

# THE FILIPINO **EXPRESS**

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## **New Rule on Doctors' Waiver**

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Final regulations took effect last month which would benefit foreign or international medical graduates (FMGs or IMGs) under J-1 visa, who are participants in an exchange visitor program.

The regulations implement a law passed by Congress last year which provided a 4th basis for waiving the two year foreign residence requirement.

Foreign medical graduates are generally required to return to their home country or country of last residence and be physically present there for two (2) years after they have completed their exchange visitor program unless the FMG gets a waiver of this foreign residence requirement.

The new law authorizes any state's department of public health, or its equivalent state agency, to apply for a waiver of the residence requirement for a particular FMG. The request is addressed to the director of the U.S. Information Agency (USIA) for the latter to recommend that INS grant the waiver. Each state is entitled to request twenty (20) such waivers per fiscal year. The fiscal year is from October 1 to September 30.

The requirements for such waiver by a state agency are as follows:

- (1) a no objection letter from the home country of the FMG whose medical education or training is funded by the home country's government. If there is no foreign government funding involved, the FMG is not required to furnish this letter.
- (2) a full-time employment contract between the FMG and the health care facility which includes the FMG's agreement to start employment within ninety (90) days from receipt of the waiver, and for a total period of not less than three (3) years.
- (3) the health care facility must be located in an area designated by the Secretary of Health and Human Services (HHS) Department as having a shortage of health care professionals. The Department has a list of Designated Primary Care Health Professional Shortage Areas (HPSAs) and Medically Underserved Areas/Medically Underserved Populations (MUAs/MUPs).

This law has a cut-off date of June 1, 1996. This means that as long as the foreign medical graduate acquired a J visa prior to this cut-off date, the FMG may apply for a waiver of the foreign residence requirement even after June 1, 1996.

Prior to this new law, there were three ways that an FMG may seek a waiver of the two-year foreign residence requirement:

- (1) the "interested Government Agency" or "IGA" waiver. An "interested U.S. government agency" requests for a waiver with the USIA and the latter could recommend a waiver to the INS.
- (2) the FMG applies to the INS on the ground that his departure would "impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or lawfully resident alien)"; and

(3) the FMG applies to the INS on the ground that he would be subject to persecution (on account of race, religion or political opinion) if he returns to his home country.