Immigration Under the National Interest Waiver
for Physicians in Underserved Areas

On September 6, 2000, the Immigration and Naturalization Service issued a final rule on this matter. The information provided below is meant to help people understand and comply with these regulations but the University Hospital will not be involved.

The national interest waiver for physicians in underserved areas relieves the petitioner only from the labor certification process. If you are:

- A petitioner requesting a national interest waiver on behalf of a qualified alien physician, or
- An alien physician self-petitioning for second preference classification,

based on medical service in a Health and Human Services Department (HHS)-designated underserved area or a Department of Veterans Affairs (VA) facility, you still must meet all eligibility requirements for this immigrant classification in order to be eligible for the national interest waiver.

Petition Document Requirements

The petitioner or self-petitioner must submit the following evidence with Form I-140 to support the request for a national interest waiver. For physicians planning to divide the practice of full-time clinical medicine between more than one underserved area, the following evidence must be submitted for each area of intended practice:

1. If the physician will be an employee; a full-time employment contract (issued and dated within 6 months prior to the date the petition is filed) for the required period of clinical medical practice, or an employment commitment letter from a VA facility.

2. If the physician will establish his or her own practice, the physician’s sworn statement committing to the full-time practice of clinical medicine for the required period, and describing the steps the physician has taken or intends to actually take to establish the practice.

3. Evidence that the physician will provide full-time clinical medical service:

   a. In a geographical area or areas designated by the Secretary of HHS as having a shortage of health care professionals and in a medical specialty that is within the scope of the Secretary's designation for the geographical area or areas; or

   b. In a facility under the jurisdiction of the Secretary of VA.
4. A letter (issued and dated within 6 months prior to the date on which the petition is filed) from a Federal agency or the department of public health (or equivalent) of a State (including territories of the United States and the District of Columbia) attesting that the alien physician’s work is or will be in the public interest.

a. Any attestation from a Federal agency must reflect the agency’s knowledge of the alien’s qualifications and 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.

b. An attestation from the public health department of a State, United States territory, or the District of Columbia 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 clinical medicine in more than one underserved area, attestations from each intended area of practice must be included. Attestations from the public health department of a State, United States territory, or the District of Columbia that does not have jurisdiction over the place in which the alien physician intends to practice clinical medicine will not be accepted.

5. Evidence that the alien physician meets the admissibility requirements established by section 212(a)(5)(B) of the Act.

6. If applicable, evidence of the Service-issued waivers of the requirements of sections 212(e) of the Act, if the alien physician has been a J-1 nonimmigrant receiving medical training within the United States.

Time Limit for Required Service

1. If the physician already has authorization to accept employment (other than as a J-1 exchange alien), the beneficiary physician must complete an aggregate 5 years of qualifying full-time clinical practice during the 6-year period beginning on the date of approval of the Form I-140.

2. If the physician must obtain authorization to accept employment before the physician may lawfully begin working, the physician must complete the aggregate 5 years of qualifying full-time clinical practice during the 6-year period beginning on the date the Service issues the necessary employment authorization document.

More information regarding immigration under the national interest waiver for physician in underserved areas and eligibility for adjustment of status following completion of required service may be found in sec. 204.12 and sec. 245.18 of the Code of Federal Regulations. Additionally, a memorandum of the subject is available. Open “National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Veterans Affairs Facilities and Section 214(l)(2)(B) of the Act” for further information.