

112TH CONGRESS
1ST SESSION

S. 1979

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2011

Mr. CONRAD (for himself and Mr. MORAN) 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 Im-
5 provement Act”.

6 **SEC. 2. ELIMINATION OF SUNSET PROVISION OF CONRAD**
7 **STATE 30 PROGRAM.**

8 Section 220(c) of the Immigration and Nationality
9 Technical Corrections Act of 1994 (8 U.S.C. 1182 note)
10 is amended by striking “and before September 30, 2012”.

1 **SEC. 3. RETAINING PHYSICIANS IN MEDICALLY UNDER-**
 2 **SERVED COMMUNITIES.**

3 Section 203(b)(1) of the Immigration and Nationality
 4 Act (8 U.S.C. 1151(b)(1)) is amended—

5 (1) in the matter preceding subparagraph (A),
 6 by striking “(A) through (C):” and inserting a colon;
 7 and

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

9 “(D) CERTAIN PHYSICIANS WHO HAVE
 10 SERVED IN MEDICALLY UNDERSERVED COMMU-
 11 NITIES UNDER SECTION 214(l).—

12 “(i) PHYSICIANS DESCRIBED.—An
 13 alien is described in this subparagraph if
 14 the alien has completed service require-
 15 ments of a waiver or exemption requested
 16 under section 214(l), plus an additional 2
 17 years at the location identified in the sec-
 18 tion 214(l) waiver or exemption or in an
 19 area or areas designated by the Secretary
 20 of Health and Human Services as having
 21 a shortage of health care professionals, in-
 22 cluding alien physicians who completed
 23 such service before the date of enactment
 24 of the Conrad State 30 Improvement Act.

25 “(ii) CONSTRUCTION.—Nothing in
 26 this subparagraph may be construed—

1 “(I) to prevent the filing of a pe-
2 tition with the Secretary of Homeland
3 Security for classification under sec-
4 tion 204(a) or the filing of an applica-
5 tion for adjustment of status under
6 section 245 by an alien physician de-
7 scribed in this subparagraph prior to
8 the date by which such alien physician
9 has completed the service described in
10 section 214(l) or worked full-time as a
11 physician for an aggregate of 5 years
12 at the location identified in the section
13 214(l) waiver or exemption or in an
14 area or areas designated by the Sec-
15 retary of Health and Human Services
16 as having a shortage of health care
17 professionals; or

18 “(II) to permit the Secretary of
19 Homeland Security to grant such a
20 petition or application until the alien
21 has satisfied all the requirements of
22 the waiver or exemption received
23 under section 214(l).”.

1 **SEC. 4. INCENTIVES FOR PHYSICIANS TO PRACTICE IN**
2 **MEDICALLY UNDERSERVED COMMUNITIES.**

3 Section 214(g) of the Immigration and Nationality
4 Act (8 U.S.C. 1184(g)) is amended, by adding at the end
5 the following:

6 “(12) An alien physician described in section
7 212(j)(2)(B) who entered or is seeking to enter the United
8 States as a nonimmigrant described in section
9 101(a)(15)(H)(i)(b) to pursue graduate medical education
10 or training shall not be subject to the limitations described
11 in paragraph (1) or (4), provided that the period of au-
12 thorized admission of such alien as an H–1B non-
13 immigrant may not extend beyond the 6-year period begin-
14 ning on the date on which the alien receives the exemption
15 described in subparagraph (A), other than extensions au-
16 thorized by section 104 or 106 of the American Competi-
17 tiveness in the Twenty-First Century Act of 2000 (Public
18 Law 106–313; 114 Stat. 1251) or an amendment made
19 by such section, if an interested State agency submits a
20 request for an exemption under section 214(l)(1)(B), but
21 not 1 of the 10 waivers or exemptions described in sub-
22 section (l)(1)(D)(ii).”.

1 **SEC. 5. RESTRICTIONS ON WAIVERS AND PHYSICIAN PRO-**
2 **TECTIONS.**

3 (a) IN GENERAL.—Section 214(l)(1) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1184(l)(1)) is amend-
5 ed—

6 (1) by amending the matter preceding subpara-
7 graph (A) to read as follows:

8 “(1) In the case of a request by an interested State
9 agency, or by an interested Federal agency, for a waiver
10 by the Secretary of Homeland Security of the 2-year for-
11 eign residence requirement under section 212(e) on behalf
12 of an alien described in clause (iii) of such section or in
13 the case of a request to the Secretary of State for certifi-
14 cation of an exemption from the limitation described in
15 paragraphs (1) and (4) of subsection (g) on behalf of an
16 alien described in paragraph (12) of such subsection, the
17 Secretary of Homeland Security and the Secretary of
18 State shall not grant such waiver or exemption certifi-
19 cation unless—”;

20 (2) in subparagraph (A), by striking “United
21 States Information Agency” and inserting “Sec-
22 retary of State”;

23 (3) in subparagraph (B), by striking “would
24 not cause the number of waivers allotted for that
25 State for that fiscal year to exceed 30;” and insert-
26 ing “or exemption would not cause the total number

1 of waivers plus the total number of exemptions allot-
2 ted for that State for that fiscal year to exceed 30,
3 unless such allotment is increased pursuant to para-
4 graph (4);”;

5 (4) in subparagraph (C), by striking clauses (i)
6 and (ii) and inserting the following:

7 “(i) the alien demonstrates a bona fide
8 offer of full-time employment, at a health care
9 organization, which employment has been deter-
10 mined by the Secretary of Homeland Security
11 to be in the public interest;

12 “(ii) the alien agrees to begin employment
13 with the health facility or health care organiza-
14 tion in a geographic area or areas which are
15 designated by the Secretary of Health and
16 Human Services as having a shortage of health
17 care professionals by the later of the date that
18 is 90 days after receiving such waiver or exemp-
19 tion, 90 days after completing graduate medical
20 education or training under a program ap-
21 proved pursuant to section 212(j)(1), or 90
22 days after receiving nonimmigrant status or
23 employment authorization, and agrees to con-
24 tinue to work for a total of not less than 3

1 years in any status authorized for such employ-
2 ment under this subsection unless—

3 “(I) the Secretary determines that ex-
4 tenuating circumstances exist that justify a
5 lesser period of employment at such facility
6 or organization, in which case the alien
7 shall demonstrate another bona fide offer
8 of employment at a health facility or
9 health care organization, for the remainder
10 of such 3-year period;

11 “(II) the interested State agency that
12 requested the waiver or exemption attests
13 that extenuating circumstances exist that
14 justify a lesser period of employment at
15 such facility or organization in which case
16 the alien shall demonstrate another bona
17 fide offer of employment at a health facil-
18 ity or health care organization so des-
19 ignated by the Secretary of Health and
20 Human services, for the remainder of such
21 3-year period; or

22 “(III) if the alien elects not to pursue
23 a determination of extenuating circumstan-
24 ces pursuant to subclause (I) or (II), the
25 alien terminates the alien’s employment re-

1 lationship with such facility or organiza-
 2 tion, in which case the alien shall be em-
 3 ployed for the remainder of such 3-year pe-
 4 riod, and 1 additional year for each termi-
 5 nation, at another health facility or health
 6 care organization in a geographic area or
 7 areas which are designated by the Sec-
 8 retary of Health and Human Services as
 9 having a shortage of health care profes-
 10 sionals;” and

11 (5) in subparagraph (D)—

12 (A) in clause (ii), by striking “would not
 13 cause the number of the waivers” and inserting
 14 “or exemption would not cause the total num-
 15 ber of waivers and exemptions”; and

16 (B) in clause (iii), by inserting “or exemp-
 17 tion” after “waiver”.

18 (b) CHANGE OF STATUS.—Section 214(l)(2)(A) of
 19 the Immigration and Nationality Act (8 U.S.C.
 20 1184(l)(2)(A)) is amended—

21 (1) by striking “Attorney General” and insert-
 22 ing “Secretary of Homeland Security”; and

23 (2) by inserting “described in section
 24 212(e)(iii)” after “status of an alien”.

1 **SEC. 6. ALLOTMENT OF WAIVERS AND EXTENSIONS; LIM-**
 2 **TATION OF WAIVERS OF PERIOD OF AUTHOR-**
 3 **IZED ADMISSION; OTHER PHYSICIAN PRO-**
 4 **TECTIONS.**

5 Section 214(l) of the Immigration and Nationality
 6 Act (8 U.S.C. 1184(l)) is amended by adding at the end
 7 the following:

8 “(4)(A)(i) All States shall be allotted a total of 35
 9 waivers and exemptions under paragraph (1)(B) for a fis-
 10 cal year if, during the previous fiscal year, the total num-
 11 ber of waivers and exemptions awarded to all the States
 12 is at least 90 percent of the total number of the waivers
 13 and exemptions available to the States that received 5 or
 14 more such waivers or exemptions.

15 “(ii) When an allocation has occurred under clause
 16 (i), all States shall be allotted an additional 5 waivers and
 17 exemptions under paragraph (1)(B) for each subsequent
 18 fiscal year if, during the previous fiscal year, the total
 19 number of waivers and exemptions awarded to all the
 20 States is at least 90 percent of the total number of the
 21 waivers and exemptions available to the States that re-
 22 ceived 5 or more such waivers or exemptions.

23 “(B) Any increase in allotments under subparagraph
 24 (A) shall be maintained indefinitely, unless in a fiscal year,
 25 the total number of such waivers and exemptions granted
 26 is 5 percent lower than in the last year in which there

1 was an increase in the number of waivers and exemptions
2 allotted pursuant to this paragraph, in which case—

3 “(i) the number of waivers and exemptions al-
4 lotted shall be decreased by 5 for all States begin-
5 ning in the next fiscal year; and

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

13 “(5) An alien granted a waiver or exemption under
14 paragraph (1)(C) shall enter into an employment agree-
15 ment with the contracting health facility or health care
16 organization that—

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

22 “(B) specifies whether the contracting facility
23 or organization will pay for the alien’s malpractice
24 insurance premiums, including whether the employer

1 will provide malpractice insurance and, if so, the
2 amount of such insurance that will be provided;

3 “(C) describes all of the work locations that the
4 alien will work and a statement that the contracting
5 facility or organization will not add additional work
6 locations without the approval of the Federal agency
7 or State agency that requested the waiver or exemp-
8 tion; and

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

10 “(6) An alien granted a waiver or exemption under
11 paragraph (1)(C) whose employment relationship with a
12 health facility or health care organization terminates dur-
13 ing the 3-year service period required by such para-
14 graph—

15 “(A) shall have a period of 120 days beginning
16 on the date of such termination of employment to
17 submit to the Secretary of Homeland Security appli-
18 cations or petitions to commence employment with
19 another contracting health facility or health care or-
20 ganization in a geographic area or areas which are
21 designated by the Secretary of Health and Human
22 Services as having a shortage of health care profes-
23 sionals; and

1 “(B) shall be considered to be maintaining law-
2 ful status in an authorized stay during the 120-day
3 period referred to in subsection (A).

4 “(7) Notwithstanding paragraph (1)—

5 “(A) an alien that terminates the alien’s em-
6 ployment relationship with a health facility or health
7 care organization, except under paragraph
8 (1)(C)(ii)(III), shall not be eligible for an exemption
9 from the limitations described in paragraphs (1) and
10 (4) of subsection (g); and

11 “(B) if such an alien was previously granted
12 such exemption, the Secretary of Homeland Security
13 shall rescind such exemption.”.

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