

116TH CONGRESS
1ST SESSION

S. 948

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

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2019

Ms. KLOBUCHAR (for herself, Ms. COLLINS, and Ms. ROSEN) 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 September
5 30, 2018.

6 **SEC. 3. RETAINING PHYSICIANS WHO HAVE PRACTICED IN**
7 **MEDICALLY UNDERSERVED COMMUNITIES.**

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

11 “(F)(i) Alien physicians who have completed
12 service requirements of a waiver requested under
13 section 203(b)(2)(B)(ii), including—

14 “(I) alien physicians who completed such
15 service before the date of the enactment of the
16 Conrad State 30 and Physician Access Act; and

17 “(II) the spouse or children of an alien
18 physician described in subclause (I).

19 “(ii) Nothing in this subparagraph may be con-
20 strued—

21 “(I) to prevent the filing of a petition with
22 the Secretary of Homeland Security for classi-
23 fication under section 204(a) or the filing of an
24 application for adjustment of status under sec-
25 tion 245 by an alien physician described in this

subparagraph before the date by which such alien physician has completed the service described in section 214(l) or worked full-time as a physician for an aggregate of 5 years at the location identified in the section 214(l) waiver or in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals; or

“(II) to permit the Secretary of Homeland Security to grant a petition or application described in subclause (I) until the alien has satisfied all of the requirements of the waiver received under section 214(l).”.

SEC. 4. EMPLOYMENT PROTECTIONS FOR PHYSICIANS.

(a) EXCEPTIONS TO 2-YEAR FOREIGN RESIDENCY REQUIREMENT.—Section 214(l)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

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

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

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

6 “(i) the alien demonstrates a bona fide
 7 offer of full-time employment at a health facil-
 8 ity or health care organization, which employ-
 9 ment has been determined by the Secretary of
 10 Homeland Security to be in the public interest;

11 “(ii) the alien—

12 “(I) has accepted employment with
 13 the health facility or health care organiza-
 14 tion in a geographic area or areas which
 15 are designated by the Secretary of Health
 16 and Human Services as having a shortage
 17 of health care professionals;

18 “(II) begins employment by the later
 19 of the date that is—

20 “(aa) 120 days after receiving
 21 such waiver;

22 “(bb) 120 days after completing
 23 graduate medical education or train-
 24 ing under a program approved pursu-
 25 ant to section 212(j)(1); or

1 “(cc) 120 days after receiving
 2 nonimmigrant status or employment
 3 authorization, if the alien or the
 4 alien’s employer petitions for such
 5 nonimmigrant status or employment
 6 authorization not later than 120 days
 7 after the date on which the alien com-
 8 pletes his or her graduate medical
 9 education or training under a pro-
 10 gram approved pursuant to section
 11 212(j)(1); and

12 “(III) agrees to continue to work for
 13 a total of not less than 3 years in the sta-
 14 tus authorized for such employment under
 15 this subsection, except as provided in para-
 16 graph (8).”; and

17 (5) in subparagraph (D), in the matter pre-
 18 ceding clause (i), by inserting “(except as provided
 19 in paragraph (8))”.

20 (b) ALLOWABLE VISA STATUS FOR PHYSICIANS FUL-
 21 FILLING WAIVER REQUIREMENTS IN MEDICALLY UNDER-
 22 SERVED AREAS.—Section 214(l)(2)(A) of such Act (8
 23 U.S.C. 1184(l)(2)(A)) is amended to read as follows:

24 “(A) Upon the request of an interested Federal
 25 agency or an interested State agency for rec-

1 ommendation of a waiver under this section by a
 2 physician who is maintaining valid nonimmigrant
 3 status under section 101(a)(15)(J) and a favorable
 4 recommendation by the Secretary of State, the Sec-
 5 retary of Homeland Security may change the status
 6 of such physician to any status authorized for em-
 7 ployment under this Act. The numerical limitations
 8 contained in subsection (g)(1)(A) shall not apply to
 9 any alien whose status is changed under this sub-
 10 paragraph.”.

11 (c) VIOLATION OF AGREEMENTS.—Section
 12 214(l)(3)(A) of such Act (8 U.S.C. 1184(l)(3)(A)) is
 13 amended by inserting “substantial requirement of an” be-
 14 fore “agreement entered into”.

15 (d) PHYSICIAN EMPLOYMENT IN UNDERSERVED
 16 AREAS.—Section 214(l) of such Act (8 U.S.C. 1184(l)),
 17 as amended by this section, is further amended by adding
 18 at the end the following:

19 “(4)(A) If an interested State agency denies the ap-
 20 plication for a waiver under paragraph (1)(B) from a phy-
 21 sician pursuing graduate medical education or training
 22 pursuant to section 101(a)(15)(J) because the State has
 23 requested the maximum number of waivers permitted for
 24 that fiscal year, the physician’s nonimmigrant status shall
 25 be extended for up to 6 months if the physician agrees

1 to seek a waiver under this subsection (except for para-
 2 graph (1)(D)(ii)) to work for an employer described in
 3 paragraph (1)(C) in a State that has not yet requested
 4 the maximum number of waivers.

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

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

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

14 (e) CONTRACT REQUIREMENTS.—Section 214(l) of
 15 such Act, as amended by this section, is further amended
 16 by adding at the end the following:

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

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

1 “(B) specifies—

2 “(i) whether the contracting facility or or-
3 ganization will pay the alien’s malpractice in-
4 surance premiums;

5 “(ii) whether the employer will provide
6 malpractice insurance; and

7 “(iii) the amount of such insurance that
8 will be provided;

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

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

16 “(6) An alien granted a waiver under this subsection
17 whose employment relationship with a health facility or
18 health care organization terminates under paragraph
19 (1)(C)(ii) during the 3-year service period required under
20 paragraph (1) shall be considered to be maintaining lawful
21 status in an authorized period of stay during the 120-day
22 period referred to in items (aa) and (bb) of subclause (III)
23 of paragraph (1)(C)(ii) or the 45-day period referred to
24 in subclause (III)(cc) of such paragraph.”.

1 (f) RECAPTURING WAIVER SLOTS LOST TO OTHER
2 STATES.—Section 214(l) of such Act, as amended by this
3 section, is further amended by adding at the end the fol-
4 lowing:

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

15 (g) EXCEPTION TO 3-YEAR WORK REQUIREMENT.—
16 Section 214(l) of such Act, as amended by this section,
17 is further amended by adding at the end the following:

18 “(8) The 3-year work requirement set forth in sub-
19 paragraphs (C) and (D) of paragraph (1) shall not apply
20 if—

21 “(A)(i) the Secretary of Homeland Security de-
22 termines that extenuating circumstances, including
23 violations by the employer of the employment agree-
24 ment with the alien or of labor and employment

1 laws, exist that justify a lesser period of employment
2 at such facility or organization; and

3 “(ii) the alien demonstrates, not later than 120
4 days after the employment termination date (unless
5 the Secretary determines that extenuating cir-
6 cumstances would justify an extension), another
7 bona fide offer of employment at a health facility or
8 health care organization in a geographic area or
9 areas which are designated by the Secretary of
10 Health and Human Services as having a shortage of
11 health care professionals, for the remainder of such
12 3-year period;

13 “(B)(i) the interested State agency that re-
14 quested the waiver attests that extenuating cir-
15 cumstances, including violations by the employer of
16 the employment agreement with the alien or of labor
17 and employment laws, exist that justify a lesser pe-
18 riod of employment at such facility or organization;
19 and

20 “(ii) the alien demonstrates, not later than 120
21 days after the employment termination date (unless
22 the Secretary determines that extenuating cir-
23 cumstances would justify an extension), another
24 bona fide offer of employment at a health facility or
25 health care organization in a geographic area or

1 areas which are designated by the Secretary of
2 Health and Human Services as having a shortage of
3 health care professionals, for the remainder of such
4 3-year period; or

5 “(C) the alien—

6 “(i) elects not to pursue a determination of
7 extenuating circumstances pursuant to sub-
8 clause (A) or (B);

9 “(ii) terminates the alien’s employment re-
10 lationship with the health facility or health care
11 organization at which the alien was employed;

12 “(iii) demonstrates, not later than 45 days
13 after the employment termination date, another
14 bona fide offer of employment at a health facil-
15 ity or health care organization in a geographic
16 area or areas, in the State that requested the
17 alien’s waiver, which are designated by the Sec-
18 retary of Health and Human Services as having
19 a shortage of health care professionals; and

20 “(iv) agrees to be employed for the remain-
21 der of such 3-year period, and 1 additional year
22 for each termination under clause (ii).”.

23 **SEC. 5. ALLOTMENT OF CONRAD 30 WAIVERS.**

24 (a) IN GENERAL.—Section 214(l) of the Immigration
25 and Nationality Act (8 U.S.C. 1184(l)), as amended by

1 section 4, is further amended by adding at the end the
2 following:

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

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

17 “(B) Any increase in allotments under subparagraph
18 (A) shall be maintained indefinitely, unless in a fiscal year,
19 the total number of such waivers granted is 5 percent
20 lower than in the last year in which there was an increase
21 in the number of waivers allotted pursuant to this para-
22 graph, in which case—

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

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

7 (b) ACADEMIC MEDICAL CENTERS.—Section
 8 214(l)(1)(D) of such Act is amended—

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

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

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

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

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

ices as having a shortage of health care professionals; and

“(II) the head of such agency determines that—

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

“(bb) the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation in subparagraph (B) and subject to paragraph (6)) in accordance with the conditions of this clause to exceed 3.”.

**SEC. 6. AMENDMENTS TO THE PROCEDURES, DEFINITIONS,
AND OTHER PROVISIONS RELATED TO PHYSICIAN IMMIGRATION.**

(a) DUAL INTENT FOR PHYSICIANS SEEKING GRADUATE MEDICAL TRAINING.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by striking “(other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) except subclause (b1) of such section)” and inserting “(other than a nonimmigrant described in

1 subparagraph (L) or (V) of section 101(a)(15), a non-
 2 immigrant described in any provision of section
 3 101(a)(15)(H)(i) (except subclause (b1) of such section),
 4 and an alien coming to the United States to receive grad-
 5 uate medical education or training as described in section
 6 212(j) or to take examinations required to receive grad-
 7 uate medical education or training as described in section
 8 212(j))”.

9 (b) PHYSICIAN NATIONAL INTEREST WAIVER CLARI-
 10 FICATIONS.—

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

16 “(aa) the alien physician agrees to
 17 work on a full-time basis practicing pri-
 18 mary care, specialty medicine, or a com-
 19 bination thereof, in an area or areas des-
 20 ignated by the Secretary of Health and
 21 Human Services as having a shortage of
 22 health care professionals, or at a health
 23 care facility under the jurisdiction of the
 24 Secretary of Veterans Affairs; or

1 “(bb) the alien physician is pursuing
 2 such waiver based upon service at a facility
 3 or facilities that serve patients who reside
 4 in a geographic area or areas designated
 5 by the Secretary of Health and Human
 6 Services as having a shortage of health
 7 care professionals (without regard to
 8 whether such facility or facilities are lo-
 9 cated within such an area) and a Federal
 10 agency, or a local, county, regional, or
 11 State department of public health deter-
 12 mines the alien physician’s work was or
 13 will be in the public interest.”.

14 (2) FIVE-YEAR SERVICE REQUIREMENT.—Sec-
 15 tion 203(b)(2)(B)(ii) of the Immigration and Na-
 16 tionality Act (8 U.S.C. 1153(B)(ii)) is amended—

17 (A) by moving subclauses (II), (III), and
 18 (IV) 4 ems to the left; and

19 (B) in subclause (II)—

20 (i) by inserting “(aa)” after “(II)”;
 21 and

22 (ii) by adding at the end the fol-
 23 lowing:

24 “(bb) The 5-year service requirement
 25 under item (aa) shall begin on the date on

1 which the alien physician begins work in
2 the shortage area in any legal status and
3 not on the date on which an immigrant
4 visa petition is filed or approved. Such
5 service shall be aggregated without regard
6 to when such service began and without re-
7 gard to whether such service began during
8 or in conjunction with a course of graduate
9 medical education.

10 “(cc) An alien physician shall not be
11 required to submit an employment contract
12 with a term exceeding the balance of the 5-
13 year commitment yet to be served or an
14 employment contract dated within a min-
15 imum time period before filing a visa peti-
16 tion under this subsection.

17 “(dd) An alien physician shall not be
18 required to file additional immigrant visa
19 petitions upon a change of work location
20 from the location approved in the original
21 national interest immigrant petition.”.

22 (c) TECHNICAL CLARIFICATION REGARDING AD-
23 VANCED DEGREE FOR PHYSICIANS.—Section
24 203(b)(2)(A) of the Immigration and Nationality Act (8
25 U.S.C. 1153(b)(2)(A)) is amended by adding at the end

1 the following: “An alien physician holding a foreign med-
 2 ical degree that has been deemed sufficient for acceptance
 3 by an accredited United States medical residency or fel-
 4 lowship program is a member of the professions holding
 5 an advanced degree or its equivalent.”.

6 (d) SHORT-TERM WORK AUTHORIZATION FOR PHY-
 7 SICIANS COMPLETING THEIR RESIDENCIES.—

8 (1) IN GENERAL.—A physician completing
 9 graduate medical education or training described in
 10 section 212(j) of the Immigration and Nationality
 11 Act (8 U.S.C. 1182(j)) as a nonimmigrant described
 12 in section 101(a)(15)(H)(i) of such Act (8 U.S.C.
 13 1101(a)(15)(H)(i))—

14 (A) shall have such nonimmigrant status
 15 automatically extended until October 1 of the
 16 fiscal year for which a petition for a continu-
 17 ation of such nonimmigrant status has been
 18 submitted in a timely manner and the employ-
 19 ment start date for the beneficiary of such peti-
 20 tion is October 1 of that fiscal year; and

21 (B) shall be authorized to be employed in-
 22 cident to status during the period between the
 23 filing of such petition and October 1 of such fis-
 24 cal year.

1 (2) TERMINATION.—The physician’s status and
 2 employment authorization shall terminate on the
 3 date that is 30 days after the date on which a peti-
 4 tion described in paragraph (1)(A) is rejected, de-
 5 nied or revoked.

6 (3) AUTOMATIC EXTENSION.—A physician’s
 7 status and employment authorization will automati-
 8 cally extend to October 1 of the next fiscal year if
 9 all of the visas described in section 101(a)(15)(H)(i)
 10 of such Act that were authorized to be issued for the
 11 fiscal year have been issued.

12 (e) APPLICABILITY OF SECTION 212(e) TO SPOUSES
 13 AND CHILDREN OF J–1 EXCHANGE VISITORS.—A spouse
 14 or child of an exchange visitor described in section
 15 101(a)(15)(J) of the Immigration and Nationality Act (8
 16 U.S.C. 1101(a)(15)(J)) shall not be subject to the require-
 17 ments under section 212(e) of such Act (8 U.S.C.
 18 1182(e)).

○