

112TH CONGRESS  
1ST SESSION

# S. 1979

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

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IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2011

Mr. CONRAD (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## 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 Im-  
5 provement Act”.

6 **SEC. 2. ELIMINATION OF SUNSET PROVISION OF CONRAD**

7 **STATE 30 PROGRAM.**

8 Section 220(c) of the Immigration and Nationality  
9 Technical Corrections Act of 1994 (8 U.S.C. 1182 note)  
10 is amended by striking “and before September 30, 2012”.

1 **SEC. 3. RETAINING PHYSICIANS IN MEDICALLY UNDER-**  
 2 **SERVED COMMUNITIES.**

3 Section 203(b)(1) of the Immigration and Nationality  
 4 Act (8 U.S.C. 1151(b)(1)) is amended—

5 (1) in the matter preceding subparagraph (A),  
 6 by striking “(A) through (C):” and inserting a colon;  
 7 and

8 (2) by adding at the end the following:

9 “(D) CERTAIN PHYSICIANS WHO HAVE  
 10 SERVED IN MEDICALLY UNDERSERVED COMMU-  
 11 NITIES UNDER SECTION 214(l).—

12 “(i) PHYSICIANS DESCRIBED.—An  
 13 alien is described in this subparagraph if  
 14 the alien has completed service require-  
 15 ments of a waiver or exemption requested  
 16 under section 214(l), plus an additional 2  
 17 years at the location identified in the sec-  
 18 tion 214(l) waiver or exemption or in an  
 19 area or areas designated by the Secretary  
 20 of Health and Human Services as having  
 21 a shortage of health care professionals, in-  
 22 cluding alien physicians who completed  
 23 such service before the date of enactment  
 24 of the Conrad State 30 Improvement Act.

25 “(ii) CONSTRUCTION.—Nothing in  
 26 this subparagraph may be construed—

1           “(I) to prevent the filing of a pe-  
2           tition with the Secretary of Homeland  
3           Security for classification under sec-  
4           tion 204(a) or the filing of an applica-  
5           tion for adjustment of status under  
6           section 245 by an alien physician de-  
7           scribed in this subparagraph prior to  
8           the date by which such alien physician  
9           has completed the service described in  
10          section 214(l) or worked full-time as a  
11          physician for an aggregate of 5 years  
12          at the location identified in the section  
13          214(l) waiver or exemption or in an  
14          area or areas designated by the Sec-  
15          retary of Health and Human Services  
16          as having a shortage of health care  
17          professionals; or

18           “(II) to permit the Secretary of  
19          Homeland Security to grant such a  
20          petition or application until the alien  
21          has satisfied all the requirements of  
22          the waiver or exemption received  
23          under section 214(l).”.

1 **SEC. 4. INCENTIVES FOR PHYSICIANS TO PRACTICE IN**  
2 **MEDICALLY UNDERSERVED COMMUNITIES.**

3 Section 214(g) of the Immigration and Nationality  
4 Act (8 U.S.C. 1184(g)) is amended, by adding at the end  
5 the following:

6 “(12) An alien physician described in section  
7 212(j)(2)(B) who entered or is seeking to enter the United  
8 States as a nonimmigrant described in section  
9 101(a)(15)(H)(i)(b) to pursue graduate medical education  
10 or training shall not be subject to the limitations described  
11 in paragraph (1) or (4), provided that the period of au-  
12 thorized admission of such alien as an H-1B non-  
13 immigrant may not extend beyond the 6-year period begin-  
14 ning on the date on which the alien receives the exemption  
15 described in subparagraph (A), other than extensions au-  
16 thorized by section 104 or 106 of the American Competi-  
17 tiveness in the Twenty-First Century Act of 2000 (Public  
18 Law 106-313; 114 Stat. 1251) or an amendment made  
19 by such section, if an interested State agency submits a  
20 request for an exemption under section 214(l)(1)(B), but  
21 not 1 of the 10 waivers or exemptions described in sub-  
22 section (l)(1)(D)(ii).”

1 **SEC. 5. RESTRICTIONS ON WAIVERS AND PHYSICIAN PRO-**  
2 **TECTIONS.**

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

6 (1) by amending the matter preceding subpara-  
7 graph (A) to read as follows:

8 “(1) In the case of a request by an interested State  
9 agency, or by an interested Federal agency, for a waiver  
10 by the Secretary of Homeland Security of the 2-year for-  
11 eign residence requirement under section 212(e) on behalf  
12 of an alien described in clause (iii) of such section or in  
13 the case of a request to the Secretary of State for certifi-  
14 cation of an exemption from the limitation described in  
15 paragraphs (1) and (4) of subsection (g) on behalf of an  
16 alien described in paragraph (12) of such subsection, the  
17 Secretary of Homeland Security and the Secretary of  
18 State shall not grant such waiver or exemption certifi-  
19 cation unless—”;

20 (2) in subparagraph (A), by striking “United  
21 States Information Agency” and inserting “Sec-  
22 retary of State”;

23 (3) in subparagraph (B), by striking “would  
24 not cause the number of waivers allotted for that  
25 State for that fiscal year to exceed 30;” and insert-  
26 ing “or exemption would not cause the total number

1 of waivers plus the total number of exemptions allot-  
2 ted for that State for that fiscal year to exceed 30,  
3 unless such allotment is increased pursuant to para-  
4 graph (4);”;

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

7 “(i) the alien demonstrates a bona fide  
8 offer of full-time employment, at a health care  
9 organization, which employment has been deter-  
10 mined by the Secretary of Homeland Security  
11 to be in the public interest;

12 “(ii) the alien agrees to begin employment  
13 with the health facility or health care organiza-  
14 tion in a geographic area or areas which are  
15 designated by the Secretary of Health and  
16 Human Services as having a shortage of health  
17 care professionals by the later of the date that  
18 is 90 days after receiving such waiver or exemp-  
19 tion, 90 days after completing graduate medical  
20 education or training under a program ap-  
21 proved pursuant to section 212(j)(1), or 90  
22 days after receiving nonimmigrant status or  
23 employment authorization, and agrees to con-  
24 tinue to work for a total of not less than 3

1 years in any status authorized for such employ-  
2 ment under this subsection unless—

3 “(I) the Secretary determines that ex-  
4 tenuating circumstances exist that justify a  
5 lesser period of employment at such facility  
6 or organization, in which case the alien  
7 shall demonstrate another bona fide offer  
8 of employment at a health facility or  
9 health care organization, for the remainder  
10 of such 3-year period;

11 “(II) the interested State agency that  
12 requested the waiver or exemption attests  
13 that extenuating circumstances exist that  
14 justify a lesser period of employment at  
15 such facility or organization in which case  
16 the alien shall demonstrate another bona  
17 fide offer of employment at a health facil-  
18 ity or health care organization so des-  
19 ignated by the Secretary of Health and  
20 Human services, for the remainder of such  
21 3-year period; or

22 “(III) if the alien elects not to pursue  
23 a determination of extenuating circumstan-  
24 ces pursuant to subclause (I) or (II), the  
25 alien terminates the alien’s employment re-

1 relationship with such facility or organiza-  
2 tion, in which case the alien shall be em-  
3 ployed for the remainder of such 3-year pe-  
4 riod, and 1 additional year for each termi-  
5 nation, at another health facility or health  
6 care organization in a geographic area or  
7 areas which are designated by the Sec-  
8 retary of Health and Human Services as  
9 having a shortage of health care profes-  
10 sionals;” and

11 (5) in subparagraph (D)—

12 (A) in clause (ii), by striking “would not  
13 cause the number of the waivers” and inserting  
14 “or exemption would not cause the total num-  
15 ber of waivers and exemptions”; and

16 (B) in clause (iii), by inserting “or exemp-  
17 tion” after “waiver”.

18 (b) CHANGE OF STATUS.—Section 214(l)(2)(A) of  
19 the Immigration and Nationality Act (8 U.S.C.  
20 1184(l)(2)(A)) is amended—

21 (1) by striking “Attorney General” and insert-  
22 ing “Secretary of Homeland Security”; and

23 (2) by inserting “described in section  
24 212(e)(iii)” after “status of an alien”.



1 **SEC. 6. ALLOTMENT OF WAIVERS AND EXTENSIONS; LIM-**  
2 **TATION OF WAIVERS OF PERIOD OF AUTHOR-**  
3 **IZED ADMISSION; OTHER PHYSICIAN PRO-**  
4 **TECTIONS.**

5 Section 214(l) of the Immigration and Nationality  
6 Act (8 U.S.C. 1184(l)) is amended by adding at the end  
7 the following:

8 “(4)(A)(i) All States shall be allotted a total of 35  
9 waivers and exemptions under paragraph (1)(B) for a fis-  
10 cal year if, during the previous fiscal year, the total num-  
11 ber of waivers and exemptions awarded to all the States  
12 is at least 90 percent of the total number of the waivers  
13 and exemptions available to the States that received 5 or  
14 more such waivers or exemptions.

15 “(ii) When an allocation has occurred under clause  
16 (i), all States shall be allotted an additional 5 waivers and  
17 exemptions under paragraph (1)(B) for each subsequent  
18 fiscal year if, during the previous fiscal year, the total  
19 number of waivers and exemptions awarded to all the  
20 States is at least 90 percent of the total number of the  
21 waivers and exemptions available to the States that re-  
22 ceived 5 or more such waivers or exemptions.

23 “(B) Any increase in allotments under subparagraph  
24 (A) shall be maintained indefinitely, unless in a fiscal year,  
25 the total number of such waivers and exemptions granted  
26 is 5 percent lower than in the last year in which there

1 was an increase in the number of waivers and exemptions  
2 allotted pursuant to this paragraph, in which case—

3 “(i) the number of waivers and exemptions al-  
4 lotted shall be decreased by 5 for all States begin-  
5 ning in the next fiscal year; and

6 “(ii) each additional 5 percent decrease in such  
7 waivers and exemptions granted from the last year  
8 in which there was an increase in the allotment,  
9 shall result in an additional decrease of 5 waivers  
10 and exemptions allotted for all States, provided that  
11 the number of waivers and exemptions allotted for  
12 all States shall not drop below 30.

13 “(5) An alien granted a waiver or exemption under  
14 paragraph (1)(C) shall enter into an employment agree-  
15 ment with the contracting health facility or health care  
16 organization that—

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

22 “(B) specifies whether the contracting facility  
23 or organization will pay for the alien’s malpractice  
24 insurance premiums, including whether the employer

1 will provide malpractice insurance and, if so, the  
2 amount of such insurance that will be provided;

3 “(C) describes all of the work locations that the  
4 alien will work and a statement that the contracting  
5 facility or organization will not add additional work  
6 locations without the approval of the Federal agency  
7 or State agency that requested the waiver or exemp-  
8 tion; and

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

10 “(6) An alien granted a waiver or exemption under  
11 paragraph (1)(C) whose employment relationship with a  
12 health facility or health care organization terminates dur-  
13 ing the 3-year service period required by such para-  
14 graph—

15 “(A) shall have a period of 120 days beginning  
16 on the date of such termination of employment to  
17 submit to the Secretary of Homeland Security appli-  
18 cations or petitions to commence employment with  
19 another contracting health facility or health care or-  
20 ganization in a geographic area or areas which are  
21 designated by the Secretary of Health and Human  
22 Services as having a shortage of health care profes-  
23 sionals; and

1           “(B) shall be considered to be maintaining law-  
2           ful status in an authorized stay during the 120-day  
3           period referred to in subsection (A).

4           “(7) Notwithstanding paragraph (1)—

5           “(A) an alien that terminates the alien’s em-  
6           ployment relationship with a health facility or health  
7           care organization, except under paragraph  
8           (1)(C)(ii)(III), shall not be eligible for an exemption  
9           from the limitations described in paragraphs (1) and  
10          (4) of subsection (g); and

11          “(B) if such an alien was previously granted  
12          such exemption, the Secretary of Homeland Security  
13          shall rescind such exemption.”.

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