

115TH CONGRESS
1ST SESSION

S. 898

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

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2017

Ms. KLOBUCHAR (for herself, Ms. COLLINS, and Ms. HEITKAMP) 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 “September 30,
2 2021”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect as if enacted on April 28,
5 2017.

6 **SEC. 3. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.**

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

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

13 (2) in subparagraph (A), by striking “Director
14 of United States Information Agency” and inserting
15 “Secretary of State”;

16 (3) in subparagraph (B), by inserting “, except
17 as provided in paragraphs (7) and (8)” before the
18 semicolon at the end; and

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

21 “(i) the alien demonstrates a bona fide
22 offer of full-time employment at a health facil-
23 ity or health care organization, which employ-
24 ment has been determined by the Secretary of

1 Homeland Security to be in the public interest;
2 and

3 “(ii) the alien—

4 “(I) has accepted employment with
5 the health facility or health care organiza-
6 tion in a geographic area or areas which
7 are designated by the Secretary of Health
8 and Human Services as having a shortage
9 of health care professionals;

10 “(II) begins employment by the later
11 of the date that is—

12 “(aa) 90 days after receiving
13 such waiver;

14 “(bb) 90 days after completing
15 graduate medical education or train-
16 ing under a program approved pursu-
17 ant to section 212(j)(1); or

18 “(cc) 90 days after receiving non-
19 immigrant status or employment au-
20 thorization, if the alien or the alien’s
21 employer petitions for such non-
22 immigrant status or employment au-
23 thorization not later than 90 days
24 after the date on which the alien com-
25 pletes his or her graduate medical

1 education or training under a pro-
2 gram approved pursuant to section
3 212(j)(1); and

4 “(III) agrees to continue to work for
5 a total of not less than 3 years in the sta-
6 tus authorized for such employment under
7 this subsection unless—

8 “(aa) the Secretary of Homeland
9 Security determines that extenuating
10 circumstances, including violations by
11 the employer of the employment
12 agreement with the alien or of labor
13 and employment laws, exist that jus-
14 tify a lesser period of employment at
15 such facility or organization, in which
16 case the alien shall demonstrate, not
17 later than 90 days after the employ-
18 ment termination date (unless the
19 Secretary determines that extenuating
20 circumstances would justify an exten-
21 sion), another bona fide offer of em-
22 ployment at a health facility or health
23 care organization in a geographic area
24 or areas which are designated by the
25 Secretary of Health and Human Serv-

1 ices as having a shortage of health
2 care professionals, for the remainder
3 of such 3-year period;

4 “(bb) the interested State agency
5 that requested the waiver attests that
6 extenuating circumstances including
7 violations by the employer of the em-
8 ployment agreement with the alien or
9 of labor and employment laws, exist
10 that justify a lesser period of employ-
11 ment at such facility or organization
12 in which case the alien shall dem-
13 onstrate, not later than 90 days after
14 the employment termination date (un-
15 less the Secretary determines that ex-
16 tenuating circumstances would justify
17 an extension), another bona fide offer
18 of employment at a health facility or
19 health care organization in a geo-
20 graphic area or areas which are des-
21 ignated by the Secretary of Health
22 and Human Services as having a
23 shortage of health care professionals,
24 for the remainder of such 3-year pe-
25 riod; or

1 “(cc) if the alien elects not to
2 pursue a determination of extenuating
3 circumstances pursuant to item (aa)
4 or (bb), the alien terminates the
5 alien’s employment relationship with
6 such facility or organization, in which
7 case the alien shall demonstrate, not
8 later than 45 days after the employ-
9 ment termination date, another bona
10 fide offer of employment at a health
11 facility or health care organization in
12 a geographic area or areas, in the
13 State that requested the alien’s waiv-
14 er, which are designated by the Sec-
15 retary of Health and Human Services
16 as having a shortage of health care
17 professionals, and agree to be em-
18 ployed for the remainder of such 3-
19 year period, and 1 additional year for
20 each termination under this subclause;
21 and”.

22 (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-
23 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-
24 SERVED AREAS.—Section 214(l)(2) of such Act (8 U.S.C.

1 1184(l)(2)) is amended by amending subparagraph (A) to
2 read as follows:

3 “(A) Upon the request of an interested Federal
4 agency or an interested State agency for rec-
5 ommendation of a waiver under this section by a
6 physician who is maintaining valid nonimmigrant
7 status under section 101(a)(15)(J) and a favorable
8 recommendation by the Secretary of State, the Sec-
9 retary of Homeland Security may change the status
10 of such physician to that of an alien described in
11 section 101(a)(15)(H)(i)(B). The numerical limita-
12 tions contained in subsection (g)(1)(A) shall not
13 apply to any alien whose status is changed under
14 this subparagraph.”.

15 (c) VIOLATION OF AGREEMENTS.—Section
16 214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is
17 amended by inserting “substantial requirement of an” be-
18 fore “agreement entered into”.

19 (d) PHYSICIAN EMPLOYMENT IN UNDERSERVED
20 AREAS.—Section 214(l) of such Act (8 U.S.C. 1184(l))
21 is amended by adding at the end the following:

22 “(4)(A) If an interested State agency denies the ap-
23 plication for a waiver under paragraph (1)(B) from a phy-
24 sician pursuing graduate medical education or training
25 pursuant to section 101(a)(15)(J) because the State has

1 requested the maximum number of waivers permitted for
2 that fiscal year, the physician’s nonimmigrant status shall
3 be extended for up to 6 months if the physician agrees
4 to seek a waiver under this subsection (except for para-
5 graph (1)(D)(ii)) to work for an employer described in
6 paragraph (1)(C) in a State that has not yet requested
7 the maximum number of waivers.

8 “(B) Such physician shall be authorized to work only
9 for the employer referred to in subparagraph (A) from the
10 date on which a new waiver application is filed with such
11 State until the earlier of—

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

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

17 (e) CONTRACT REQUIREMENTS.—Section 214(l) of
18 such Act, as amended by subsection (d), is further amend-
19 ed by adding at the end the following:

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

24 “(A) specifies the maximum number of on-call
25 hours per week (which may be a monthly average)

1 that the alien will be expected to be available and
2 the compensation the alien will receive for on-call
3 time;

4 “(B) specifies—

5 “(i) whether the contracting facility or or-
6 ganization will pay the alien’s malpractice in-
7 surance premiums;

8 “(ii) whether the employer will provide
9 malpractice insurance; and

10 “(iii) the amount of such insurance that
11 will be provided;

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

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

19 “(6) An alien granted a waiver under this subsection
20 whose employment relationship with a health facility or
21 health care organization terminates under paragraph
22 (1)(C)(ii) during the 3-year service period required under
23 paragraph (1) shall be considered to be maintaining lawful
24 status in an authorized period of stay during the 90-day
25 period referred to in items (aa) and (bb) of subclause (III)

1 of paragraph (1)(C)(ii) or the 45-day period referred to
2 in subclause (III)(cc) of such paragraph.”.

3 (f) **RECAPTURING WAIVER SLOTS LOST TO OTHER**
4 **STATES.**—Section 214(l) of such Act, as amended by sub-
5 sections (d) and (e), is further amended by adding at the
6 end the following:

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

17 **SEC. 4. ALLOTMENT OF CONRAD 30 WAIVERS.**

18 (a) **IN GENERAL.**—Section 214(l) of the Immigration
19 and Nationality Act (8 U.S.C. 1184(l)), as amended by
20 section 3, is further amended by adding at the end the
21 following:

22 “(8)(A)(i) All States shall be allotted a total of 35
23 waivers under paragraph (1)(B) for a fiscal year if 90 per-
24 cent of the waivers available to the States receiving at
25 least 5 waivers were used in the previous fiscal year.

1 “(ii) When an allotment occurs under clause (i), all
2 States shall be allotted an additional 5 waivers under
3 paragraph (1)(B) for each subsequent fiscal year if 90
4 percent of the waivers available to the States receiving at
5 least 5 waivers were used in the previous fiscal year. If
6 the States are allotted 45 or more waivers for a fiscal year,
7 the States will only receive an additional increase of 5
8 waivers the following fiscal year if 95 percent of the waiv-
9 ers available to the States receiving at least 1 waiver were
10 used in the previous fiscal year.

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

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

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

1 (b) ACADEMIC MEDICAL CENTERS.—Section
2 214(l)(1)(D) of such Act is amended—

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

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

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

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

9 “(I) the head of such agency deter-
10 mines that the alien is to practice medicine
11 in, or be on the faculty of a residency pro-
12 gram at, an academic medical center (as
13 that term is defined in section
14 411.355(e)(2) of title 42, Code of Federal
15 Regulations, or similar successor regula-
16 tion), without regard to whether such facil-
17 ity is located within an area designated by
18 the Secretary of Health and Human Serv-
19 ices as having a shortage of health care
20 professionals; and

21 “(II) the head of such agency deter-
22 mines that—

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

1 (b) APPLICABILITY OF SECTION 212(e) TO SPOUSES
2 AND CHILDREN OF J-1 EXCHANGE VISITORS.—Section
3 212(e) of the Immigration and Nationality Act (8 U.S.C.
4 1182(e)) is amended—

5 (1) by inserting “(1)” after “(e)”; and

6 (2) by adding at the end the following

7 “(2) A spouse or child of an exchange visitor de-
8 scribed in section 101(a)(15)(J) shall not be subject to
9 the requirements under this subsection solely on account
10 of such spouse or child’s derivative nonimmigrant status
11 to an exchange visitor who is subject to the requirements
12 under this subsection.”.

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