act are not exactly the same as the requirements of section 212(e) or 214(l) of the Act, approval of a national interest waiver under section 203(b)(2)(B)(ii) of the Act and this paragraph does not relieve the alien physician of any foreign residence requirement that the alien physician may have under section 212(e) of the Act.

[65 FR 53893, Sept. 6, 2000; 65 FR 57861, Sept. 26, 2000]

§ 204.13 How can the International Broadcasting Bureau of the United States Broadcasting Board of Governors petition for a fourth preference special immigrant broadcaster?

(a) Which broadcasters qualify? Under section 203(b)(4) of the Act, the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a grantee of the BBG, may petition for an alien (and the alien’s accompanying spouse and
§ 204.300 Scope of this subpart.

Subpart C—Intercountry Adoption of a Convention Adoptee

SOURCE: 72 FR 56854, Oct. 4, 2007, unless otherwise noted.

§ 204.301 Definitions.

The definitions in 22 CFR 96.2 apply to this subpart C. In addition, as used in this subpart C, the term: Abandonment means:

(1) That a child’s parent has willfully forsaken all parental rights, obligations, and claims to the child, as well as all custody of the child without intending to transfer, or without transferring, these rights to any specific individual(s) or entity.