

COMMONWEALTH OF VIRGINIA
NATIONAL INTEREST WAIVER PROGRAM GUIDELINES

Developed by:

**The Office Health Equity
Virginia Department of Health**



Virginia Department of Health - Office of Health Equity

National Interest Waiver Guidelines

I. Background

The National Interest Waiver is a waiver of the job offer requirement for foreign nationals who would like to obtain permanent residence in the United States in the employment based second preference category. The waiver is available to individuals who are members of the professions holding advanced degrees and individuals of exceptional ability in the arts, sciences and business.

Generally, individuals who apply to immigrate in the employment based second-preference category must have a job offer and the employer must obtain an approved "Labor Certification" from the Department of Labor. The National Interest Waiver relieves the petitioner only from the Labor Certification process. A petitioner requesting a National Interest Waiver on behalf of a qualified alien physician, or an alien physician self-petitioning for second preference classification, still must meet all eligibility requirements for this immigrant classification in order to be eligible for the National Interest Waiver.

The Code of Federal Regulation (CFR) at 8 CFR Parts 204 and 245 provide provisions of public law and regulations under which framework that second-preference immigrant physicians may petition for a National Interest Waiver. The National Interest Waiver requires physicians to provide service either in an area designated as a Health Professional Shortage Areas (HPSA), or Mental Health Professional Shortage Areas (MPSA) or at a VA facility or facilities. In either case, the alien physician must also obtain a determination from Health and Human Services Department (HHS), VA, or State Department of Health that the physician's work in such an area or facility is in the public interest.

An attestation from a Federal agency must reflect the agency's knowledge of:

- The alien's qualifications;
- The agency's background in making determinations on matters involving medical affairs so as to substantiate the finding that the alien's work is or will be in the public interest; and
- An attestation from the public health department of a State must reflect that the agency has jurisdiction over the place where the alien physician intends to practice clinical medicine. If the alien physician intends to practice in more than one underserved area, attestations from each intended area of practice must be included.

II. National Interest Waiver Documentation:

A request for a letter from the Virginia Department of Health regarding the National Interest Waiver petition should comply with the following:

1. Physician's full name, home address and home phone number.
2. Physician's practice name, address and phone number.
3. A copy of physician's current Virginia medical license.
4. A copy of physician's Virginia Department of Health J-1 Visa Waiver recommendation approval letter, if applicable.
5. An affirmation statement that the physician will provide five (5) years of service as a (primary care or specialty physician) full-time (40 hours per week) in a clinical practice located in a Health/Medical Professional Shortage Area (HPSA/MPSA) or Medically Underserved Area (MUA). **Include documentation that the practice(s) is located in a HPSA/MPSA or MUA.** (<http://datawarehouse.hrsa.gov/GeoAdvisor/ShortageDesignationAdvisor.aspx>)
6. An affirmation statement that the physician's ability to practice medicine is not under disciplinary review by the Virginia Board of Medicine or no other legal or regulatory authority.
7. Documentation that the practice is in the public interest of the state. In the Commonwealth of Virginia, public interest is defined as serving underinsured or uninsured patients as evidenced by acceptance of Medicaid, Medicare and use of a sliding/discount fee scale for those without insurance in a Medically Underserved Area.

III. Submission:

A physician requesting an attestation letter from the Virginia Office of Health Equity must submit the required documentation to: (Via US mail or Carrier)

**Virginia Health Department, Office Equity
109 Governor Street, 7th Floor, 714 West
Richmond, Virginia 23219
ATTN: Olivette Burroughs**

**For more information:
Office: (804) 864-7435 Fax: (804) 864-7440
Email: olivette.burroughs@vdh.virginia.gov**

IV. Notification:

The physician will be notified in writing of the approval or denial of the National Interest Waiver request. If the request is approved, an attestation letter will be provided to the physician.