

115TH CONGRESS
2D SESSION

H. R. 6123

To amend the Immigration and Nationality Act to provide that an alien physician who is coming to the United States to practice medicine in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals is not required to pass the National Board of Medical Examiners Examination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2018

Mr. SENSENBRENNER (for himself and Mr. GROTHMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide that an alien physician who is coming to the United States to practice medicine in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals is not required to pass the National Board of Medical Examiners Examination, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Physician Visa Reform
3 Act of 2018”.

4 **SEC. 2. ALIEN PHYSICIANS SERVING IN AREAS THAT HAVE**
5 **A SHORTAGE OF HEALTH CARE PROFES-**
6 **SIONALS.**

7 (a) **WAIVER OF REQUIREMENT THAT ALIEN PHYSI-**
8 **CIANS PASS BOARD EXAMINATION.**—Section
9 212(a)(5)(B) of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(5)(B)) is amended by inserting after “has
11 passed parts I and II of the National Board of Medical
12 Examiners Examination (or an equivalent examination as
13 determined by the Secretary of Health and Human Serv-
14 ices)” the following: “or has been approved by a State
15 physician licensing authority to practice medicine in an
16 area designated by the Secretary of Health and Human
17 Services as having a shortage of health care profes-
18 sionals”.

19 (b) **ADJUSTMENT OF STATUS.**—The Immigration
20 and Nationality Act (8 U.S.C. 1101 et seq.) is amended
21 by inserting after section 216A the following:

22 **“SEC. 216B. CONDITIONAL PERMANENT RESIDENT STATUS**
23 **FOR ALIEN PHYSICIANS SERVING IN AREAS**
24 **THAT HAVE A SHORTAGE OF HEALTH CARE**
25 **PROFESSIONALS.**

26 “(a) **IN GENERAL.**—

1 “(1) CONDITIONAL BASIS FOR STATUS.—Not-
2 withstanding any other provision of this Act, a cov-
3 ered alien physician, an alien spouse, and alien child,
4 shall be considered, at the time of obtaining the sta-
5 tus of an alien lawfully admitted for permanent resi-
6 dence, to have obtained such status on a conditional
7 basis subject to the provisions of this section.

8 “(2) NOTICE OF REQUIREMENTS.—

9 “(A) AT TIME OF OBTAINING PERMANENT
10 RESIDENCE.—At the time an alien described in
11 paragraph (1) obtains permanent resident sta-
12 tus on a conditional basis under paragraph (1),
13 the Secretary of Homeland Security shall pro-
14 vide for notice to such alien respecting the pro-
15 visions of this section and the requirements of
16 subsection (c)(1) to have the conditional basis
17 of such status removed.

18 “(B) AT TIME OF REQUIRED PETITION.—
19 In addition, the Secretary of Homeland Secu-
20 rity shall attempt to provide notice to such an
21 alien at or about the beginning of the 90-day
22 period described in subsection (d)(2)(A), of the
23 requirements of subsection (c)(1).

24 “(C) EFFECT OF FAILURE TO PROVIDE
25 NOTICE.—The failure of the Secretary of

1 Homeland Security to provide a notice under
2 this paragraph shall not affect the enforcement
3 of the provisions of this section with respect to
4 such an alien.

5 “(b) TERMINATION OF STATUS.—

6 “(1) IN GENERAL.—In the case of a covered
7 alien physician with permanent resident status on a
8 conditional basis under subsection (a), if the Sec-
9 retary of Homeland Security determines, before the
10 second anniversary of the alien’s obtaining the sta-
11 tus of lawful admission for permanent residence,
12 that the alien was not practicing medicine in an area
13 described in subsection (a)(1), then the Secretary of
14 Homeland Security shall so notify the alien involved
15 and, subject to paragraph (2), shall terminate the
16 permanent resident status of the alien (and the alien
17 spouse and alien child) involved as of the date of the
18 determination.

19 “(2) HEARING IN REMOVAL PROCEEDING.—Any
20 alien whose permanent resident status is terminated
21 under paragraph (1) may request a review of such
22 determination in a proceeding to remove the alien.
23 In such proceeding, the burden of proof shall be on
24 the Secretary of Homeland Security to establish, by

1 a preponderance of the evidence, that a condition de-
2 scribed in paragraph (1) is met.

3 “(c) REQUIREMENTS OF TIMELY PETITION AND
4 INTERVIEW FOR REMOVAL OF CONDITION.—

5 “(1) IN GENERAL.—In order for the conditional
6 basis established under subsection (a) for an alien
7 described in paragraph (1) of that subsection to be
8 removed—

9 “(A) the alien must submit to the Sec-
10 retary of Homeland Security, during the period
11 described in subsection (d)(2), a petition which
12 requests the removal of such conditional basis
13 and which states, under penalty of perjury, the
14 facts and information described in subsection
15 (d)(1); and

16 “(B) in accordance with subsection (d)(3),
17 the alien must appear for a personal interview
18 before an officer or employee of the Department
19 of Homeland Security respecting the facts and
20 information described in subsection (d)(1).

21 “(2) TERMINATION OF PERMANENT RESIDENT
22 STATUS FOR FAILURE TO FILE PETITION OR HAVE
23 PERSONAL INTERVIEW.—

1 “(A) IN GENERAL.—In the case of an alien
2 with permanent resident status on a conditional
3 basis under subsection (a), if—

4 “(i) no petition is filed with respect to
5 the alien in accordance with the provisions
6 of paragraph (1)(A); or

7 “(ii) unless there is good cause shown,
8 the alien fails to appear at the interview
9 described in paragraph (1)(B) (if required
10 under subsection (d)(3)),

11 the Secretary of Homeland Security shall termi-
12 nate the permanent resident status of the alien
13 (and the alien’s spouse and children if it was
14 obtained on a conditional basis under this sec-
15 tion or section 216) as of the second anniver-
16 sary of the alien’s lawful admission for perma-
17 nent residence.

18 “(B) HEARING IN REMOVAL PRO-
19 CEEDING.—In any removal proceeding with re-
20 spect to an alien whose permanent resident sta-
21 tus is terminated under subparagraph (A), the
22 burden of proof shall be on the alien to estab-
23 lish compliance with the conditions of para-
24 graphs (1)(A) and (1)(B).

1 “(3) DETERMINATION AFTER PETITION AND
2 INTERVIEW.—

3 “(A) IN GENERAL.—If—

4 “(i) a petition is filed in accordance
5 with the provisions of paragraph (1)(A);
6 and

7 “(ii) the alien appears at any inter-
8 view described in paragraph (1)(B), the
9 Secretary of Homeland Security shall make
10 a determination, within 90 days of the date
11 of such filing or interview (whichever is
12 later), as to whether the facts and infor-
13 mation described in subsection (d)(1) and
14 alleged in the petition are true.

15 “(B) REMOVAL OF CONDITIONAL BASIS IF
16 FAVORABLE DETERMINATION.—If the Secretary
17 of Homeland Security determines that such
18 facts and information are true, the Secretary of
19 Homeland Security shall so notify the alien in-
20 volved and shall remove the conditional basis of
21 the alien’s status effective as of the second an-
22 niversary of the alien’s lawful admission for
23 permanent residence.

24 “(C) TERMINATION IF ADVERSE DETER-
25 MINATION.—If the Secretary of Homeland Se-

1 curity determines that such facts and informa-
2 tion are not true, the Secretary of Homeland
3 Security shall so notify the alien involved and,
4 subject to subparagraph (D), shall terminate
5 the permanent resident status of the covered
6 alien physician, alien spouse, or alien child as of
7 the date of the determination.

8 “(D) HEARING IN REMOVAL PRO-
9 CEEDING.—Any alien whose permanent resident
10 status is terminated under subparagraph (C)
11 may request a review of such determination in
12 a proceeding to remove the alien. In such pro-
13 ceeding, the burden of proof shall be on the
14 Secretary of Homeland Security to establish, by
15 a preponderance of the evidence, that the facts
16 and information described in subsection (d)(1)
17 and alleged in the petition are not true.

18 “(d) DETAILS OF PETITION AND INTERVIEW.—

19 “(1) CONTENTS OF PETITION.—Each petition
20 under subsection (c)(1)(A) shall contain facts and
21 information demonstrating that the alien—

22 “(A) is practicing medicine in an area des-
23 ignated by the Secretary of Health and Human
24 Services as having a shortage of health care
25 professionals; and

1 “(B) has passed parts I and II of the Na-
2 tional Board of Medical Examiners Examina-
3 tion (or an equivalent examination as deter-
4 mined by the Secretary of Health and Human
5 Services).

6 “(2) PERIOD FOR FILING PETITION.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the petition under subsection
9 (c)(1)(A) may be filed—

10 “(i) during the 90-day period before
11 the second anniversary of the alien’s lawful
12 admission for permanent residence; or

13 “(ii) if earlier than the beginning of
14 the time period described in clause (i),
15 after the date on which the alien passes
16 parts I and II of the National Board of
17 Medical Examination (or an equivalent ex-
18 amination as determined by the Secretary
19 of Health and Human Services).

20 “(B) DATE PETITIONS FOR GOOD
21 CAUSE.—Such a petition may be considered if
22 filed after such date, but only if the alien estab-
23 lishes to the satisfaction of the Secretary of
24 Homeland Security good cause and extenuating
25 circumstances for failure to file the petition

1 during the period described in subparagraph
2 (A).

3 “(C) FILING OF PETITIONS DURING RE-
4 MOVAL.—In the case of an alien who is the sub-
5 ject of removal hearings as a result of failure
6 to file a petition on a timely basis in accordance
7 with subparagraph (A), the Secretary of Home-
8 land Security may stay such removal pro-
9 ceedings against an alien pending the filing of
10 the petition under subparagraph (B).

11 “(3) PERSONAL INTERVIEW.—The interview
12 under subsection (c)(1)(B) shall be conducted within
13 90 days after the date of submitting a petition under
14 subsection (c)(1)(A) and at a local office of the De-
15 partment of Homeland Security, designated by the
16 Secretary, which is convenient to the parties in-
17 volved. The Secretary, in the Secretary’s discretion,
18 may waive the deadline for such an interview or the
19 requirement for such an interview in such cases as
20 may be appropriate.

21 “(e) TREATMENT OF PERIOD FOR PURPOSES OF
22 NATURALIZATION.—For purposes of title III, in the case
23 of an alien who is in the United States as a lawful perma-
24 nent resident on a conditional basis under this section, the
25 alien shall be considered to have been admitted as an alien

1 lawfully admitted for permanent residence and to be in
2 the United States as an alien lawfully admitted to the
3 United States for permanent residence.

4 “(f) REMOVAL OF REQUIREMENT TO PRACTICE
5 MEDICINE IN AN AREA THAT HAS A SHORTAGE OF
6 HEALTH CARE PROFESSIONALS.—The requirement to
7 practice medicine in an area designated by the Secretary
8 of Health and Human Services as having a shortage of
9 health care professionals shall not apply to an alien after
10 the date on which the conditional basis for permanent resi-
11 dent status is removed pursuant to subsection (c)(1).

12 “(g) DEFINITIONS.—In this section:

13 “(1) The term ‘covered alien physician’ means
14 an alien admitted to the United States under section
15 203(b)(2) during the 10-year period beginning on
16 the date of the enactment of this section to practice
17 medicine who has not passed parts I and II of the
18 National Board of Medical Examiners Examination
19 (or an equivalent examination as determined by the
20 Secretary of Health and Human Services) by reason
21 of having been approved by a State physician
22 licencing authority to practice medicine in an area
23 designated by the Secretary of Health and Human
24 Services as having a shortage of health care profes-
25 sionals.

1 “(2) The term ‘alien spouse’ and the term ‘alien
2 child’ mean an alien who obtains the status of an
3 alien lawfully admitted for permanent residence
4 (whether on a conditional basis or otherwise) by vir-
5 tue of being the spouse or child, respectively, of a
6 covered alien physician.”.

7 (c) CONFORMING AMENDMENTS.—The Immigration
8 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

9 (1) in section 203(b)(2)(B)(ii) (8 U.S.C.
10 1153(b)(2)(B)(ii)), by striking subclauses (II), (III),
11 and (IV); and

12 (2) in section 212(e) (8 U.S.C. 1182(e)), by in-
13 serting “perform services as a member of the med-
14 ical profession or to” before “receive graduate med-
15 ical education or training”.

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