



## REPORT OF REVIEW

J-1 WAIVER PROGRAM  
PEDIATRIC AND ADOLESCENT MEDICINE, P.A.  
HAGERSTOWN, MARYLANDOIG Report 95-5(H)  
December 5, 1994INTRODUCTION

The review was undertaken as part of a survey of J-1 visa waiver program operations in the Appalachian region and to assess issues of concern with respect to compliance with program regulations and intents that J-1 physicians serve 2 years in a Health Professional Shortage Area (HPSA) and provide 40 hours of primary medical services per week at the approved location. The entity was selected based on our analysis of ARC records that reflected neither the health care provider (employer) nor the J-1 physicians had filed required reports with ARC or responded to inquiries about the use of J-1 physicians.

PURPOSE

Our review was conducted to determine compliance with J-1 waiver program provisions by Pediatric and Adolescent Medicine, P.A. and the physicians sponsored by the health care provider.

CONCLUSIONS

We concluded that the employer and J-1 physicians have not fulfilled program requirements and have substantially deviated from agreements and certifications to provide 40 hours per week of primary medical service at a HPSA site. During the first year the J-1 waivers were in effect, July 1993 to July 1994, no service was provided at the approved HPSA site at Warfordsburg, Pennsylvania, because the medical facility intended for operation July 1, 1993, was not opened until August 1994. Since August 1994, the two J-1 physicians have spent approximately 8 hours each per week at the Warfordsburg, Pennsylvania facility with the majority of their service still being provided at the employer's main clinic in Hagerstown, Maryland, a non-HPSA.

Although the employer provided unconfirmed comments with respect to efforts made to establish a Warfordsburg, Pennsylvania facility and the lengthy delays and related problems, the absence of a facility until August 1994 essentially defeated the primary program purpose of providing adequate medical treatment to HPSA residents. Also, we did not agree with the argument that service to Warfordsburg, Pennsylvania area patients at the Hagerstown, Maryland clinic satisfied program requirements or the need for J-1 physicians in a non-HPSA, e.g., Hagerstown, Maryland.

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Of particular significance, in our opinion, was the lack of notification by the employer to the Appalachian Regional Commission (ARC) or the Pennsylvania Department of Health about the delay in opening the Warfordsburg, Pennsylvania facility and use of J-1 physicians at a non-HPSA site. During the period July 1993 to October 1994, we did not locate any evidence that the health care provider had notified ARC, or the state of Pennsylvania health agency recommending the J-1 approvals, about problems with establishing the Warfordsburg, Pennsylvania facility and about the J-1 physicians actually practicing at the non-HPSA Hagerstown area pending establishment of a Warfordsburg, Pennsylvania facility. This included no response by the health care provider to an ARC questionnaire in early July 1994 and a followup phone call in September 1994. The first response to ARC from the health care provider or physicians was received in mid-October 1994 and apparently resulted from certified letters to the J-1 physicians from the ARC Office of Inspector General inquiring about their work location and type of practice.

## BACKGROUND

The J-1 waiver program provides a 2-year waiver of foreign physicians' responsibilities to return to their home country after completion of medical training in the United States. The waiver can be granted for various reasons, including the need for health care services in medically underserved areas in the United States. The Appalachian Regional Commission participates as a Federal entity sponsor in the Appalachian Region and, based on supporting information submitted by physicians requesting a waiver, prospective employers, and the applicable state health agency, recommends, where appropriate, approval of waivers to the United States Information Agency and Immigration and Naturalization Service. The applicable ARC policies and procedures are that the J-1 physician will serve 2 years in a HPSA in the Appalachian region and will practice 40 hours of primary care per week. There is no prohibition on J-1 physicians working extra hours or practicing subspecialties after fulfilling primary care requirements. Also, transfers to other HPSAs in Appalachia are permitted.

Although primary responsibilities for reviewing J-1 waiver requests, including supporting documentation, justifications of need, program oversight, and reporting, have been delegated to state health agencies, ARC retains the authority to act on waiver requests and to ensure compliance with program objectives and requirements.

Pediatric and Adolescent Medicine, P.A. currently operates clinics in Hagerstown, Maryland; Boonesboro, Maryland; and Warfordsburg, Pennsylvania; and employs two J-1 physicians whose 2-year waiver period is July 1993 to July 1995. One physician has been terminated effective November 28, 1994, and is seeking employment in another Appalachian HPSA. The process to obtain J-1 waiver approvals in connection with physicians to be employed by Pediatric and Adolescent Medicine, P.A. began in January 1993 and included the following:

- o A January 18, 1993 letter from the employer to the Pennsylvania Department of Health noting plans to establish a clinic in Warfordsburg, Pennsylvania, in the Bethel Township HPSA and to attract qualified J-1 visa applicants who, in addition to their obligations for the 40 hours at the shortage site, would provide

supplemental pediatric service at the Fulton County Hospital at McConnellsburg and the Waynesboro Hospital of Franklin County. (Exhibit A)

- o J-1 Visa Waiver Policy Affidavit and Agreement signed by a J-1 waiver applicant on January 29, 1993, that notes 40 hours per week of primary care medical services would be provided in a HPSA. (Exhibit B)
- o A certification for Pediatric and Adolescent Medicine, P.A., signed on February 23, 1993, by the employer (health care provider); noting that the J-1 physician will practice primary health care at least 40 hours per week in a HPSA; and noting the site as HCR Box 14, Warfordsburg, PA 17267. (Exhibit C)
- o A short statement signed by the J-1 applicant noting that he agrees to all terms and conditions of the above certification and agrees to practice primary care in Warfordsburg, Pennsylvania, 40 hours per week. (Exhibit D)
- o A March 16, 1993 letter from the employer to the Federal Co-Chairman noting the need for physicians, including pediatricians in Fulton County, Pennsylvania. The letter is essentially the same as the January 18, 1993 letter to the Pennsylvania Department of Health and notes that patients in the Fulton County service area travel over 40 miles to the main Pediatric and Adolescent Medicine Clinic in Hagerstown, Maryland, and that the physicians would have obligations for the 40 hours at the shortage site in addition to providing supplemental pediatric services at area hospitals. Also, this correspondence notes an anticipated commencement date for the Warfordsburg, Pennsylvania clinic as July 1, 1993. (Exhibit E)
- o A May 14, 1993 certification from the employer acknowledging that all the terms and conditions of the physician's J-1 Visa Policy Affidavit and Agreement have been incorporated into the employment agreement. (Exhibit F)
- o A May 21, 1993 recommendation for a J-1 waiver approval from ARC to the United States Information Service. (Exhibit G)
- o Exhibits H through M contain similar type information for the second J-1 applicant.
- o The health care providers response(s) to the OIG October 1994 inquiry about physicians' locations and practice is noted as Exhibit N.

## REVIEW RESULTS

The results are generally divided into two sections; the first dealing with the period July 1993 through July 1994 when there was no medical facility at Warfordsburg, Pennsylvania, and the second dealing with activity and operations at the Warfordsburg facility since its opening in August 1994.

Based on the J-1 applications and supporting justifications, we concluded that the waiver requests were clearly based on the premise and assurances that the J-1 physicians would serve 40 hours per week performing primary care medical service at the shortage site location to be established at Warfordsburg, Pennsylvania. Although the sponsoring employer denotes the need for the J-1 physicians to provide supplemental service at other locations to make the Warfordsburg clinic economically viable, all documents and certifications specify 40 hours per week at the clinic site.

Thus, explanations received and discussed below with respect to use of J-1 physicians to service clients from the Warfordsburg, Pennsylvania service area at other locations pending establishment of a Warfordsburg, Pennsylvania clinic constitutes a major change in program expectations and operation; and the lack of notification to ARC by the employer about the substantially changed conditions is a serious program violation in our opinion. Although the delay in opening the Warfordsburg, Pennsylvania clinic may have been unavoidable, as noted below, the need for J-1 physicians in the Hagerstown, Maryland area during this period was not justified in that Hagerstown has not been designated a HPSA and, thus, there was no evidence the available health care providers in Hagerstown and other non-HPSAs could not provide adequate medical care to patients from the Warfordsburg area.

Also, with respect to the operation of the Warfordsburg facility since its opening in August 1994, there has apparently been a major reinterpretation by the health care provider as to what constitutes compliance with the ARC J-1 waiver program requirements. This is evidenced, as discussed below, by the health care provider notifying the ARC OIG in October 1994 that J-1 physicians are at Warfordsburg 30 hours per week, although they are on site no more than 8 hours each per week, and justifying the difference based on service at other locations.

#### July 1993 – August 1994--No Clinic at Warfordsburg, Pennsylvania

The employer provided an explanation of efforts to establish a clinic in Warfordsburg, Pennsylvania, and constraints preventing opening of a facility until August 1994 but did not provide details of such actions, including names and dates of contacts, as was agreed to during our October 25, 1994 meeting. A followup request for such information was not successful. According to the information, efforts were initiated early in 1993 and a combination of factors including conviction of a possible landlord, liens against available land, reluctance of local officials to rent or sell a public building, difficulties in obtaining handicap access waivers for modular units and the need to renovate the building that was eventually rented, including construction of a handicap access ramp, contributed to delays.

Consequently, the J-1 physicians, whose 2-year J-1 period began in July 1993, practiced primarily at the main clinic of Pediatric and Adolescent Medicine, P.A. in Hagerstown, Maryland. Some supplemental service was provided at the Boonesboro, Maryland clinic and at Waynesboro, Pennsylvania, where the physicians had hospital privileges. According to the physicians and employer, the physicians primarily practiced pediatrics and some young adult behavior. Although they had subspecialties, e.g., oncology, hematology, and endocrinology, and the sign at the Hagerstown, Maryland clinic noted these subspecialties for the J-1 physicians, they said they did not practice subspecialties and had lost their certifications in these subspecialties due to non-use and lack of continuing education.

The employer did not notify ARC or the state agency of the delayed opening of the Warfordsburg clinic and did not respond to a July 1994 request from ARC for information about J-1 physician location and use. The health care provider said he was not aware of the ARC request until recently and said he had been in China for 3 weeks during the summer.

Also, the ARC J-1 Visa Physician Reporting Forms had not been submitted by the physicians and certified by the employer. The physicians said they had received the forms, which were forwarded with the J-1 package including the J-1 Waiver Policy Affidavit and Agreement that was completed by the J-1 physicians in 1993, but had not completed them because they knew they were not complying with program requirements. They also said they did not show the forms to their employer until about July 1994, at which time they informed the employer that they still had difficulty completing the forms since they still were not fulfilling program requirements. They said the employer indicated he would take care of it. The employer said he had not seen the reporting forms until about July 1994.

As noted in the employer's response to the ARC OIG inquiry to the J-1 physicians, the employer believes that ARC requirements were met despite the absence of a clinic in Warfordsburg because clients were continuously serviced from other Pediatric and Adolescent Medicine locations to avoid any interruption in their services.

Although we did not determine the number of patients from the Warfordsburg, Pennsylvania service area that visited other locations of Pediatric and Adolescent Medicine and we recognize the factors causing delays in establishing a facility in Warfordsburg, Pennsylvania, we nonetheless concluded that program objectives were not achieved during the first year of the J-1 waiver period and that the physicians and employer did not comply with the agreements made with ARC nor obtain approval to use J-1 physicians in a non-HPSA. Essentially, no benefits accrued to the residents of the Warfordsburg, Pennsylvania area during this period.

Since Hagerstown, Maryland, is not a HPSA, the availability of non-J-1 physicians in Hagerstown to service patients from rural areas, including Fulton County, Pennsylvania, was considered sufficient.

Although J-1 physicians are responsible for individual compliance with program requirements as evidenced in the ARC J-1 Visa Waiver Policy Affidavit and Agreement and for completing ARC J-1 Visa Physician Reporting Forms, we nonetheless concluded that, in this case, the failure of the J-1 physicians to fulfill their obligations at the Warfordsburg, Pennsylvania HPSA site was not attributable to the physicians. Thus, our primary recommendation with respect to the J-1 physicians is the negotiation of a voluntary agreement whereby the J-1 waiver period for primary care service in an Appalachian HPSA is extended at least 1 year. Discussions with the J-1 physicians indicated they would consider this alternative, including service at other locations in Appalachia.

#### Operation of Warfordsburg, Pennsylvania Medical Facility

The Warfordsburg, Pennsylvania facility, which consists of several rooms in a rented house, opened about August 1, 1994. An October 5, 1994 response to the ARC OIG inquiry from the

employer noted that the J-1 physicians were each employed 30 hours per week at the Hagerstown, Maryland clinic; 30 hours per week at the Warfordsburg, Pennsylvania facility; and 4 hours per week at a Boonesboro, Maryland facility.

Our on-site visit, telephone inquiry about office hours, and discussions with the J-1 physicians and employer disclosed substantial differences with respect to the 30 hours each per week reported for the Warfordsburg, Pennsylvania facility.

A telephone inquiry indicated the Warfordsburg facility was open Monday through Friday, 1:00 to 5:00 p.m., for appointments only and staffed by one physician daily. The building owner, who is also a dentist and will be moving into the facility upon completion of an addition, said there is usually a physician on-site 1 to 2 hours on weekday afternoons. The J-1 physicians and the employer said that the J-1s staffed the facility two afternoons each week, or 8 hours each; and the employer staffed it the fifth afternoon. A nurse and secretary were on call, as needed; and visits were not made if no appointments were scheduled.

The employer noted that the J-1 physicians performed other services that should be considered as satisfying the 30 hours per week reported as service at Warfordsburg, Pennsylvania. These services included visiting patients at area hospitals, including newborns, and treating Warfordsburg area patients at the Hagerstown, Maryland clinic. He also noted that, since the Pediatric and Adolescent Medicine offered 24-hour service, 8:00 a.m. to 9:00 p.m., 7 days per week at the Hagerstown clinic and on-call service 24 hours per day, the J-1 physicians were on call at most times.

Our position was that we were uncertain as to the origin of the 30 hours of on-site service used by the employer since all agreements referred to 40 hours of primary medical care at the HPSA site. Also, we did not agree that the maximum of 8 hours per week being spent at the Warfordsburg facility by each J-1 physician satisfied program requirements or intent. The approvals were based on full-time medical service in Warfordsburg, and the alleviation of patient requirements to drive long distances for medical treatment. The predominance of time spent at Hagerstown, Maryland by the J-1 physicians does not permit the accomplishment of program objectives.

The J-1 physicians said that four to seven patients were being seen during each visit to Warfordsburg, and the employer noted various actions to increase the Warfordsburg workload. These included prominent adds in area phone directories and newspapers, public education, the use of a computer to improve scheduling, and ongoing upgrading of the facility to permit performance of additional tests and procedures. He cited the area high school enrollment of 900 as an indicator of potential workload.

Despite the ongoing actions, there remains limited evidence that the Warfordsburg, Pennsylvania facility can sustain two full-time J-1 physicians or that such is/or was intended in view of the interpretation of eligible services noted by the employer. A better opportunity for using the Warfordsburg, Pennsylvania facility in line with intents is forthcoming since the employer has terminated one of the J-1 physicians, apparently over a salary dispute, effective November 28, 1994. If the remaining J-1 physician is assigned full time to the Warfordsburg clinic, the

potential for accomplishment of program objectives would be increased. However, since the employer plans to continue operating the three clinics, the full-time staffing of Warfordsburg does not appear possible.

### Recommendations

We recommend that Pediatric and Adolescent Medicine be notified of the need to improve compliance with its agreement to provide 40 hours of on-site primary care at the Warfordsburg, Pennsylvania HPSA site and that the remaining J-1 physician be assigned full time to this location. Also, the employer should be notified of the need to promptly notify ARC and the state agency about changes or problems relative to J-1 physician use. For the future, ARC should consider debarring the employer from participation in the J-1 program for 2 years subsequent to completion of current J-1 2-year periods. In the absence of debarment, ARC should closely review any new J-1 applications sponsored by Pediatric and Adolescent Medicine to ensure the need for, and viability of, full-time service at a HPSA. Also, verification of compliance with program requirements for the remaining periods of current J-1 eligibility should be a requisite for future approvals; and employer certifications of intended use of J-1s should be required.

### OTHER

#### Employment Contract

Although supporting justifications and certifications specify service at Warfordsburg, Pennsylvania, the employment contracts between Pediatric and Adolescent Medicine, P.A. and the J-1 physicians do not indicate a place of employment.

The applicable section states:

"2. Duties:

The Employee shall:

(a) Use his very best ability to provide medical services on behalf of the Corporation to and for such persons other organizations that the Corporation may designate, and serve in such offices and capacities as the Corporation designates, provided the same do not violate law or ethics of the medical profession.

(b) Devote his full time, energy and skill to the performance of professional services for the Corporation, and at such place or places and on such days and hours as the Corporation may direct."

The language noted indicates a wider latitude with respect to possible work locations than noted in the sponsors supporting documentation and is an accurate reflection of actual use of the J-1 physicians.

We believe it is reasonable to expect employer/physician contract language to be consistent with the basis of waiver approval and as such should, as a minimum, cite the primary work location of the J-1 physician. Thus, we recommend the ARC require identification of the primary HPSA work location in employment contracts.

#### Noncompete clause

The noncompete clause in the employer/physicians contracts is noted below.

"Employee shall either:

(1) For a period of twenty-one (21) months from the date of termination of employment, in no way participate, either personally or financially, directly or indirectly, in competition with the Corporation or any division or subsidiary thereof, or in any other way, practice medicine within a radius of forty-five (45) miles of Hagerstown, Maryland, and/or other locations where the Corporation maintains an office at the time of termination. This restriction excludes Winchester, VA, areas east of Clarksburg, MD, east of New Market, MD, and north of Scotland, PA. Furthermore, the radius is reduced to thirty-five (35) miles if the termination is within three (3) months from the date of initial employment.

Or,

(2) Within thirty (30) days of the date of termination, pay the Corporation the sum of One Hundred Thousand Dollars (\$100,000.00) in liquidated damages, which the parties agree the Corporation shall sustain from a loss of services to treat the Corporation's patient base, loss of patient base, training and recruitment expense of the Employee and his replacement, disruption of staff, and for other nonspecifiable items of loss."

The employer strongly believed that noncompete clauses were necessary to deal with competition and to help recoup investments.

Our position is that, despite the employer's arguments, noncompete clauses that prevent J-1 physicians from remaining in a HPSA area and working independently or for another employer upon completion of the 2-year waiver requirement substantially defeat the program goal of establishing permanent health care service in HPSAs. Although most of the physicians contacted during our review indicated some interest in remaining at their HPSA site, none indicated an interest in continuing to work for their J-1 employer. This occurred because of the potential for higher earnings from independent practice or dissatisfaction with their J-1 employer, or both. Thus, the J-1 physicians indicated that the noncompete clause and the related monetary damages would require them to leave the area after completion of their 2-year waiver period.



Although recoupment of investment is a reasonable expectation , the noncompete clauses prevent J-1 physicians from ever practicing in the local area without a substantial break in service. For example, noncompete clauses apply to a time period after termination of employment. As such, a J-1 could work for the J-1 employer for 5 years and still be prohibited from working in the HPSA for another 18 to 24 months. Under such a clause, there is no incentive for J-1 physicians to remain in the area.

This review provided an example of the adverse effects of the noncompete clause. One J-1 physician has been terminated effective November 28, 1994, and is seeking employment in an Appalachian HPSA. As the attached correspondence (Exhibit O) notes, the noncompete clause and the refusal of the J-1 employer to waive the clause, resulted in a rejection by a perspective employer.


In its letter to the J-1 physician, the employer states: "We believe that the J-1 program is an appropriate mechanism to provide resources for Health Personnel Shortage Areas (HPSA's) and that individual private physician contracts should not serve to restrict access of physicians to serve these designated HPSA's" We believe this statement very directly denotes the negative program impacts of noncompete clauses in J-1 physician employment agreements.

In conclusion, we believe program objectives need to be balanced against the potential effects on employers resulting from elimination of noncompete clauses if J-1s remain at HPSA locations., There may be instances where employer investments or the loss of patients resulting from a J-1 opening an independent practice are such that some reasonable extension of service is appropriate. However, we believe such instances can be handled on an exception basis since our survey has indicated that J-1 physicians, especially those who work for employers who do not waive the noncompete clauses, generate revenues far in excess of their salary. Also, as noted above, we do not agree that noncompete clauses should be in perpetuity.

#### PROGRAM RECOMMENDATION

Therefore, we recommend ARC revise J-1 procedures to prohibit noncompete clauses in employer/J-1 physician contracts that prohibit the J-1 physician from remaining in the HPSA after completion of the 2-year waiver period, unless such a clause is specifically justified and approved by ARC or the state agency.

We will follow up with ARC within 60 days to determine the status of actions on our recommendations.

  
Hubert N. Sparks  
Inspector General

Attachments

**PEDIATRIC and ADOLESCENT MEDICINE, P.A.**

*J. Ramsay Farah, M.D., MPH., F.A.A.P., F.A.C.P.M.*

*Maria C. Younce, M.D., Pediatric Neurology*

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Barbara Douglas  
Deputy Secretary of Community Health  
Pennsylvania Department of Health  
Room 709  
Health & Welfare Building  
P.O. Box 90  
Harrisburg, PA 17108

January 18, 1993

RE: Waiver Request Letter  
HPSA/J-1 Visa

Dear Ms. Douglas:

Pediatric & Adolescent Medicine, P.A. will be establishing a clinic that will be recognized as the "Warfordsburg Medical Center" and will be located in Bethel Township, Warfordsburg, Southern Fulton County, Pennsylvania. As you know, Bethel Township is designated as a Health Professional Shortage Area in the Appalachian Region. There are no "physicians" in Southern Fulton County (Warfordsburg and Needmore) moreover, there are no pediatricians in all of Fulton County. In the neighboring County of Franklin, other than the pediatricians in Chambersburg, PA, there are no pediatricians in Greencastle, Waynesboro, Marion, Quincy, State Line, Mont Alto, nor in Cascade-Highfield.

Pediatric & Adolescent Medicine, P.A., with its main office in Hagerstown, Maryland, has been servicing patients travelling from Fulton and Franklin Counties. Four years ago we had an office in Waynesboro that had to be closed down due to the shortage of

pediatricians to staff it. The major difficulty is in our capability of recruiting pediatricians to the area. As you well know, distribution of Health Care Providers remains a national concern. It is our hope that by setting up the Clinic in Warfordsburg, that we will be able to attract qualified physicians who will, in addition to their obligations for the 40 hours at the shortage site, be able to supplement our service. That will allow us to serve the Fulton County Hospital at McConnellsburg and the Waynesboro Hospital of Franklin County with Pediatric services that are now not available. Waynesboro Hospital has approximately 500 deliveries per year. Fulton County Hospital has 125 deliveries per year, and yet, no Pediatric Services. The Warfordsburg schools serve 900 children. The citizens of these communities have to travel great distances and indeed cross state lines to Morgan and Berkeley Counties in West Virginia and Washington County of Maryland for their Health Care. With the financial review and affordability considerations, a free standing clinic is not economically viable. The supplemental coverage of neighboring hospitals, will however, tip the endeavor to an operation hopefully commanding economic viability at standards of care that our citizens deserve and expect. This will be achieved with no Federal grants. The major advantage to our Corporation is our capability with such a project to attract qualified J-1 Visa applicants who will be more likely to stay with adequate on-call coverage, for a reasonable personal life, and a fair salary. Other, more independent, physicians continue to settle in Metropolitan areas

with advanced paying jobs, and to date, persist to be unenticeable to country living.

It is anticipated that I will need 2 Pediatricians. To date, we have successfully contracted with Dr. . . . and recruited Dr. . . . (contract in progress) under the same strategy, both J-1 Visa applicants requiring the HPSA/Appalachian waiver.

Pediatric & Adolescent Medicine, P.A. will sponsor, be in charge and responsible for all the administrative responsibilities of the Warfordsburg Medical Center and these Physicians' professional activities. J. Ramsay Farah, President of the Corporation, is licensed in both Maryland and Pennsylvania. We will not be seeking any State grants, but will however be participating and cooperating with various insurance programs and will be seeking close interaction with the neighboring hospitals and our offices in Washington County.

During the next 6 months, communications could be made with us as follows:

PHONE: (301) 733-7667 or (301) 733-7669

FAX: (301) 733-7665

MAIL: P.O. Box 222  
Warfordsburg, PA 17267-0222

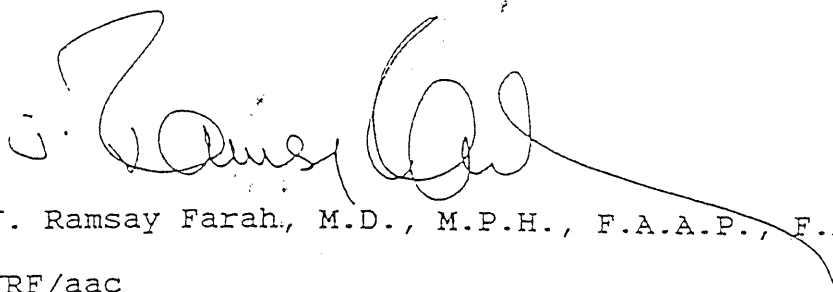
HAGERSTOWN OFFICE: 101 King Street  
Hagerstown, MD 21740

CORPORATE OFFICE: 1003 The Terrace  
Hagerstown, MD 21742

Once the Warfordsburg Clinic doors are open and the staff hired,  
the address change would be promptly forwarded.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Ramsay Farah". The signature is written in dark ink and extends across the width of the page, with a long horizontal flourish at the end.

J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.

JRF/aac

J-1 Visa Waiver Policy Affidavit and Agreement

I,                      M.D., being duly sworn, hereby request the Federal co-Chairman of the Appalachian Regional Commission to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

1. I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless the Appalachian Regional Commission (ARC), the Federal Co-Chairman, any and all ARC employees, agents and assigns from any action or lack of action made in connection with this request.
2. I further understand and acknowledge that the entire basis for the consideration of my request is the ARC Federal Co-Chairman's voluntary policy and desire to improve the availability of primary medical care in regions designated by the United States Public Health Service (USPHS) as Health Professions Shortage Areas (HPSA) in Appalachia.
3. I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical care services to patients, including the indigent, for minimum of forty (40) hours per week within a USPHS designated HPSA located in the ARC jurisdiction. Such service shall commence not later than six (6) months after I receive notification of approval by both the United States Immigration and Naturalization Service (INS) and the United States Department of Labor and shall continue for a period of at least two (2) years.
4. I agree to incorporate all the terms of this J-1 Visa Waiver Affidavit and Agreement into any and all employment agreements I enter pursuant to paragraph 3 and to include in each such agreement a liquidated damages clause, of not less than \$250,000 payable to the employer. This damages clause shall be activated by my termination of employment, initiated by my employer for cause or by me for any reason, only if my termination occurs before fulfilling the minimum two year service requirement.
5. I further agree that any employment agreement I enter pursuant to paragraph 3 shall not contain any provision which modifies or amends any of the terms of this J-1 Visa Waiver Affidavit and Agreement.
6. I also agree to incorporate all terms of this J-1 Visa Waiver Affidavit and Agreement into any employment agreement I enter pursuant to paragraph 3.
7. I understand and agree that my primary medical care services rendered pursuant to paragraph 3 shall be in a Medicare and Medicaid certified hospital of primary health care clinic which has an open, non-discriminatory admissions policy and that will accept medically indigent patients.

8. I have read and fully understand the "ARC Federal Co-Chairman's J-1 Visa Waiver Policy", a copy of which is attached hereto and is specifically incorporated by reference.
9. I expressly understand that this waiver of my foreign service requirement must ultimately be approved by the INS, and I agree to provide written notification of the specific location and nature of my practice to the ARC Federal Co-Chairman at the time I commence rendering services in the ARC jurisdiction and on a semi-annual basis thereafter.
10. I understand and acknowledge that if I willfully fail to comply with the terms of this J-1 Visa Waiver Affidavit and Agreement, the Office of the ARC Federal Co-Chairman will notify the INS and recommend deportation proceedings be instituted against me. Additionally, any and all other measures available to the Office of the ARC Federal Co-Chairman will be taken in the event of my non-compliance.

I declare under the penalties of perjury that the foregoing is true and correct.

\_\_\_\_\_

01-29-93  
Date

Subscribed and sworn before me  
this 29 day of January, 1993.

Linda Rosbruck  
Notary Public

1/29/93  
Date

My Commission expires: 7/7/94

**LINDA ROSBRUCK**  
Notary Public, State of New York  
No. 41-4865353  
Qualified in Queens County  
Commission Expires 7/7 1994

# PEDIATRIC and ADOLESCENT MEDICINE, P.A.

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## CERTIFICATION for PEDIATRIC & ADOLESCENT MEDICINE, P.A. On Behalf of DR. \_\_\_\_\_

PEDIATRIC & ADOLESCENT MEDICINE, P.A. CERTIFIES TO THE APPALACHIAN REGIONAL COMMISSION AS FOLLOWS, IN CONNECTION WITH THE REQUEST TO ARC TO GRANT A WAIVER RECOMMENDATION TO DR.

1. WE ACCEPT MEDICAID AND MEDICARE-ELIGIBLE PATIENTS, AS WELL AS MEDICALLY INDIGENT PATIENTS.
2. DR. \_\_\_\_\_ WILL PRACTICE PRIMARY HEALTH CARE AT LEAST FORTY HOURS PER WEEK IN A HPSA.
3. WARFORDSBURG MEDICAL CENTER IS IN A DESIGNATED HPSA.  
SITE: HCR 80 BOX 14, WARFORDSBURG, PA 17267;  
MAILING ADDRESS: P.O. BOX 222 WARFORDSBURG, PA 17267-0222
4. PEDIATRIC & ADOLESCENT MEDICINE, P.A. IS THE PARENT CORPORATION WHO HAS ESTABLISHED AND IS COMPLETELY RESPONSIBLE FOR THE OPERATION OF WARFORDSBURG MEDICAL CENTER. J. RAMSAY FARAH, M.D., M.P.H., F.A.A.P., F.A.C.P.M., PRESIDENT OF PEDIATRIC & ADOLESCENT MEDICINE, P.A., IS LICENSED IN THE COMMONWEALTH OF PENNSYLVANIA.
5. PEDIATRIC & ADOLESCENT MEDICINE, P.A. HAS BEEN ENGAGED IN EXTENSIVE RECRUITMENT EFFORTS INCLUDING CLASSIFIED ADS AND NO QUALIFIED AMERICAN WORKERS HAVE RESPONDED.
6. A LABOR CERTIFICATION APPLICATION FOR DR. \_\_\_\_\_ SPONSORED BY PEDIATRIC & ADOLESCENT MEDICINE, P.A. IS BEING PROCESSED AND IS ANTICIPATED TO BE APPROVED IN THE NEAR FUTURE.

*J. Ramsay Farah*  
J. RAMSAY FARAH, M.D.  
PRESIDENT

9.23.93  
DATE



PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J. Ramsay Farah, M.D., MPH., F.A.A.P., F.A.C.P.M.*

*Maria C. Younes, M.D., Pediatric Neurology*

101 King Street  
Hagerstown, MD 21740-5798

Phone: (301) 733-7667 or (301) 733-7666  
Fax: (301) 733-7665

I agree to all terms and conditions of the above certification and agree to practice primary care in Warfordsburg, Pennsylvania, forty hours per week.

\_\_\_\_\_

2-24-93

DATE

# PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.*

*Maria C. Younis, M.D., Pediatric Neurology*

101 King Street  
Hagerstown, MD 21740-5798

Phone: (301) 733-7667 or (301) 733-7668  
Fax: (301) 733-7665

Jacqueline L. Phillips  
Federal Co-Chairman  
Appalachian Regional Commission  
1666 Connecticut Avenue, N.W.  
Washington, D.C. 20235

March 16, 1993

RE: Waiver Request Letter, HPSA/J-1 Visa  
M.D.  
M.D.

Dear Ms. Phillips:

Pediatric & Adolescent Medicine, P.A. will be establishing a clinic that will be recognized as that.

WARFORDSBURG MEDICAL CENTER  
HCR 80 Box 14  
Warfordsburg, PA 17267

located in Bethel Township, Southern Fulton County, Pennsylvania. As you know, Bethel Township is designated as a Health Professional Shortage Area in the Appalachian Region. There are no "physicians" in Southern Fulton County (Warfordsburg and Needmore) moreover, there are no pediatricians in all of Fulton County. The service area encompasses 435 square miles and has a population of 13,837.

Pediatric & Adolescent Medicine, P.A., with its main office in Hagerstown, Maryland, has been servicing patients travelling from Fulton and Franklin Counties. Patients travel over 40 miles. Although Franklin County is not a designated HPSA, there are no

primary care pediatricians in Greencastle, Waynesboro, Marion, Quincy, State Line, Mont Alto nor in Cascade-Highfield. Four years ago we had an office in Waynesboro that had to be closed down due to the shortage of pediatricians to staff it. The major difficulty is in our capability of recruiting pediatricians to the area. As you well know, distribution of Health Care Providers remains a national concern. It is our hope that by setting up the clinic in Warfordsburg, that we will be able to attract qualified physicians who will, in addition to their obligations for the 40 hours at the shortage site, be able to supplement our services. That will allow us to serve the Fulton County Hospital at McConnellsburg and the Waynesboro Hospital of Franklin County with pediatric services that are now not available. Waynesboro Hospital has approximately 500 deliveries per year. Fulton County Hospital has 125 deliveries per year, and yet, no primary care pediatric services. The Warfordsburg schools serve 900 children. The citizens of these communities have to travel great distances and indeed cross state lines to Morgan and Berkeley Counties in West Virginia and Washington County in Maryland for their health care. Patients with Pennsylvania medical assistance and the medically indigent obviously have the additional access burden.

To date, U.S. pediatricians persist to be unenticeable to "country" living.

It is anticipated that I will need 2 pediatricians and a family physician. We have successfully contracted with Dr.

and Dr.

to serve in this clinic. Pediatric

& Adolescent Medicine, P.A. will sponsor, be in charge, and be responsible for the global administration of the Warfordsburg Medical Center and these physicians' professional activities. J. Ramsay Farah, President of the Corporation, is licensed in both Maryland and Pennsylvania. We will not be seeking any State grants, but will be participating and cooperating with various insurance programs, HMO's, medical assistance, etc. and will be seeking close interaction with the neighboring hospitals and our offices in Washington County.

We anticipate a commencement date of July 1, 1993. The phone numbers will then be:

(717) 294-6937 and (717) 294-6969

During the next 3 months, however, communications can be made with us as follows:

PHONE: (301) 733-7667 or (301) 733-7669

FAX: (301) 733-7665

For express, certified, or registered mail:

HAGERSTOWN OFFICE: 101 King Street  
Hagerstown, MD 21740

For official and billing mail:

CORPORATE OFFICE: 1003 The Terrace  
Hagerstown, MD 21742

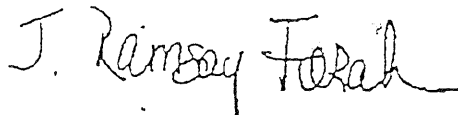
For non-critical mail:

P.O. Box 222  
Warfordsburg, PA 17267-0222

Once the Warfordsburg Clinic site remodeling is concluded, the doors will open, the staff hired, and the changes would be promptly forwarded.

Thank you for your assistance.

Sincerely yours,

A handwritten signature in cursive script that reads "J. Ramsay Farah". The signature is written in dark ink and is positioned above the typed name and title.

J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.  
President Pediatric & Adolescent Medicine, P.A.

JRF/aac

MAY-14-93 FRI 11:25 ?

FAX NO. 1

Exhibit F  
P.02

MAY-14-93 FRI 8:33

# PEDIATRIC and ADOLESCENT MEDICINE, P.A.

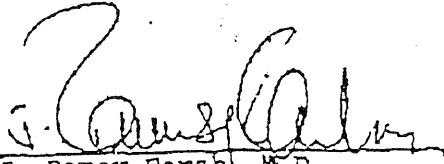
*J. Ramsy Farah, M.D. M.D. F.A.P.S. F.A.C.P.M.*

101 King Street  
Hagerstown, Maryland 21740-5798

Phone: (301) 733-7567 or 733-7888

We acknowledge that all of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement have been incorporated into the employment agreement with \_\_\_\_\_.

We further acknowledge that the employment agreement does not modify or amend any of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement.



J. Ramsy Farah, M.D.  
President

5.14.93

Date



**APPALACHIAN REGIONAL COMMISSION**

OFFICE OF THE  
FEDERAL CO-CHAIRMAN  
1666 Connecticut Avenue, N.W.  
Washington, D.C. 20235  
202/673-7856

May 21, 1993

Ms. Jean Perelli  
Waiver Review Officer  
Waiver Review Branch  
United States Information Agency  
400 6th Street, S.W.  
Room 3030  
Washington, D.C. 20547

Dear Ms. Perelli:

This letter recommends that your agency submit a request to the Attorney General for a waiver of the two-year foreign residency requirement for Dr. . . . Dr. . . . is presently awaiting waiver of foreign residence. Dr. . . . is prepared to provide primary health care services at Warfordsburg Medical Center in Warfordsburg, Fulton County, Bethel Township, Pennsylvania. Such waiver is in the public interest. Requiring Dr. . . . to return home would be detrimental to efforts and activities of the State of Pennsylvania, the Department of Health and Human Services, and the Appalachian Regional Commission (ARC) to provide quality health care for the people of the Appalachian Region.

As you may recall, the ARC is a unique Federal-State partnership organization, created by the Congress in the Appalachian Regional Development Act of 1965. The Commission is composed of the 13 Governors of the participating States and a Federal representative, the Federal Co-Chairman, a position which I now hold. The statement of purpose of the Appalachian Regional Development Act is "to assist the region in meeting its specific problems, to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis." The statement of purpose also expressly recognized the need for "the provision of essential health, education, and other public services." Thus, while the Commission, strictly speaking, is not a federal agency, as the term is generally used in federal statutes and regulations, the purpose of the Appalachian Act is

such, that--given the apparent objective of the procedures in 22 CFR 514.31--it is entirely consistent with your agency's responsibilities for me to bring this particular case to your attention and to seek your favorable consideration and cooperation in obtaining a waiver for Dr. from the Attorney General.

Dr. is presently awaiting waiver of foreign residence. He has accepted employment with Warfordsburg Medical Center in Warfordsburg, Fulton County, Bethel Township, Pennsylvania. He has agreed to provide medical services in Appalachia, at least for two years, and more likely will stay longer. His presence will enable the community to obtain specialized and primary health-care services. Without a person with his skills and training the level of care available to the people of Appalachia would be significantly less.

The Appalachian Regional Development Program has given priority to the development of health and medical resources and services for the people who live in Appalachia. The Region, in general, suffers from a critical shortage of health manpower in both the primary-health care and hospital-based specialties, and for these reasons, we believe the waiver of the two-year foreign residence requirement for Dr. Ramirez would be in the public interest and the compliance with the two-year residence requirement would clearly be detrimental to programs undertaken under the Appalachian Regional Development Act, by the State of Pennsylvania, and the Department of Health and Human Services.

Sincerely,



JACQUELINE L. PHILLIPS  
Federal Co-Chairman

Enclosure



PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.*

*Maria C. Youness, M.D., Pediatric Neurology*

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Jacqueline L. Phillips  
Federal Co-Chairman  
Appalachian Regional Commission  
1666 Connecticut Avenue, N.W.  
Washington, D.C. 20235

March 16, 1993

RE: Waiver Request Letter, HPSA/J-1 Visa  
, M.D.

Dear Ms. Phillips:

Pediatric & Adolescent Medicine, P.A. will be establishing a clinic that will be recognized as the:

WARFORDSBURG MEDICAL CENTER  
HCR 80 Box 14  
Warfordsburg, PA 17267

located in Bethel Township, Southern Fulton County, Pennsylvania. As you know, Bethel Township is designated as a Health Professional Shortage Area in the Appalachian Region. There are no "physicians" in Southern Fulton County (Warfordsburg and Needmore) moreover, there are no pediatricians in all of Fulton County. The service area encompasses 435 square miles and has a population of 13,837.

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Quincy, State Line, Mont Alto nor in Cascade-Highfield. Four years ago we had an office in Waynesboro that had to be closed down due to the shortage of pediatricians to staff it. The major difficulty is in our capability of recruiting pediatricians to the area. As you well know, distribution of Health Care Providers remains a national concern. It is our hope that by setting up the clinic in Warfordsburg, that we will be able to attract qualified physicians who will, in addition to their obligations for the 40 hours at the shortage site, be able to supplement our services. That will allow us to serve the Fulton County Hospital at McConnellsburg and the Waynesboro Hospital of Franklin County with pediatric services that are now not available. Waynesboro Hospital has approximately 500 deliveries per year. Fulton County Hospital has 125 deliveries per year, and yet, no primary care pediatric services. The Warfordsburg schools serve 900 children. The citizens of these communities have to travel great distances and indeed cross state lines to Morgan and Berkeley Counties in West Virginia and Washington County in Maryland for their health care. Patients with Pennsylvania medical assistance and the medically indigent obviously have the additional access burden.

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It is anticipated that I will need 2 pediatricians and a family physician. We have successfully contracted with Dr.

and Dr. to serve in this clinic. Pediatric & Adolescent Medicine, P.A. will sponsor, be in charge, and be

responsible for the global administration of the Warfordsburg Medical Center and these physicians' professional activities. J. Ramsay Farah, President of the Corporation, is licensed in both Maryland and Pennsylvania. We will not be seeking any State grants, but will be participating and cooperating with various insurance programs, HMO's, medical assistance, etc. and will be seeking close interaction with the neighboring hospitals and our offices in Washington County.

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HAGERSTOWN OFFICE: 101 King Street  
Hagerstown, MD 21740

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Hagerstown, MD 21742

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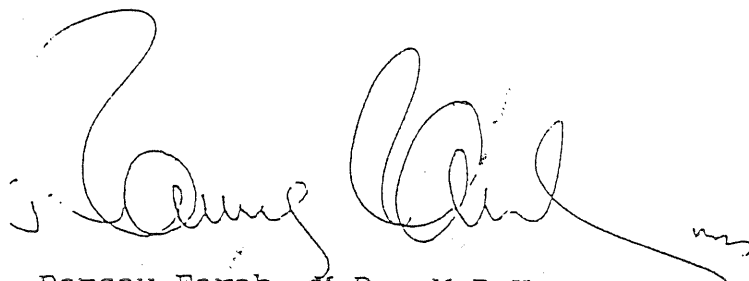
P.O. Box 222  
Warfordsburg, PA 17267-0222

Once the Warfordsburg Clinic site remodeling is concluded, the

doors will open, the staff hired, and the changes would be promptly forwarded.

Thank you for your assistance.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "J. Ramsay Farah". The signature is fluid and extends across the width of the page.

J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.  
President Pediatric & Adolescent Medicine, P.A.

JRF/aac

J-1 Visa Waiver Policy Affidavit and Agreement

I, \_\_\_\_\_ M.D., being duly sworn, hereby request the Federal co-Chairman of the Appalachian Regional Commission to review my application for the purpose of recommending waiver of the foreign residency requirement set forth in my J-1 Visa, pursuant to the terms and conditions as follows:

1. I understand and acknowledge that the review of this request is discretionary and that in the event a decision is made not to grant my request, I hold harmless the Appalachian Regional Commission (ARC), the Federal Co-Chairman, any and all ARC employees, agents and assigns from any action or lack of action made in connection with this request.
2. I further understand and acknowledge that the entire basis for the consideration of my request is the ARC Federal Co-Chairman's voluntary policy and desire to improve the availability of primary medical care in regions designated by the United States Public Health Service (USPHS) as Health Professions Shortage Areas (HPSA) in Appalachia.
3. I understand and agree that in consideration for a waiver, which eventually may or may not be granted, I shall render primary medical care services to patients, including the indigent, for minimum of forty (40) hours per week within a USPHS designated HPSA located in the ARC jurisdiction. Such service shall commence not later than six (6) months after I receive notification of approval by both the United States Immigration and Naturalization Service (INS) and the United States Department of Labor and shall continue for a period of at least two (2) years.
4. I agree to incorporate all the terms of this J-1 Visa Waiver Affidavit and Agreement into any and all employment agreements I enter pursuant to paragraph 3 and to include in each such agreement a liquidated damages clause, of not less than \$250,000 payable to the employer. This damages clause shall be activated by my termination of employment, initiated by my employer for cause or by me for any reason, only if my termination occurs before fulfilling the minimum two year service requirement.
5. I further agree that any employment agreement I enter pursuant to paragraph 3 shall not contain any provision which modifies or amends any of the terms of this J-1 Visa Waiver Affidavit and Agreement.
6. I also agree to incorporate all terms of this J-1 Visa Waiver Affidavit and Agreement into any employment agreement I enter pursuant to paragraph 3.
7. I understand and agree that my primary medical care services rendered pursuant to paragraph 3 shall be in a Medicare and Medicaid certified hospital of primary health care clinic which has an open, non-discriminatory admissions policy and that will accept medically indigent patients.

8. I have read and fully understand the "ARC Federal Co-Chairman's J-1 Visa Waiver Policy", a copy of which is attached hereto and is specifically incorporated by reference.
9. I expressly understand that this waiver of my foreign service requirement must ultimately be approved by the INS, and I agree to provide written notification of the specific location and nature of my practice to the ARC Federal Co-Chairman at the time I commence rendering services in the ARC jurisdiction and on a semi-annual basis thereafter.
10. I understand and acknowledge that if I willfully fail to comply with the terms of this J-1 Visa Waiver Affidavit and Agreement, the Office of the ARC Federal Co-Chairman will notify the INS and recommend deportation proceedings be instituted against me. Additionally, any and all other measures available to the Office of the ARC Federal Co-Chairman will be taken in the event of my non-compliance.

I declare under the penalties of perjury that the foregoing is true and correct.

\_\_\_\_\_

3/23/93  
Date

Subscribed and sworn before me  
this 23 day of March, 1993.

Linda Rosbruck  
Notary Public

3/23/93  
Date

My Commission expires: 7/7/94

**LINDA ROSBRUCK**  
Notary Public, State of New York  
No. 41-4865353  
Qualified in Queens County  
Commission Expires 7/7 1994

# PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J. Ramsay Farah, M.D., MPH., F.A.A.P., F.A.C.P.M.*

*Maria C. Younes, M.D., Pediatric Neurology*

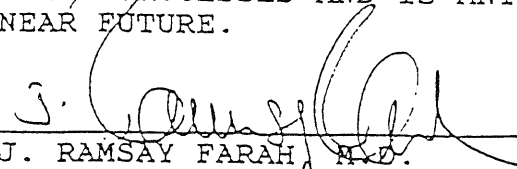
101 King Street  
Hagerstown, MD 21740-5798

Phone: (301) 733-7667 or (301) 733-7666  
Fax: (301) 733-7665

## CERTIFICATION for PEDIATRIC & ADOLESCENT MEDICINE, P.A. On Behalf of DR. \_\_\_\_\_

PEDIATRIC & ADOLESCENT MEDICINE, P.A. CERTIFIES TO THE APPALACHIAN REGIONAL COMMISSION AS FOLLOWS, IN CONNECTION WITH THE REQUEST TO ARC TO GRANT A WAIVER RECOMMENDATION TO DR.

1. WE ACCEPT MEDICAID AND MEDICARE-ELIGIBLE PATIENTS, AS WELL AS MEDICALLY INDIGENT PATIENTS.
2. DR. \_\_\_\_\_ WILL PRACTICE PRIMARY HEALTH CARE AT LEAST FORTY HOURS PER WEEK IN A HPSA.
3. WARFORDSBURG MEDICAL CENTER IS IN A DESIGNATED HPSA.  
SITE: HCR 80 BOX 14, WARFORDSBURG, PA 17267;  
MAILING ADDRESS: P.O. BOX 222 WARFORDSBURG, PA 17267-0222  
TELEPHONE #'S AS OF JULY 1, 1993: (717) 294 - 6969  
(717) 294 - 6937
4. PEDIATRIC & ADOLESCENT MEDICINE, P.A. IS THE PARENT CORPORATION WHO HAS ESTABLISHED AND IS COMPLETELY RESPONSIBLE FOR THE OPERATION OF WARFORDSBURG MEDICAL CENTER. J. RAMSAY FARAH, M.D., M.P.H., F.A.A.P., F.A.C.P.M., PRESIDENT OF PEDIATRIC & ADOLESCENT MEDICINE, P.A., IS LICENSED IN THE COMMONWEALTH OF PENNSYLVANIA.
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J. RAMSAY FARAH, M.D.  
PRESIDENT

3.5.93  
DATE

# PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J. Ramsay Farah, M.D., MPH., F.A.A.P., F.A.C.P.M.*

*Maria C. Younes, M.D., Pediatric Neurology*

101 King Street  
Hagerstown, MD 21740-5798

Phone: (301) 733-7667 or (301) 733-7666  
Fax: (301) 733-7665

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\_\_\_\_\_

3 - 5 - 93

DATE



RECEIVED 05/26 13:37 1993 AT  
MAY-26-93 WED 14:15  
MAY-26-93 WED 12:03

1234567 PAGE 3 (PRINTED PAGE 3) ]  
FAX NO. 1

Exhibit E  
P. 02

## PEDIATRIC and ADOLESCENT MEDICINE, P.A.

*J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.*


*Maria C. Young, M.D., Pediatric Neurology*

101 King Street  
Hagerstown, MD 21740-5790

Phone: (301) 733-7867 or (301) 723-7666  
Fax: (301) 733-7865

We acknowledge that all of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement have been incorporated into the employment agreement with Dr.

We further acknowledge that the employment agreement does not modify or amend any of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement.

  
J. Ramsay Farah, M.D.  
President

*May 26, 1993*  
Date



**APPALACHIAN REGIONAL COMMISSION**

OFFICE OF THE  
FEDERAL CO-CHAIRMAN  
1666 Connecticut Avenue, N.W.  
Washington, D.C. 20235  
202/673-7856

May 27, 1993

Ms. Jean Perelli  
Waiver Review Officer  
Waiver Review Branch  
United States Information Agency  
400 6th Street, S.W.  
Room 3030  
Washington, D.C. 20547

Dear Ms. Perelli:

This letter recommends that your agency submit a request to the Attorney General for a waiver of the two-year foreign residency requirement for Dr. . . . . Dr. . . . . is presently awaiting waiver of foreign residence. Dr. . . . . is prepared to provide primary health care services at Warfordsburg Medical Center in Warfordsburg, Bethel Township, Fulton County, Pennsylvania. Such waiver is in the public interest. Requiring Dr. . . . . to return home would be detrimental to efforts and activities of the State of Pennsylvania, the Department of Health and Human Services, and the Appalachian Regional Commission (ARC) to provide quality health care for the people of the Appalachian Region.

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Sincerely,

*Jacqueline L. Phillips RKA*

JACQUELINE L. PHILLIPS  
Federal Co-Chairman

Enclosure

INFORMATION REQUEST FOR EMPLOYERS OF  
J-1 WAIVER PROGRAM PHYSICIANS

Exhibit N

Name of Physician: \_\_\_\_\_, M.D.

Name and Address of Employer: Pediatric & Adolescent Medicine, P.A.  
Warfordsburg Medical Center  
Rt. 2, Box 95  
Warfordsburg, PA 17267

Date of J-1 Waiver Approval:  
Commencement date: July 1, 1993

=====

REQUESTED INFORMATION

Is physician currently employed by your facility?  Yes  No

What is the type of medical practice? Pediatric and Adolescent Medicine

How many hours of primary care (not including on-call or travel time) are/were provided weekly? Over 40 hours

At what location(s) is/was the primary care provided? (Please note addresses and average weekly direct hours at locations)

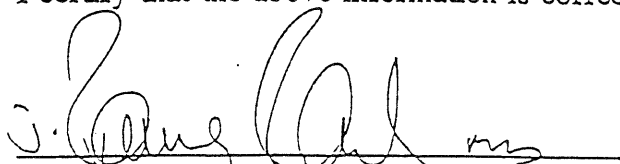
101 King Street Hagerstown, MD 21740	30 hours	Rt. 2, Box 95 Warfordsburg, PA 17267	30 hours
9 St. Paul Street Boonsboro, MD 21713	4 hours		

Comments (including information on other locations or practice of subspecialties since date of waiver approval)

Although this physician is trained in endocrinology, he has not practiced his profession as a subspecialist. All the work and charges were done in accord with general pediatric services. The problems we met include the following:

(see attached)

I certify that the above information is correct to the best of my knowledge.

  
\_\_\_\_\_  
Employer's Signature

\_\_\_\_\_  
President

\_\_\_\_\_  
Title

Return to: Appalachian Regional Commission  
1666 Connecticut Ave, NW  
Washington, DC 20235

Fax No.: (202) 884-7682

## Information Request for Employers of J-1 Waiver Program Physicians


: 1, M.D.

Comments: (continued)

1) For the first 3 months of his employment, I did not feel that he was ready to handle "private" practice as such (billing, charges, local resources, HMO insurance requirements, type of client), and get acclimated to the community. Therefore, most of his hours were stationed at our main office at 101 King Street in Hagerstown, MD. Thence, the computation of hours as noted above. Subsequent to that, we had a technical problem with our office at HCR 80, Box 14, Warfordsburg, PA 17267. namely, Joe Myers, the owner of the building, was put in jail for tax evasion. Thence, we lost our capabilities to maintain that location, considering that our office was rented quarters from that landlord. The operation was, there-fore, delayed for over 4 months, during which we were searching for a modular home to convert to an office, to place on the land plot near the parking lot of that same office location. However, we had to go through a handicap Board of Zoning appeal to get the necessary waivers, considering that the modular unit was not appropriately handicap accessible. It was not until our site at Warfordsburg Medical Center's location on Rt. 2, Box 95, that we were capable of restarting our operation optimally. We do not anticipate any problems with the provision of care as we are now working at that site. It is essential for you to understand that our clients were continuously serviced from the other office locations to avoid any interruption in their services, but, needless to say, the operation was suboptimal for this extended period of time. This physician is available and the office premises are ready to maintain the routine operation in this Health Professional Shortage Area, namely Southern Fulton County.

If I can be of any further assistance, please do not hesitate to let me know.

Sincerely,



J. Ramsay Farah, M.D., M.P.H., F.A.A.P., F.A.C.P.M.

Date: October 5, 1994



December 6, 1994

MEMORANDUM FOR       The Federal Co-Chairman  
                                  ARC General Counsel

SUBJECT:                 J-1 Waiver Program--Pediatric and Adolescent Medicine,  
                                  Hagerstown, Maryland; OIG Report 95-5(H)

Enclosed is a copy of the subject report that reflects noncompliance with J-1 waiver provisions requiring J-1 physicians to practice primarily at the approved HPSA location. We attributed the condition primarily to employer failure to provide a work location in a HPSA during the first year of the J-1 period.

In the subject case, the clinic, intended to be opened at Warfordsburg, PA, around July 1, 1993, and staffed by two J-1 physicians, was not opened until August 1994; and the J-1 physicians worked primarily at the main clinic in Hagerstown, Maryland, a non-HPSA, during that period. The opening of the clinic has not substantially changed the situation since each J-1 physician spends a maximum of 8 hours per week at the Warfordsburg, Pennsylvania site.


The employer cited many reasons for the delayed clinic opening and agreed to provide us information about state and local officials and private parties he contacted in attempts to start up a clinic. However, 5 weeks have passed and no verifiable information identifying specific efforts or contacts has been received. Also, the employer did not notify the state agency or ARC of the delayed service to the HPSA and did not respond to the ARC July 1994 questionnaire.

As in other cases, the employer believed that there was no program violation since the Hagerstown, Maryland clinic served patients from HPSAs, including Fulton County, Pennsylvania.

We do not agree with this position since Hagerstown, Maryland is not a HPSA; and we were not provided evidence of an insufficient number of physicians in Hagerstown to treat rural residents. Also, the sponsors supporting documentation for the J-1 waivers cited 40 hours of service weekly at Warfordsburg, Pennsylvania, as the basis for approval of waivers.

The physicians' names are available, but we have not included them in the report since the issues discussed relate primarily to employer actions.

Based on all the factors, including failure to notify state or ARC officials about the changed condition and failure to respond to an ARC inquiry prior to our involvement, our recommendations include ARC consideration of debarring the employer from participation in the J-1 program for 2 years subsequent to the completion of current J-1s' waiver periods.

  
Hubert N. Sparks  
Inspector General

Enclosure