

113TH CONGRESS
2D SESSION

H. R. 4951

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2014

Mr. BERA of California (for himself and Mr. MEADOWS) introduced the following bill; which was 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 “Doctors Helping He-
5 roes Act of 2014”.

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

7 Section 220(c) of the Immigration and Nationality
8 Technical Corrections Act of 1994 (Public Law 103–416;
9 8 U.S.C. 1182 note) is amended by striking “and before
10 September 30, 2015”.

1 **SEC. 3. RETAINING PHYSICIANS WHO HAVE PRACTICED IN**
2 **MEDICALLY UNDERSERVED COMMUNITIES.**

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

6 “(F)(i) Alien physicians who have com-
7 pleted service requirements of a waiver re-
8 quested under section 203(b)(2)(B)(ii), includ-
9 ing alien physicians who completed such service
10 before the date of the enactment of the Conrad
11 State 30 and Physician Access Act and any
12 spouses or children of such alien physicians.

13 “(ii) Nothing in this subparagraph
14 may be construed—

15 “(I) to prevent the filing of a pe-
16 tition with the Secretary of Homeland
17 Security for classification under sec-
18 tion 204(a) or the filing of an applica-
19 tion for adjustment of status under
20 section 245 by an alien physician de-
21 scribed in this subparagraph prior to
22 the date by which such alien physician
23 has completed the service described in
24 section 214(l) or worked full-time as a
25 physician for an aggregate of 5 years
26 at the location identified in the section

1 214(l) waiver or in an area or areas
2 designated by the Secretary of Health
3 and Human Services as having a
4 shortage of health care professionals;
5 or

6 “(II) to permit the Secretary of
7 Homeland Security to grant such a
8 petition or application until the alien
9 has satisfied all the requirements of
10 the waiver received under section
11 214(l).”.

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

13 (a) IN GENERAL.—Section 214(l)(1)(C) of the Immi-
14 gration and Nationality Act (8 U.S.C. 1184(l)(1)(C)) is
15 amended by striking clauses (i) and (ii) and inserting the
16 following:

17 “(i) the alien demonstrates a bona
18 fide offer of full-time employment, at a
19 health care organization, which employ-
20 ment has been determined by the Secretary
21 of Homeland Security to be in the public
22 interest; and

23 “(ii) the alien agrees to begin employ-
24 ment with the health facility or health care
25 organization in a geographic area or areas

1 which are designated by the Secretary of
2 Health and Human Services as having a
3 shortage of health care professionals by the
4 later of the date that is 90 days after re-
5 ceiving such waiver, 90 days after com-
6 pleting graduate medical education or
7 training under a program approved pursu-
8 ant to section 212(j)(1), or 90 days after
9 receiving nonimmigrant status or employ-
10 ment authorization, and agrees to continue
11 to work for a total of not less than 3 years
12 in any status authorized for such employ-
13 ment under this subsection unless—

14 “(I) the Secretary determines
15 that extenuating circumstances exist
16 that justify a lesser period of employ-
17 ment at such facility or organization,
18 in which case the alien shall dem-
19 onstrate another bona fide offer of
20 employment at a health facility or
21 health care organization, for the re-
22 mainder of such 3-year period;

23 “(II) the interested State agency
24 that requested the waiver attests that
25 extenuating circumstances exist that

1 justify a lesser period of employment
2 at such facility or organization in
3 which case the alien shall demonstrate
4 another bona fide offer of employment
5 at a health facility or health care or-
6 ganization so designated by the Sec-
7 retary of Health and Human Services,
8 for the remainder of such 3-year pe-
9 riod; or

10 “(III) if the alien elects not to
11 pursue a determination of extenuating
12 circumstances pursuant to subclause
13 (I) or (II), the alien terminates the
14 alien’s employment relationship with
15 such facility or organization, in which
16 case the alien shall be employed for
17 the remainder of such 3-year period,
18 and 1 additional year for each termi-
19 nation, at another health facility or
20 health care organization in a geo-
21 graphic area or areas which are des-
22 ignated by the Secretary of Health
23 and Human Services as having a
24 shortage of health care professionals;
25 and”.

1 (b) CONTRACT REQUIREMENTS.—Section 214(l) of
2 the Immigration and Nationality Act (8 U.S.C. 1184(l))
3 is amended by adding at the end the following:

4 “(4) An alien granted a waiver under para-
5 graph (1)(C) shall enter into an employment agree-
6 ment with the contracting health facility or health
7 care organization that—

8 “(A) specifies the maximum number of on-
9 call hours per week (which may be a monthly
10 average) that the alien will be expected to be
11 available and the compensation the alien will re-
12 ceive for on-call time;

13 “(B) specifies whether the contracting fa-
14 cility or organization will pay for the alien’s
15 malpractice insurance premiums, including
16 whether the employer will provide malpractice
17 insurance and, if so, the amount of such insur-
18 ance that will be provided;

19 “(C) describes all of the work locations
20 that the alien will work and a statement that
21 the contracting facility or organization will not
22 add additional work locations without the ap-
23 proval of the Federal agency or State agency
24 that requested the waiver; and

1 “(D) does not include a non-compete provi-
2 sion.

3 “(5) An alien granted a waiver under para-
4 graph (1)(C) whose employment relationship with a
5 health facility or health care organization terminates
6 during the 3-year service period required by such
7 paragraph—

8 “(A) shall have a period of 120 days begin-
9 ning on the date of such termination of employ-
10 ment to submit to the Secretary of Homeland
11 Security applications or petitions to commence
12 employment with another contracting health fa-
13 cility or health care organization in a geo-
14 graphic area or areas which are designated by
15 the Secretary of Health and Human Services as
16 having a shortage of health care professionals;
17 and

18 “(B) shall be considered to be maintaining
19 lawful status in an authorized stay during the
20 120-day period referred to in subsection (A).”.

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(b), is further amended by adding at the end the
25 following:

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

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

20 “(B) Any increase in allotments under sub-
21 paragraph (A) shall be maintained indefinitely,
22 unless in a fiscal year, the total number of such
23 waivers granted is 5 percent lower than in the
24 last year in which there was an increase in the

number of waivers allotted pursuant to this paragraph, in which case—

“(i) the number of waivers allotted shall be decreased by 5 for all States beginning in the next fiscal year; and

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

(b) ACADEMIC MEDICAL CENTERS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended—

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

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

(3) by adding at the end the following:

“(iv) in the case of a request by an interested State agency—

“(I) the head of such agency determines that the alien is to practice medicine in, or be on the faculty of a

1 residency program at, an academic
2 medical center (as that term is de-
3 fined in section 411.355(e)(2) of title
4 42, Code of Federal Regulations, or
5 similar successor regulation), without
6 regard to whether such facility is lo-
7 cated within an area designated by
8 the Secretary of Health and Human
9 Services as having a shortage of
10 health care professionals; and

11 “(II) the head of such agency de-
12 termines that—

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

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

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) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-
21 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-
22 SERVED AREAS.—Section 214(l)(2)(A) of the Immigration
23 and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended
24 by striking “an alien described in section
25 101(a)(15)(H)(i)(b).” and inserting “any status author-
26 ized for employment under this Act.”.

1 (c) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-
2 FICATIONS.—

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

8 “(aa) the alien physician
9 agrees to work on a full-time
10 basis practicing primary care,
11 specialty medicine, or a combina-
12 tion thereof, in an area or areas
13 designated by the Secretary of
14 Health and Human Services as
15 having a shortage of health care
16 professionals, or at a health care
17 facility under the jurisdiction of
18 the Secretary of Veterans Affairs;
19 or

20 “(bb) the alien physician is
21 pursuing such waiver based upon
22 service at a facility or facilities
23 that serve patients who reside in
24 a geographic area or areas des-
25 ignated by the Secretary of

1 Health and Human Services as
2 having a shortage of health care
3 professionals (without regard to
4 whether such facility or facilities
5 are located within such an area)
6 and a Federal agency, or a local,
7 county, regional, or State depart-
8 ment of public health determines
9 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)(II) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1153(B)(ii)(II)) is amend-
14 ed—

15 (A) by inserting “(aa)” after “(II)”; and

16 (B) by adding at the end the following:

17 “(bb) The 5-year service requirement of item (aa)
18 shall be counted from the date the alien physician begins
19 work in the shortage area in any legal status and not the
20 date an immigrant visa petition is filed or approved. Such
21 service shall be aggregated without regard to when such
22 service began and without regard to whether such service
23 began during or in conjunction with a course of graduate
24 medical education.

1 “(cc) An alien physician shall not be required to sub-
2 mit an employment contract with a term exceeding the
3 balance of the 5-year commitment yet to be served, nor
4 an employment contract dated within a minimum time pe-
5 riod prior to filing of a visa petition pursuant to this sub-
6 section.

7 “(dd) An alien physician shall not be required to file
8 additional immigrant visa petitions upon a change of work
9 location from the location approved in the original national
10 interest immigrant petition.”.

11 (d) TECHNICAL CLARIFICATION REGARDING AD-
12 VANCED DEGREE FOR PHYSICIANS.—Section
13 203(b)(2)(A) of the Immigration and Nationality Act (8
14 U.S.C. 1153(b)(2)(A)) is amended by adding at the end
15 “An alien physician holding a foreign medical degree that
16 has been deemed sufficient for acceptance by an accredited
17 United States medical residency or fellowship program is
18 a member of the professions holding an advanced degree
19 or its equivalent.”.

20 (e) SHORT-TERM WORK AUTHORIZATION FOR PHY-
21 SICIANS COMPLETING THEIR RESIDENCIES.—A physician
22 completing graduate medical education or training as de-
23 scribed in section 212(j) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1182(j)) as a nonimmigrant described
25 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.

1 1101(a)(15)(H)(i)) shall have such nonimmigrant status
2 automatically extended until October 1 of the fiscal year
3 for which a petition for a continuation of such non-
4 immigrant status has been submitted in a timely manner
5 and where the employment start date for the beneficiary
6 of such petition is October 1 of that fiscal year. Such phy-
7 sician shall be authorized to be employed incident to status
8 during the period between the filing of such petition and
9 October 1 of such fiscal year. However, the physician's
10 status and employment authorization shall terminate 30
11 days from the date such petition is rejected, denied or re-
12 voked. A physician's status and employment authorization
13 will automatically extend to October 1 of the next fiscal
14 year if all visas as described in such section
15 101(a)(15)(H)(i) authorized to be issued for the fiscal
16 year have been issued.

17 (f) APPLICABILITY OF SECTION 212(e) TO SPOUSES
18 AND CHILDREN OF J-1 EXCHANGE VISITORS.—A spouse
19 or child of an exchange visitor described in section
20 101(a)(15)(J) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-
22 ments of section 212(e) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1182(e)).

1 **SEC. 7. VETERANS HEALTH CENTERS.**

2 Section 214(l) of the Immigration and Nationality
3 Act (8 U.S.C. 1184(l)), as amended by this Act, is further
4 amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (B), by inserting be-
7 fore the semicolon at the end the following: “,
8 except as otherwise provided under subpara-
9 graph (E)”;

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

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

13 “(i) if the Secretary of Veterans Af-
14 fairs determines that facilities of the De-
15 partment are not capable of furnishing
16 covered health services to eligible veterans
17 because such facilities lack—

18 “(I) the required personnel who
19 are appropriately trained and experi-
20 enced; or

21 “(II) the ability to provide timely
22 and reasonable access;

23 “(ii) the head of such State agency
24 determines that—

1 “(I) the alien is to practice medi-
2 cine in a Veterans Health Administra-
3 tion Facility; and

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

6 “(iii) the grant of such waiver would
7 not cause the number of waivers allotted
8 for that State for that fiscal year under
9 this subparagraph to exceed 5.”; and

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

11 “(7) For purposes of paragraph (1)(E)—

12 “(A) the term ‘covered health services’
13 means, with respect to an eligible veteran, any
14 hospital care, medical service, rehabilitative
15 service, or preventative health service that is
16 authorized to be provided by the Secretary to
17 the veteran under chapter 17 of title 38, United
18 States Code, or any other provision of law; and

19 “(B) the term ‘eligible veteran’ means a
20 veteran enrolled in the health care system es-
21 tablished under section 1705(a) of title 38,
22 United States Code, who elects to receive care
23 under section 1703.”.

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