



CONRAD 30 VISA WAIVER PROGRAM

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64W-1.002 Definitions.

For the purpose of this chapter, the words and phrases below are defined as follows:

- (1) "Conrad 30 Waiver Program" – Federal program authorized in 8 U.S.C. §1184(l) which allows for waiver of the 2-year foreign residence requirement.
- (2) "Critical Shortage" – Shortage of physicians in a specific specialty and/or within a specific geographic area.
- (3) "Flex" – Exchange visitor physicians who will serve at facilities which may not be located within a designated health professional shortage area but which serve patients who live within such a designated area. 8 U.S.C. §1184(j)(1)(D)(ii), 01/24/2020, incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-13372>, specifies the maximum number of exchange visitor physicians who will serve in Flex.
- (4) "Full-Time Employment" – A physician must provide direct patient care for at least 40 hours per week. Additional duties (i.e., teaching, research, supervising residents/fellows/students, supervising clinics, or other administrative work) are not included for purposes of fulfilling the required 40 hours.
- (5) "Health Professional Shortage Areas (HPSAs)" – Areas designated by the Health Resources and Services Administration (HRSA) as having shortages of primary care, dental or mental health providers and may be by geography (a county or service area), population (e.g., low income or Medicaid eligible), or facility (e.g., federally-qualified health center or state correctional institution).
- (6) "Primary Care Physicians" – Physicians providing at least 80% of the required 40 hours per week of direct patient care in an outpatient ambulatory care site in the following practices: Family Medicine; general Internal Medicine; general Pediatrics; general Obstetrics/Gynecology; and Psychiatry.
- (7) "Specialists" – Physicians who do not provide primary care as defined in subsection (6) above. Hospitalists, intensivists, and laborists are considered specialists. Any primary care physician who provides less than 80% of the required 40 hours per week of direct patient care in an outpatient ambulatory care site is also considered a specialist.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History–New 8-12-21, Amended 10-24-22.

64W-1.003 Eligibility.

- (1) Employer Eligibility.
 - (a) The sponsoring facility/employer and all practice site locations must accept Florida Medicaid clients and be actively billing Florida Medicaid, whether through Fee-For-Service or as a Medicaid Managed Care Plan provider. All physicians at the practice site location must accept Medicaid. The applicant physician cannot be the only physician in the practice accepting Medicaid; and
 - (b) All employers, facilities and practice locations must be physically located in Florida.

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(2) Physician Eligibility.

- (a) Applicants must currently reside in the United States of America;
- (b) Applicants must have a U.S. Department of State (USDOS) case number at the time of application;
- (c) Applicants must have applied only for the Conrad 30 Waiver Program sponsorship from the Florida Department of Health (Department); and
- (d) Applicants must have a clear, active Florida medical license that is effective on or before the last date of the application period as defined in subsection 64W-1.006(1) F.A.C.

(3) Employment Contract Eligibility. For an employment contract to be considered eligible, it must include:

- (a) Signatures of both the physician and employer;
- (b) The date the document was signed, either next to the signature or under it;
- (c) All practice locations must be clearly delineated, including the physical address. Any language that states the practice location can be changed to any location not listed or locations added at a future date, without prior notification to the Department as required by Rule 64W-1.008, F.A.C., will make the contract ineligible;
- (d) A statement that the physician will practice direct patient care for a minimum of 40 hours per week. Any language that alters the weekly 40 hours of direct patient care will make the contract ineligible. Any mention of shift work will require a detailed explanation on how the 40 hours of direct patient care will be provided;
- (e) A minimum 3-year term of full-time employment, including the specific start and end dates;
- (f) The statement that "full-time employment shall commence within 90 days after the waiver is approved by U.S. Citizenship and Immigration Services (USCIS)." Any language that adds caveats to this statement will make the contract ineligible;
- (g) A description of the geographic area served by the facility;
- (h) A clause stating that the Department Primary Care Office will be notified in writing at least 60 days prior to the termination of the contract by either party or immediately upon termination, if an immediate termination occurs;
- (i) There shall not be any non-compete clauses/provisions; and
- (j) Termination of employment provisions shall provide that termination is only for cause;
- (k) If the Offer of Employment letter includes provisions that are legally binding, it is part of the contract, and must be included with any contract and addendums. It must not be used as the Practice Facility Cover Letter; and
- (l) Any addendum or attachment that alters the original terms of the contract must also be signed and dated by both the physician and the employer as described in paragraphs (a) and (b) above.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21, Amended 10-24-22.

64W-1.004 Application Requirements.

- (1) The following Conrad 30 Waiver Program documents must be completed and submitted to the Department to be evaluated for sponsorship:
 - (a) A Florida DOH Sponsorship Application (DH8006-PHSPM-07/2022), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-14708>;
 - (b) A Physician Agreement (DH8007-PHSPM-07/2021), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-13375>;
- (c) Physician Attestation of Exclusivity (DH8008-PHSPM-07/2021), incorporated by reference and available at

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<https://www.flrules.org/Gateway/reference.asp?No=Ref-13376>;

(d) Employer Practice Location Attestation(s) (DH8009-PHSPM-07/2022), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-14709>;

(e) A Specialist Addendum (DH8010-PHSPM-07/2021), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-13378>, is required if the physician is not a Primary Care Physician, as defined in subsection 64W-1.002(6), F.A.C.;

(f) A Flex Addendum (DH8011-PHSPM-07/2021), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-13379>, is required for every practice site that is not located in a designated HPSA;

(g) Practice Facility Cover Letter;

(h) A copy of Employment Contract;

(i) Evidence of Shortage Designation Status: A copy of the HRSA "Find Shortage Areas by Address" query result for each practice site location;

(j) A copy of the applicant's clear, active Florida medical license;

(k) Physician Curriculum Vitae;

(l) A copy of the Physician's Statement of Reason, as submitted as part of the USDOS Form DS-3035;

(m) A copy of USDOS Form DS-3035 with all bar code pages, as received from the USDOS;

(n) A copy of applicable USDOS Form DS-2019/IAP-66, as received from the USDOS; and

(o) A copy of USDOS Form G28, as submitted with USDOS Form DS-3035.

(2) All Department forms for the Conrad 30 Waiver program will also be made available on the Department's website at <http://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/conrad-30-program-j-1-visa/index.html> on or before July 1 each year and shall stay on the Department's website until sponsorship notification has occurred to all applicants.

(3) Application packets must:

(a) Include the applicant's USDOS case number on the bottom right corner of each page in the submission packet, excluding the Florida DOH Sponsorship Application, to assure accurate review and processing at the USDOS and the USCIS;

(b) Include a table of contents and 8½" x 11" colored section dividers to assure accurate review and processing at the USDOS and the USCIS. The application packet must not have tabs that exceed the 8½" x 11" size;

(c) Not use staples or two-prong fasteners. Binder clips and rubber bands are acceptable; and

(d) Only include one copy of the application packet materials. Additional copies will be shredded.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21, Amended 10-24-22.

64W-1.005 Sponsorship Priorities.

(1) The state's highest priority for sponsorship is Primary Care Physicians practicing in HPSAs at outpatient ambulatory care sites in rural communities, as defined in Section 381.0406, F.S., and serving a Medicaid patient volume of 30% or greater.

(2) Applicants not practicing in the highest priority will be prioritized according to specialty (primary care over Specialists), HPSA score, practice location (rural over urban), percent of patients served by Medicaid and sliding fee scale, and

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practice type (ambulatory outpatient care practices over safety net hospitals and critical access hospitals, followed by all other types of inpatient care facilities).

- (3) The Department will sponsor applicants based on these priorities.
- (4) If there are applications that have equal priorities for the last available slot(s), the application(s) will be re-evaluated based on the aforementioned priorities, and if there are still applications that are equal, the State Surgeon General, or designee, will select the final applicant(s).
- (5) If the State Surgeon General determines that there is a Critical Shortage, Department staff will forward to the State Surgeon General (or their designee) all applications deemed complete for the specified specialty and/or in the specified geographic location, for the State Surgeon General's (or designee's) determination of sponsorship. These applications will take precedent, superseding all other priority criteria, with the remainder of the available slots being filled based on the priority criteria listed in subsection (1).

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21.

64W-1.006 Application Processing.

- (1) Application packages, as outlined in Rule 64W-1.004, F.A.C., will only be accepted beginning at 8:00 a.m. (EDT) on the first Monday of October and must be received no later than 5:00 p.m. (EDT) 10 business days, excluding state holidays or office closures, thereafter. Applications must be mailed to: Florida Department of Health, Division of Public Health Statistics and Performance Management, State Primary Care Office, 4052 Bald Cypress Way, Bin A-05, Tallahassee, Florida 32399-1720.
- (2) At the close of the application cycle, Department staff will conduct an initial review of the information contained in the application packet. Any application deemed ineligible during the initial review by the Department based on any failure outlined in paragraphs (a) through (d) below will not be recommended to the State Surgeon General (or designee) for sponsorship. An application package will be deemed ineligible if:
 - (a) It does not meet the eligibility requirements in Rule 64W-1.003, F.A.C.
 - (b) It does not include all application requirements in Rule 64W-1.004, F.A.C.,
 - (c) It is submitted by any method other than mail as specified in subsection (1) above,
 - (d) Is not received within the timeframes stipulated in subsection (1) above, or
- (3) Correspondence and/or communication between employers, physicians, or attorneys with Department staff will not take place during the initial review and prioritization of applications.
- (4) After final approval by the State Surgeon General (or designee), Department staff will notify each applicant on his or her sponsorship status by email. This shall occur on or before December 31 of each year, unless the condition in subsection (5) below occurs. The Department will send sponsorship application packets to the USDOS, on or before December 31 of each year, unless the condition in subsection (5) below occurs.
- (5) In the event the total number of applications deemed eligible by the Department during the initial review is fewer than 30 for sponsorship, applications received during the application cycle, as outlined in subsection (1) above, that were deemed ineligible will be notified by email of the deficits in their application package.
 - (a) All additional documentation must be received on or before 15 business days, excluding state holidays or office closures, from the date of the Department's deficiency notice. All updated applications will be evaluated based on the scoring priorities provided in Rule 64W-1.005, F.A.C. in order to bring the total number sponsored to 30.
 - (b) All applicants whose application was deemed eligible during the initial review will be notified of sponsorship status on the same day that the deficiency notices are sent.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21, Amended 10-24-22.

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64W-1.007 Continued Eligibility.

- (1) The physician and employer may complete and submit to the Department the Conrad 30 Waiver Program Practice Status Report (DH8012-PHSPM-07/2021), incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-13381> and at <http://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/conrad-30-program-j-1-visa/index.html>, on or before June 30 of each year during the employment period.
- (2) If the physician and employer choose not to submit the form annually, they must submit the form at the end of the employment period in order to receive a completion letter from the Primary Care Office Director.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21.

64W-1.008 Modification, Termination, or Violation.

- (1) In the event of a termination of employment, the employer must notify the Department in writing within 5 business days of the termination.
- (2) Contract changes which result in a change in practice scope must be presented in writing to the Department at least 10 business days prior to the change. The change in scope must be clearly explained and follow all eligibility criteria in Rule 64W-1.003, F.A.C.
- (3) Contract changes which result in the relocation of the physician from the employer's current approved site(s) to a new site(s) must be presented in writing to the Department at least 10 business days prior to the change. The employer notification must include the name and address of the new location(s), the reason for the change, and verification that the new site(s) is located within a designated shortage area. If the new site(s) is not located in a designated shortage area, then a Flex Addendum (DH8011-PHSPM-07/2021), incorporated in paragraph 64W-1.004(4)(f), F.A.C., is required.
- (4) Contract changes that result in the transfer of the physician to a different employer must be presented in writing to the Department at least 10 business days prior to the change. This includes physicians transferring from one Florida provider to another Florida provider, from an out-of-state provider to a Florida provider, or from a Florida provider to an out-of-state provider. Transfer requests must include:
 - (a) A cover letter from the physician indicating the intent to transfer, reasons for the transfer and proof of the extenuating circumstance(s), intended date of transfer, and intent to continue upholding all requirements of Chapter 64W-1, F.A.C.;
 - (b) A letter from the current employer indicating the release of the physician and reasons for termination of employment. If the physician is unable to obtain a letter from the current employer due to the extenuating circumstance(s), the physician shall clearly state this in their letter and provide detailed explanation as to why the letter cannot be obtained;
 - (c) A letter from the new employer stating their desire to hire physician;
 - (d) A Physician Agreement (DH8007-PHSPM-07/2021) as incorporated in Rule 64W-1.004(4)(b), F.A.C.;
 - (e) A Physician Attestation of Exclusivity (DH8008-PHSPM-07/2021) as incorporated in Rule 64W-1.004(4)(c), F.A.C.;
 - (f) Employer Practice Location Attestation(s) (DH8009-PHSPM-07/2022) as incorporated in Rule 64W-1.004(4)(d), F.A.C., with one form for each practice location;
 - (g) A Specialist Addendum (DH8010-PHSPM-07/2021), as incorporated in Rule 64W-1.004(4)(e), F.A.C., is required if the physician is not a Primary Care Physician, as defined in Rule 64W-1.002(6) F.A.C.;
 - (h) A Flex Addendum (DH8011-PHSPM-07/2021), as incorporated in Rule 64W-1.004(4)(f), F.A.C., is required for every practice site that is not located in a designated HPSA;

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- (i) Employment Contract from new employer that incorporates all eligibility requirements in subsection 64W-1.003(3), F.A.C.;
 - (j) Evidence of Shortage Designation Status: A copy of the HRSA "Find Shortage Areas by Address" query result for each practice site location; and
 - (k) A clear, active Florida medical license.
- (5) Violation of any of the employer eligibility criteria in Rule 64W-1.003, F.A.C., may result in denial of future requests for visa waivers.

Rulemaking Authority 381.4018(3) FS. Law Implemented 381.4018 FS. History—New 8-12-21, Amended 10-24-22.