



## REPORT OF REVIEW

### J-1 WAIVER PROGRAM SOUTHERN WEST VIRGINIA CLINIC BECKLEY, WEST VIRGINIA

OIG Report 95-7(H)  
December 19, 1994

#### INTRODUCTION

This review was conducted as part of an overall evaluation of the J-1 Visa Waiver program and in response to concerns that physicians in the program were not complying with program requirements. Concerns included:

- o J-1 physicians allegedly were not providing the required 40 hours of primary care in Oak Hill, West Virginia, a designated Health Professional Shortage Area (HPSA). Rather, the physicians were practicing primary care and subspecialties in Beckley, West Virginia, a non-HPSA.
- o J-1 physicians allegedly were being used to compete unfairly with local physicians in Beckley.

#### FINDINGS

Our review disclosed violations of program requirements and intents.

- o Three physicians were not practicing 40 hours' primary care in a HPSA; and in one case, the physician spent most of his time in Beckley, a non-HPSA, and practiced his subspecialty about 50 percent of the time.
- o Since J-1 physicians were practicing in Beckley, it is reasonable, in our opinion, to conclude that the physicians were competing with medical practices in Beckley.
- o The physician is ultimately responsible for fulfilling the requirements for the J-1 Visa Waiver program. However, we found that the sponsor has significant control of the J-1 physicians' work locations and schedules. In addition, the sponsors--and not the physicians--generally completed the Physician Reporting Forms required by ARC and West Virginia. Although the physicians signed the forms, most of those interviewed did not remember ever seeing them.
- o There was a general consensus among physicians that there was not a shortage of primary care physicians in Oak Hill.

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- o In one case, a J-1 physician was terminated during our review and apparently left the area without completing the 2-year J-1 waiver period.
- o Some physician rescheduling had been initiated in July and August 1994 to increase time spent practicing in a HPSA.

## BACKGROUND

During our review, we noted that concerns about the implementation of the J-1 physician waiver program in the Oak Hill/Beckley area had created a climate of suspicion, distrust, and allegations in the area medical community, including and between J-1 physicians, employers/sponsors, and non-J-1 physicians. Continuation of this climate is not conducive, in our opinion, for effective implementation and acceptance of a program that relies primarily on the good faith efforts of all participants.

Under the J-1 Visa Waiver program, the requirement for foreign physicians to return to their home country for 2 years after they have completed medical training in the United States is waived if they agree to practice in areas of the Appalachian region that have been designated as HPSAs.

Under the program, the J-1 physicians are required to provide 40 hours of primary medical care per week in a HPSA. The majority of the J-1 physicians have a subspecialty and may practice this subspecialty after they meet the 40 hours per week primary care obligation.

When foreign physicians enter the program, they sign a J-1 Visa Waiver Policy Affidavit and Agreement acknowledging they are aware of the rules of the program, including the 40-hour primary care commitment to a HPSA. In addition, physicians and employers are presently required to report semiannually to the state of West Virginia information related to their medical practice, including their specific work locations and the hours assigned to that location.

Although ARC regulations do not require employer certifications about intended use of J-1 physicians, employers submit a statement of intended location and practice. We consider this statement to be an important aspect of program control and employer accountability and view substantive diversion from statements made to ARC in support of J-1 applications as a serious program violation.

ARC policies note that an employer's failure to comply in good faith with the waiver policy may be considered in the evaluation of other applications involving the same employer. Also, the J-1 Visa Waiver Policy Affidavit and Agreement signed by the physician includes an acknowledgment that willful failure to comply with terms of the agreement would result in ARC notifying INS and recommending that deportation proceedings be instituted against the physician.

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; but ARC retains the authority to act on waiver requests and to ensure compliance with program objectives and requirements.

Although we believe that hours of service referred to actual medical practice as opposed to on-call time, some employers/sponsors noted that, prior to June 1994, there was room for some interpretation as to how the J-1 program was to be implemented, particularly with respect to the 40-hour primary care commitment. Thus, sponsors apparently used the most favorable interpretation and counted the physicians' travel time and on-call time as part of their 40 hours' primary care. However, during June 1994, West Virginia notified its sponsors that travel time and on-call time could not be counted toward the J-1 physicians' 40 hours of primary care.

Oak Hill, West Virginia, is designated a HPSA by the United States Public Health Service. It is located about 10 miles north of Beckley, West Virginia, which is a non-HPSA. As of our review, there were approximately 17 active J-1 physicians that had been approved to provide 40 hours per week of primary medical care at Oak Hill. These physicians generally had subspecialties and admitted patients to Beckley and Oak Hill hospitals.

As of our field work, the Southern West Virginia Clinic (SWVC) employed five J-1 physicians, three of whom noted subspecialties in addition to internal medicine. A sixth J-1 had completed the 2-year waiver period just prior to our field work; and a seventh J-1 had been terminated effective September 1, 1994.

#### OBJECTIVE

To determine compliance with ARC J-1 program requirements that physicians perform 40 hours weekly of primary care for 2 years in an Appalachian HPSA.

#### METHODOLOGY

We conducted over 30 interviews, including J-1 physicians and representatives from SWVC and other practicing physicians in the Oak Hill and Beckley areas. In addition, we reviewed ARC and the state of West Virginia policies and documents related to the J-1 Visa Waiver program.

#### RESULTS

Based on a review of available information and discussions with J-1 physicians and employer, we concluded that there were violations of ARC regulations and program intents. This occurred because, in several cases, physicians were not providing 40 hours per week of primary care medical service at the approved location. In one instance, the J-1 physician had spent little, if any time, at the approved location. The physicians generally divided their time between the HPSA and the SWVC Clinic in Beckley, a non-HPSA.

Interviews with five J-1 physicians employed by SWVC as of our field work noted as follows:

- o At the time of our review, SWVC had five J-1 physicians on staff. These physicians acknowledged they understood their responsibility to provide 40 hours per week in primary care in a HPSA. Several of the J-1 physicians stated they were pleased with the J-1 program and with SWVC.

- o Two of the J-1 physicians did not have a subspecialty and practiced primary care 100 percent of the time. Their Physician Reporting Forms indicated they were assigned to an SWVC in a HPSA 34 hours per week and to the SWVC in Beckley, a non-HPSA, 9 hours per week.
- o The other three J-1 physicians had subspecialties. Two of these spent about 50 percent of their time (about 24 hours per week) in Oak Hill and the other time in Beckley. The J-1 physicians indicated that they would rather practice their subspecialty and that it was hard to separate the two.
- o One J-1 physician was assigned full time to SWVC in Beckley practicing about 50 percent primary care and 50 percent in his subspecialty. Originally, he was scheduled to be assigned full time to SWVC in Oak Hill. However, there was a need for his subspecialty in Beckley and he was assigned to that location. According to the employer, SWVC informed the state of West Virginia that the physician was being assigned to Beckley. We were unable to confirm this conversation.
- o Two J-1 physicians stated there definitely was enough primary care being offered in Oak Hill, and they could not stay busy only working in the Oak Hill area. Three J-1 physicians stated they were recruiting patients from other HPSAs.
- o SWVC offered a bonus/incentive program to its J-1 physicians. However, only one physician acknowledged receiving a bonus for 1 month during 1994.

#### Records Review

Records noted that, in three of five active cases, the J-1 physicians noted as internists also have subspecialties--oncology, cardiology, and rheumatology. The ARC recommendations for J-1 waivers were made in August, January, and September 1993, respectively. The physicians started work on July 11, 1994; August 14, 1993; and December 1, 1993, respectively.

The letters from SWVC requesting ARC support of a waiver for the three physicians were dated July 13, 1993; November 3, 1992; and July 20, 1993, respectively (Exhibits A, B, C). The letters note the practice of primary care medicine for at least 40 hours per week in a HPSA. The practice address is noted as 504 Jones Avenue, Oak Hill, West Virginia, in two cases, and General Delivery, Corner of Routes 3 and 99, Glen Daniel, West Virginia, in the third case. No reference is made to any practice at other locations, e.g., Beckley, West Virginia.

Based on documentation submitted, including recommendations from the West Virginia state agency, ARC recommended waiver approval to the US Information Agency on August 23, 1993; January 8, 1993; and September 10, 1993. The ARC letters also note service in a HPSA as a primary reason for its recommendation for favorable action on the J-1 requests. (An example is noted as Exhibit D.)

For the two cases where the Application for Alien Employment Certifications are on file at ARC, the work address is noted as Oak Hill, West Virginia. (See Exhibits E and F.)

### Reporting Forms

ARC records denoted that the ARC J-1 Visa Physician Reporting Form had been submitted for one of the three physicians. This form was required to be submitted when employment started and at 6-month intervals until January 1994 when revised policy required submission only when employment started.

For the three cases, records reflect:

- o Physician 1--Work started July 11, 1994. ARC reporting form not received as of our review.
- o Physician 2--Work started August 14, 1993. No ARC reporting forms noted.
- o Physician 3--Work started December 1, 1993. A reporting form dated May 3, 1994 was available at ARC. This form noted the practice of internal medicine/rheumatology at Oak Hill.

In response to West Virginia and ARC requests in June and July 1994, respectively, for information about the location and use of J-1 physicians, the following responses were noted.

### Employer Responses to ARC Questionnaire

- o Physician 1--40 hours of internal medicine is shown at Beckley.
- o Physician 2--40 hours plus of internal medicine is noted with the time split 40 hours at Oak Hill and 8 hours at Beckley.
- o Physician 3--40 hours plus of primary care is noted with the time split 40 hours at Oak Hill and 10 hours at Beckley.

None of the responses contained any information in the section provided for comments on other locations or practice of subspecialties since date of waiver approval. (See Exhibits G, H, and I.)

### Employer and J-1 Physician Responses to West Virginia Questionnaire

- o Physician 1--Internal medicine noted as specialty with practice 40 hours per week at Beckley.
- o Physician 2--Internal medicine noted with Monday, Wednesday, and Thursday at Oak Hill and Tuesday and Friday at Beckley.

The reporting form (Exhibit J), which covers the period January 1 to June 31, 1994, shows 803 office visits, with 208 visits applicable to patients who reside in a HPSA. Also, the form notes 896 hospital visits during this period. Such information raises questions, in our opinion, about the extent of service provided in the HPSA and the extent to which the subspecialty, cardiology, was practiced.

- o Physician 3--Internal medicine noted as being practiced on Monday and Thursday at Oak Hill and Tuesday, Wednesday, and Friday at Beckley. The information, which covers the period January 1 to June 30, 1994, shows 1,362 office visits, with 412 visits involving patients who reside in a HPSA. This information reflects substantial service to non-HPSA residents in line with the work locations reported.

None of the information reported to West Virginia on the reporting forms indicated any practice of subspecialties.

The primary differences between reports to ARC and West Virginia relate to two J-1s for which the response to ARC notes 40 hours at Oak Hill and 8 or 10 hours at Beckley and the reports to West Virginia reflect the more accurate information of 2 and/or 3 days in Oak Hill and Beckley per week.

The J-1 physicians said that SWVC fills out required reporting forms and has them signed by the physician. With one exception, physicians had limited recollection about the yellow ARC reporting form, but recalled the white reporting form received in July 1994.

The West Virginia forms, parts of which were completed in June 1994, were signed by the employer, physician, and provider medical director; and the responses, with respect to physician locations, were generally consistent with information received during our September 1994 interviews. Responses with respect to subspecialty practice were less consistent with our interview results.

For example, as noted in the initial summary of interviews, one physician noted a practice of oncology in Beckley since employment in July 1994. Although this practice was acknowledged by the physician and employer, forms submitted to West Virginia and ARC in July and September 1994, respectively, noted only an internal medicine practice.

In the two other cases, the J-1 physicians noted that they practice their subspecialties at Oak Hill and Beckley to various degrees, although it is often difficult to separate primary care from specialty work. Interviews disclosed that the J-1 internist cardiologist practices his subspecialty to a greater degree than the internist/rheumatologist.

#### Background of Work Assignments

Interviews disclosed that the three J-1 physicians believed they were recruited to provide primary care medical service in a HPSA.

Physician 1 confirmed that, since his employment in July 1994, he has practiced his subspecialties about 50 percent of the time and that all his work was performed in Beckley. It was his understanding that SWVC has notified ARC by letter of the intent to use him in Beckley due to a shortage of his subspecialties; and in the absence of a response from ARC, it was assumed he could remain in Beckley and practice primary care and his subspecialties. (We were unable to locate such a letter in ARC files.) He had no objection to working at Oak Hill if this was required. Of the patients he admits to hospitals, about 50 percent are primary care related and 50 percent are subspecialty related.

Physician 2 said he initially was assigned 4 days per week in Oak Hill and 1 day per week in Beckley. From approximately January through June 1994, he worked 3 days per week in Oak Hill and 2 days per week in Beckley. Effective July 1994, he had his schedule changed to 4 days in Oak Hill and 1 day in Beckley. He indicated this change resulted from recognition that service at Oak Hill was not meeting program requirements.

With respect to his practices, he noted it was difficult to separate primary care and cardiology, especially since it is his practice to take the patient from initial complaint through various invasive procedures. The majority of patients that he sees have pain or discomfort that may or may not be associated with a cardiac problem.

He noted that a 24-hour on-call period for Oak Hill was previously counted in meeting primary care requirements for Oak Hill but recognized that on-call time had been recently clarified and no longer could be considered eligible as primary care service.

He explained that Oak Hill is crowded with physicians and has sufficient primary care services; and despite an increasing number of patients since he increased his time at Oak Hill, he is recruiting patients from other HPSA sites in order to sustain a full-time practice in Oak Hill.

Physician 3 noted he had initially split his time about 50/50 between SWVC in Oak Hill and Beckley and counted 1 day per week on-call (24 hours) toward minimum primary care service requirements. Effective August 1, 1994, after realizing on-call time could not be counted, he has been assigned 4 days per week at Oak Hill and 1 day per week at Beckley. He noted that it is often difficult to separate primary care from subspecialties related to arthritis and bursitis and that his patient workload had increased from 6 to 9 patients per day at Oak Hill to 15 to 17 patients per day, including some walk-ins. As the only rheumatologist in the Beckley area, he receives referrals from all over the Beckley and Oak Hill area.

The physicians were complimentary about SWVC and noted that they had been notified about the need to comply with J-1 waiver provisions and assisted with recent schedule revisions that would better ensure compliance with the minimum primary care requirements.

The employer noted substantially as follows:

The Appalachian Regional Hospital, Beckley, West Virginia, is in the process of buying out SWVC, which will, in effect, become a sister organization to Appalachian Regional Hospital.

The J-1 program started in the 1980s; and since that time, SWVC has processed approximately 12 to 15 J-1 physicians. They currently have five J-1 physicians on staff.

J-1 physicians typically will stay in the Beckley area, if they can establish a good medical practice during their J-1 participation. Currently, 50 percent of the activity done by SWVC comes from former J-1 physicians that previously worked for the SWVC. The employer did not believe the competitive clause in the contract precludes a J-1 physician from working in the Beckley area. There is, however, a significant penalty for a J-1 physician that would choose to leave SWVC during the J-1 contract period and go to a non-HPSA. The contract that the J-1 physicians enter into with SWVC is the same contract that they offer their non-J-1 physicians. Each J-1 physician is given a base salary and then can earn additional money through incentive and bonus programs.

With respect to reporting forms and policies and procedures, the employer noted that the ARC and state of West Virginia reporting forms were filled out by SWVC and are co-signed by the J-1 physicians. All reporting forms for their current J-1 physicians have been submitted to ARC and the state of West Virginia.

Under the old guidelines for the ARC J-1 program, there was a lot of room for local interpretation of how the program was to be implemented. The 40 hours of primary care to be provided by the J-1 physicians in a HPSA was a "gray" area, which was open to interpretation. In the employer's opinion, SWVC and other sponsors of J-1 physicians, would typically use the most favorable interpretation to allow the J-1 physicians to qualify for the 40 hours of primary care. The ARC criteria was described as broad and loose and, therefore, allowed the on-call duty to be considered as part of the 40 hours of primary care. In a June 3, 1994 memorandum from the West Virginia Director, Health Professions Recruitment, the question of the 40 hours of primary care was made more clear and specific. The memorandum specifically addressed the fact that on-call and travel time would not be counted as part of the J-1 physicians' 40 hours of primary care. Since the memorandum was issued, the employer believed SWVC is in compliance and no longer uses the on-call time as part of the 40 hours' primary care.

The employer believed that SWVC generally complied with program guidelines. In one case, SWVC has allowed an oncologist to work his subspecialty instead of primary care because of a special need in the Beckley area.

At about the time that the oncologist arrived at SWVC, the clinic had lost one of their oncologists and there was a shortage in the Beckley area. SWVC was initially prepared and planning to place the new J-1 in Glen Daniel, West Virginia, a HPSA. However, when they lost their other oncologist, they kept the J-1 working in the Beckley area. The employer noted that he telephonically apprised the state agency of the need for the J-1 to work in the Beckley area, although he did not send a letter to the state agency.

One J-1 internist with a subspecialty in infectious disease left SWVC by mutual agreement at the end of August 1994, went to Germany for 2 weeks, and is now back in the United States--possibly in the San Antonio, Texas area. It had become apparent to SWVC that the J-1 was more interested in studying for her "boards" than in seeing patients (Exhibit K).



On related program issues, the employer noted many of the J-1 physicians that finish the J-1 program and open up their own practice in the Beckley area are still perceived by local practicing physicians as continuing to be in the J-1 program. Also, it has been the employer's experience that J-1 physicians with subspecialties prefer to work in their subspecialty even though they will tell you initially that their desire is "primary care"; and he has also found that most internists will refer their patients to subspecialists in many instances where they could, and are qualified to, competitively serve the patient.

Further, the employer believed that 85 percent of the physician resources for the Beckley area are coming from J-1 applicants with little or no interest from American doctors; it has become much more competitive in the primary care area than in the subspecialties in Beckley and Oak Hill; and working subspecialties in the Beckley area is no longer as lucrative as it once was. Many of the local practicing subspecialists are "hurting" with respect to business.

The employer did not believe the recent West Virginia change in the J-1 contract from 2 years to 4 years is a good idea. He believes 2 years is a good trial period and is about right to determine if a physician is going to be successful with the sponsor. The 4-year contract generally requires the J-1 physician to stay with a sponsor with whom he may not be getting along; and conversely, a sponsor may be stuck with a doctor for a period longer than he wishes. SWVC may not recruit more J-1s as a result of the J-1 program becoming less flexible and, in effect, making it harder to work with the J-1 physicians. It was also noted that the inflexibility of the program causes hardship for some patients. He cited the example of a J-1, who is the only rheumatologist in the Beckley-Oak Hill area. The J-1 is required to sit in Oak Hill providing primarily care with referrals from Beckley having to travel to Oak Hill to see him. Many patients have expressed concern and have been upset by the fact that they have to travel to Oak Hill to see the only rheumatologist in the area.

### Conclusion

We recognize that the prior on-call provision may have contributed to J-1 physicians' not meeting the program requirements with respect to provision of primary care at a HPSA and the corrective actions, including reported physician rescheduling of work locations. Nonetheless, we concluded that sufficient knowledge about the program was available for employers/sponsors (e.g., J-1 Visa Waiver Affidavit and Agreement) to recognize that actual medical service at a HPSA was required and intended. Although J-1 physicians have a primary responsibility for compliance with J-1 waiver agreements, we nonetheless concluded that the employer/sponsor was primarily responsible for the situations noted.

HPSA designations do not presently include J-1s in determinations of medical provider availability, but we believe the substantial numbers of J-1s approved for Oak Hill creates a special situation that requires inclusion of active J-1s in a redetermination of Oak Hill's designation as a HPSA. Inclusion of the J-1 physicians could result in a ratio of physicians to potential service area patients well below the ratios used by the state of West Virginia and the US Public Health Service to identify HPSAs. For example, available information indicated a physician/patient ratio of about 1 to 3,049 in the Oak Hill HPSA service area without consideration of J-1 physicians. State data that included 19 J-1 active physicians approved to

practice primary care in Oak Hill resulted in a ratio of 1 to 313. Normally, a ratio of about 1 to 3,500 is noted as necessary to support a HPSA designation or 1 to 3,000 in areas with high incidence of disease or high poverty.

### Recommendations

- o Negotiate with J-1 physicians about a voluntary extension of service in an Appalachian HPSA to offset service not performed in accordance with J-1 requirements.
- o Defer action on additional J-1 requests from the Oak Hill area pending completion of current J-1 physician tours of duty and a careful reassessment of the needs for additional J-1s, including the viability for 40 hours per week of primary medical care service at the approved HPSA site.
- o Reevaluate the eligibility of the noted employer as a J-1 waiver program sponsor.
- o Notify employers and applicable J-1 physicians of the need to comply with program requirements and obtain employer commitments to increase and maximize the use of current J-1 physicians to practice primary care at the approved HPSA location.
- o Require sponsors, in the future, to also sign the J-1 Visa Waiver Policy Affidavit agreements and include language in the agreement that specifically addresses the sponsor's responsibilities and potential penalties for noncompliance with the agreement.
- o Recommend to the US Public Health Service and the West Virginia Department of Health a reevaluation of Oak Hill, West Virginia, as a current HPSA, based on consideration of the J-1s approved for Oak Hill.

### Physician Termination

One J-1 physician that started work on August 23, 1993, was terminated as of September 1, 1994. According to SWVC, the termination was agreed to by both parties, was on a no-fault basis, and resulted primarily because the J-1 physician was not considered compatible with SWVC's rural patients.

The Director, Health Professions Recruitment said she had spoken with the J-1 physician about her commitment to serve 2 years in an Appalachian HPSA but did not identify interest on the J-1s part in finding another position in Appalachia.

ARC had requested favorable consideration of a J-1 waiver on May 12, 1993. Consequently, the physician had not fulfilled about 8 months of the J-1 commitment at the time of termination. Available information is that the physician relocated in the vicinity of San Antonio, Texas.

We are recommending that ARC provide available information to the Immigration and Naturalization Service (INS) and recommend that INS determine the current status of the physician and applicability of deportation proceedings.

Restrictive Covenant (Noncompete Clause)

The SWVC employment agreements with J-1 physicians included the following clauses:

"8.01 Covenant Not to Compete. Employee agrees with Employer that, for a period of two (2) years after the termination of this Agreement, he will not, whether by himself or in partnership or in conjunction with or as an employee, officer, director, manager or agent of any other person, firm or corporation, either directly or indirectly, undertake or carrying on or be engaged or have any financial or other interest in, or in any other manner advise or assist any person, firm or corporation engaged or interested in or any other business involving, the provision of medical services in INTERNAL MEDICINE of any kind, carried on within a radius of twenty-five (25) miles of Employer's main business premises (the 'Protected Area'), without the prior written consent of Employer; provided, however, that the full-time practice of medicine at another licensed medical facility within the Appalachian Region (as defined by the Appalachian Regional Commission) shall be considered the same as the full-time practice of medicine for Employer for the purpose of this covenant not to compete.

"The Employer will be reimbursed by the employee for financial losses incurred under this contract should the Employee terminate this contract and relocate within the ARC services region.

"8.02 Remedies. It is hereby acknowledged and agreed by the parties that Employee's violation of the covenant not to compete set forth in this Agreement shall substantially damage Employee's business and medical practice, and the parties recognize that the sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) represents a fair estimate of the damage Employer would suffer as a result of Employee's violation of the covenant not to compete. Therefore, it is expressly agreed that Employer shall be entitled to liquidated damages in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) in the event Employee breaches the covenant not to compete, which amount shall be immediately payable upon any breach thereof. In addition, Employer shall also be entitled to institute an action to compel the specific performance of such covenant and such remedy shall be cumulative, not exclusive, and shall be in addition to other remedies.

"8.03 Judicial Reformation. In the event that the covenant not to compete set forth in this Agreement shall be determined by a court of competent jurisdiction to be unenforceable for any reason, then such covenant shall be interpreted to extend over such lesser maximum geographic area, period of time,

range of activities and other restrictions as to which the same may be enforceable."

Although the clause allows full-time practice of medicine at another licensed medical facility within the Appalachian Region without incurrance of the \$250,000 penalty, it is unclear as to whether establishment of a private practice at the same HPSA site where employed as a J-1 is permitted.

SWVC did not believe the competitive clause precluded a J-1 physician from working in the Beckley area and noted that J-1s stay in the Beckley area if they can establish a good medical practice during their J-1 participation. SWVC noted that about 50 percent of the activity done by SWVC comes from former J-1 physicians that previously worked for SWVC.

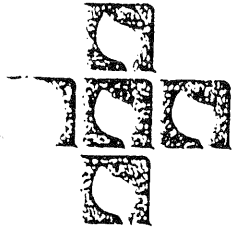
J-1 physicians were less confident about their ability to avoid claims if they violated the noncompete clause. One physician said that the competition clause causes J-1s to leave the area since the only practical way to stay in the area was to continue to work for the J-1 employer. Such a situation only works if there are good employer/employee relationships.

Therefore, we recommend that ARC, in conjunction with the state agency, clarify the intent and implementation of the noted restrictive covenant and issue guidance prohibiting restrictive covenants that preclude continued service at a HPSA after completion of the J-1 waiver period. Such action would also avoid the issue of legal enforceability of noncompetition clauses.



Hubert N. Sparks  
Inspector General

Exhibits A-K



## Southern West Virginia Clinic

302 Stanford Road  
Beckley, West Virginia 25801  
304/252-7331  
FAX 304/252-4104

July 13, 1993

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

RE: Waiver of Foreign Residency Requirement for \_\_\_\_\_, M.D.

Dear Ms. Phillips:

Southern West Virginia Clinic is writing to enlist your support in recruiting a primary care physician to this area in Appalachia. Our contract with Dr. \_\_\_\_\_ specifies that his employment will begin on July 1, 1994, provided of course he has authorization for employment at that time.

Dr. \_\_\_\_\_ will practice primary care medicine for at least 40 hours per week in a designated Health Professional Shortage Area (HPSA) as determined by the U.S. Public Health Department. The address is 504 Jones Avenue, Oak Hill, West Virginia. *Fayette Co.*

Southern West Virginia Clinic is a medical clinic serving the coal-field populations of Raleigh, Fayette, and Wyoming Counties in West Virginia. The clinic has developed into a regional referral center of offering the specialties of Family Practice, Obstetrics & Gynecology, Internal Medicine, Cardiology, Pulmonology, Urology, Radiology, Oncology, General Surgery, and Gastroenterology. The clinic has developed an exceptional, diverse medical staff in Southern West Virginia.

The clinic's primary service area encompasses the population of 150,000 with additional patients referred to us from outlying areas. The majority of patients come from the coal producing areas of the Appalachian Mountains. The geography of this section of Beckley, West Virginia creates an area that is isolated from metropolitan areas by mountainous terrain and generally poor road conditions.

The residents of this area have traditionally preferred to receive their medical treatment within the local area. There are strong family ties, and the importance of family support in injuries and illnesses cannot be

Ms. Jacqueline L. Phillips  
July 13, 1993  
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over-emphasized. In addition, treatment in the local areas reduces the costs and inconvenience of visiting injured/sick relatives. All of these factors increase the need for the services of a Physician/Internist in this area.

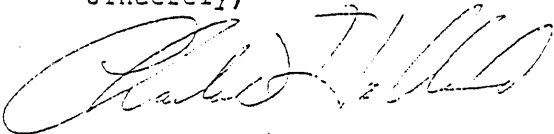
Southern West Virginia Clinic accepts Medicaid, Medicare, and medically indigent patients. Approximately 15% of Southern West Virginia Clinic patients fall into one of these categories, and 10% of the Fayette County population falls into these categories.

This is to 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. . This is to further acknowledge that our employment agreement does not modify or amend any of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement. Your assistance in supporting a waiver of the Foreign Residency Requirement for Dr. will be a positive step in restoring health care services to persons in the Fayette County area.

It is extremely difficult to recruit qualified physicians to practice medicine in our area. Southern West Virginia Clinic has successfully recruited a Physician/Internist for our staff, but your help is needed in obtaining a waiver of the two-year Foreign Residency Requirement for the physician.

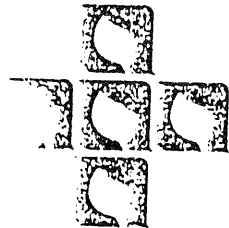
We would greatly appreciate your assistance in obtaining such a waiver for Dr. . Should you have any questions whatsoever, please call.

Sincerely,



Charles D. Holland  
Administrator

CDH/fu



## Southern West Virginia Clinic

302 Stanford Road  
Beckley, West Virginia 25801  
(304) 252-7331  
FAX (304) 252-1484

November 3, 1992

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

RE: Waiver of Foreign Residency Requirement for Dr.

Dear Ms. Phillips:

Southern West Virginia Clinic is writing to enlist your support in recruiting a primary care physician to this area in Appalachia. Our contract with Dr. . specifies that his employment will begin on July 1, 1993, provided of course he has authorization for employment at that time.

Southern West Virginia Clinic is a medical clinic serving the coalfield populations of Raleigh, Fayette, and Wyoming Counties in West Virginia. The clinic has developed into a regional referral center of offering the specialties of Family Practice, Obstetrics & Gynecology, Internal Medicine, Cardiology, Pulmonology, Urology, Radiology, Oncology, General Surgery, and Gastroenterology. The clinic has developed an exceptional, diverse medical staff in Southern West Virginia.

The clinic's primary service area encompasses the population of 150,000 with additional patients referred to us from outlying areas. The majority of patients come from the coal producing areas of the Appalachian Mountains. The geography of this section of Beckley, West Virginia creates an area that is isolated from metropolitan areas by mountainous terrain and generally poor road conditions.

The residents of this area have traditionally preferred to receive their medical treatment within the local area. There are strong family ties, and the importance of family support in injuries and illnesses cannot be over-emphasized. In addition, treatment in the local areas reduces the costs and inconvenience of visiting injured/sick relatives. All of these factors increase the need for the services of an internist in this area.

Ms. Jacqueline Phillips  
November 3, 1992  
Page 2

Dr. \_\_\_\_\_ will practice primary care medicine for at least 40 hours per week in a designated Health Professional Shortage Area (HPSA) as determined by the U.S. Public Health Department. The address is: 504 Jones Avenue, Oak Hill, West Virginia.

Southern West Virginia Clinic accepts Medicaid, Medicare, and medically indigent patients. Approximately 60% of Southern West Virginia Clinic patients fall into one of these categories, and 60% of the Fayette County population falls into these categories.

~~This~~ is to 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. \_\_\_\_\_.

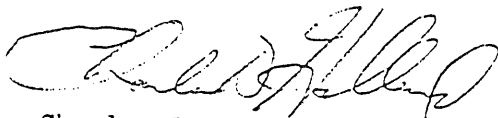
~~We~~ further acknowledge that the employment agreement does not modify or amend any of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement.

Your assistance in supporting a waiver of the Foreign Residency Requirement for Dr. \_\_\_\_\_ will be a positive step in restoring health care services to persons in the Fayette County area.

It is extremely difficult to recruit qualified physicians to practice medicine in our area. Southern West Virginia Clinic has successfully recruited a Physician-Internist for our staff, but your help is needed in obtaining a waiver of the two-year Foreign Residency Requirement for the physician.

We would greatly appreciate your assistance in obtaining such a waiver for Dr. \_\_\_\_\_. Should you have any questions whatsoever, please call.

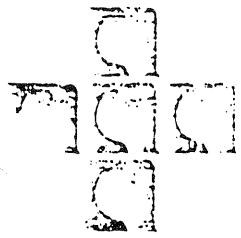
Sincerely,



Charles D. Holland  
Administrator

CDH/fu





# Southern West Virginia Clinic

302 Stanaford Road  
Beckley, West Virginia 25801  
(304) 252-7331  
FAX (304) 252-4484

July 20, 1993

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

RE: Waiver of Foreign Residency Requirement for \_\_\_\_\_, M.D.

Dear Ms. Phillips:

Southern West Virginia Clinic is writing to enlist your support in recruiting a primary care physician to this area in Appalachia. Our contract with Dr. \_\_\_\_\_ specifies that his employment will begin on November 1, 1993, provided of course he has authorization for employment at that time.

Dr. \_\_\_\_\_ will practice primary care medicine for at least 40 hours per week in a designated Health Professional Shortage Area (HPSA) as determined by the U.S. Public Health Department. The address is General Delivery, Corner of Rt. 3 and Rt. 99, Glen Daniel, West Virginia.

Southern West Virginia Clinic is a medical clinic serving the coal-field populations of Raleigh, Fayette, and Wyoming Counties in West Virginia. The clinic has developed into a regional referral center of offering the specialties of Family Practice, Obstetrics & Gynecology, Internal Medicine, Cardiology, Pulmonology, Urology, Radiology, Oncology, General Surgery, and Gastroenterology. The clinic has developed an exceptional, diverse medical staff in Southern West Virginia.

The clinic's primary service area encompasses the population of 150,000 with additional patients referred to us from outlying areas. The majority of patients come from the coal producing areas of the Appalachian Mountains. The geography of this section of Beckley, West Virginia creates an area that is isolated from metropolitan areas by mountainous terrain and generally poor road conditions.

The residents of this area have traditionally preferred to receive their medical treatment within the local area. There are strong family ties, and the importance of family support in injuries and illnesses cannot be

Ms. Jacqueline L. Phillips  
July 20, 1993  
Page 2

over-emphasized. In addition, treatment in the local areas reduces the costs and inconvenience of visiting injured/sick relatives. All of these factors increase the need for the services of a Physician/Internist in this area.

Southern West Virginia Clinic accepts Medicaid, Medicare, and medically indigent patients. Approximately 15% of Southern West Virginia Clinic patients fall into one of these categories, and 10% of the Raleigh County population falls into these categories.

This is to 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. This is to further acknowledge that our employment agreement does not modify or amend any of the terms and conditions of the Physician's J-1 Visa Policy Affidavit and Agreement. Your assistance in supporting a waiver of the Foreign Residency Requirement for Dr. will be a positive step in restoring health care services to persons in the Raleigh County area.

It is extremely difficult to recruit qualified physicians to practice medicine in our area. Southern West Virginia Clinic has successfully recruited a Physician/Internist for our staff, but your help is needed in obtaining a waiver of the two-year Foreign Residency Requirement for the physician.

We would greatly appreciate your assistance in obtaining such a waiver for Dr. Should you have any questions whatsoever, please call.

Sincerely,



Charles D. Holland  
Administrator

CDH/fu




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**APPALACHIAN REGIONAL COMMISSION**


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

August 23, 1993

Ms. Jean Peters  
 Waiver Review Officer  
 Waiver Review Branch  
 United States Information Agency  
 301 4th Street, S.W.  
 Washington, D.C. 20547

Dear Ms. Peters:

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 completing his second year as clinical fellow in internal medicine/hematology-medical oncology at the University of Oklahoma Health Science Center, Oklahoma City, Oklahoma. Dr. is prepared to provide primary care at Southern West Virginia Clinic, Oak Hill, West Virginia. Such waiver is in the public interest. Requiring Dr. to return home would be detrimental to efforts and activities of the State of West Virginia, 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.

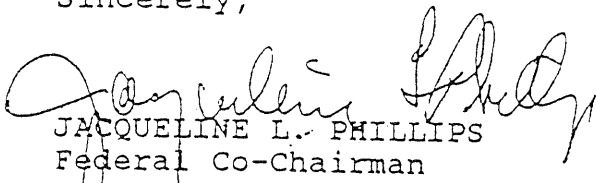
As you may recall, the ARC is a unique Federal-State partnership organization, created by the Congress in the Appalachian Regional Development Act of 1965. The Commission is composed of the 13 Governors of the participating States and a Federal representative, the Federal Co-Chairman, a position which 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 completing his second year as clinical fellow in internal medicine/hematology-medical oncology at the University of Oklahoma Health Science Center, Oklahoma City, Oklahoma. He has accepted employment with Southern West Virginia Clinic. 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. 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 West Virginia, and the Department of Health and Human Services.

Sincerely,

  
JACQUELINE L. PHILLIPS  
Federal Co-Chairman

Enclosure

APPLICATION  
FOR  
ALIEN EMPLOYMENT CERTIFICATION

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM  
PRINT legibly in ink. Use a typewriter. If you need more space to answer questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.  
To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 3 years in the penitentiary, or both (18 U.S.C. 1001)

PART A. OFFER OF EMPLOYMENT

Name of Alien (Print name in capital letters. First, Middle, Maiden)

Present Address of Alien (Number, Street, City and Town, State, ZIP Code or Postoffice, Country)  
1813 Brittany Lane  
Edmond, OK 73003

3. Type of Visa (If in U.S.)  
J-1

The following information is submitted as evidence of an offer of employment.  
Name of Employer (Full name of organization)  
Southern West Virginia Clinic

5. Telephone (Area Code and Number)  
(304) 252-4484

Address (Number, Street, City or Town, County, State, ZIP Code)  
302 Stanaford Road  
Beckley, West Virginia 25801

Address Where Alien Will Work (if different from item 5)  
504 Jones Avenue  
Oak Hill, West Virginia 25901

Nature of Employer's Business Activity	9. Name of Job Title	10. Total Hours Per Week		11. Work Schedule (Hourly)	12. Rate of Pay	
		a. Basic	b. Overtime		1. Basic	2. Overtime
Health Care Facility	Physician - Internist	40	N/A	8:00 a.m. 5:00 p.m.	\$80,000.00 per year	\$ N/A per hour

Describe Fully the Job to be Performed (Duties)  
Diagnoses and treats diseases and injuries of human internal organ systems: Examines patient for symptoms of organic or congenital disorders and determines nature and extent of injury or disorder, using diagnostic aids, such as X-ray machine, blood tests, electrocardiograph, and stethoscope. Prescribes medication and recommends dietary and activity program, as indicated by diagnosis. Refers patient to appropriate medical specialist when indicated.

State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in Item 13 above.

EDUCATION (Enter number of years)	Grade School	High School	College	College Degree Required (specify)	
	X	X		X	M.D. or equivalent
				Medicine	
TRAINING	No. Yrs.		No. Mos.	Type of Training	
				Residency *	
EXPERIENCE	Job Offered		Related Occupation		Related Occupation (specify)
	Yrs.	Mos.	Yrs.	Mos.	

15. Other Special Requirements

- Must have or be able to obtain license to practice medicine in the state of West Virginia.
- \* Must have residency training in Internal Medicine.
- Must be Board eligible or Board certified in Internal Medicine.

Occupational Title of Person Who Will Be Alien's Immediate Supervisor  
Medical Director

17. Number of Employees Alien Will Supervise  
Varies

ENDORSEMENTS (Make no entry in section for government use only)

Date Forms Received	
L.S.	S.S.
R.S.	N.O.
Ind. Code	Occ. Code
Occ. Title	

18. COMPLETE ITEMS ONLY IF JOB TEMPORARY 19. IF JOB IS UNIONIZED (Cm)

1. No. of Openings To Be Filled By Aliens Under Job Offer	2. Exact Dates You Expect To Employ Alien		4. Number of Local	5. Name of Local
	From	To		
				6. City and State

20. STATEMENT FOR LIVE-AT-WORK JOB OFFERS (Complete for Private Household Job ONLY)

1. Description of Residence		2. No. Persons Residing at Place of Employment			3. Will free board and private room not shared with anyone be provided? (X) one <input type="checkbox"/> YES <input type="checkbox"/> NO
(X) one <input type="checkbox"/> House <input type="checkbox"/> Apartment	Number of Rooms	Adults	Children	Ages	
		BOYS			
		GIRLS			

21. DESCRIBE EFFORTS TO RECRUIT U.S. WORKERS AND THE RESULTS. (Specify Sources of Recruitment by Name)

22. Applications require various types of documentation. Please read PART II of the instructions to assure that appropriate supporting documentation is included with your application.

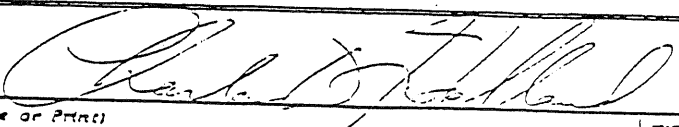
23. EMPLOYER CERTIFICATIONS

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.

- a. I have enough funds available to pay the wage or salary offered the alien.
- b. The wage offered equals or exceeds the prevailing wage and I guarantee that, if a labor certification is granted, the wage paid to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work.
- c. The wage offered is not based on commissions, bonuses, or other incentives, unless I guarantee a wage paid on a weekly, bi-weekly or monthly basis.
- d. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.
- e. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or citizenship.
- f. The job opportunity is not:
  - (1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage.
  - (2) At issue in a labor dispute involving a work stoppage.
- g. The job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law.
- h. The job opportunity has been and is clearly open to any qualified U.S. worker.

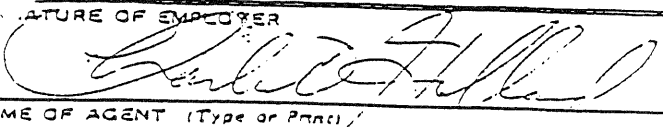
24. DECLARATIONS

DECLARATION OF EMPLOYER Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

SIGNATURE  DATE 7/8/93

NAME (Type or Print) Mr. Charles Holland TITLE Administrator

AUTHORIZATION OF AGENT OF EMPLOYER I HEREBY DESIGNATE the agent below to represent me for the purposes of labor certification and TAKE FULL RESPONSIBILITY for accuracy of any representations made by my agent.

SIGNATURE OF EMPLOYER  DATE 7/8/93

NAME OF AGENT (Type or Print) Palma R. Yarni Attorney at Law ADDRESS OF AGENT (Number, Street, City, State, ZIP Code) 1250 24th Street, N.W., Suite 300 Washington, D.C. 20037

U.S. DEPARTMENT OF LABOR  
Employment and Training Administration

APPLICATION  
FOR  
ALIEN EMPLOYMENT CERTIFICATION

OMB APPROVAL NO. 44-11301

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THIS FORM  
PRINT legibly in ink or use a typewriter. If you need more space to answer questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. SIGN AND DATE each sheet in original signature.  
To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or 5 years in the penitentiary, or both.

PART A. OFFER OF EMPLOYMENT

1. Name of Alien (Family name in capital letters, First, Middle, Maiden)  
2. Present Address of Alien (Number, Street, City and Town, State ZIP Code or Province, Country)  
3. Type of Visa (If in U.S.)

531 Senator Street, Brooklyn, New York 11220  
J-1

The following information is submitted as evidence of an offer of employment.

4. Name of Employer (Full name of organization)  
5. Telephone (Area Code and Number)

Southern West Virginia Clinic  
(304)252-7331

6. Address (Number, Street, City or Town, Country, State, ZIP Code)  
7. Address Where Alien Will Work (if different from item 6)

302 Stanaford Road Beckley, West Virginia 25801  
504 JONES AVENUE, OAK HILL, WV 25901

3. Nature of Employer's Business Activity	9. Name of Job Title	10. Total Hours Per Week		11. Work Schedule (Hourly)	12. Rate of Pay	
		a. Basic	b. Overtime		a. Basic	b. Overtime
Health Care Facility	Physician - Internist	40	n/a	n.m.	\$ 125,000s	n/a
				a.m.	per YEAR	per hour

13. Describe Fully the Job to be Performed (Duties)

Diagnoses and treats diseases and injuries of human internal organ systems; Examines patient for symptoms of organic or congenital disorders and determines nature and extent of injury or disorder, using diagnostic aids, such as X-ray machine, blood tests, electrocardiograph, and stethoscope. Prescribes medication and recommends dietary and activity program, as indicated by diagnosis. Refers patient to appropriate medical specialist when indicated.

14. State in detail the MINIMUM education, training, and experience for a worker to perform satisfactorily the job duties described in Item 13 above.

EDUCATION (Enter number of years)	Graded High School	College	College Degree Required (specify) M.D. or equivalent Major Field of Study Medicine
	X	X	
TRAINING	No. Yrs.	No. Mo.	Type of Training
	3		Residency *
EXPERIENCE	Job Offered		Related Occupation (specify)
	Yrs.	Mo.	

15. Other Special Requirements

- Must have or be able to obtain license to practice medicine in the state of West Virginia.
- \*Must have residency training in Internal Medicine.
- Must be Board eligible or Board certified in Internal Medicine.

16. Occupational Title of Person Who Will Be Alien's Immediate Supervisor  
17. Number of Employees Alien will Supervise

VARIES

ENDORSEMENTS (Make no entry in section - for government use only)

Date Forms Received	
U.S.	S.C.
P.O.	N.O.
Incl. Code	Doc. Code
Doc. Title	

19. COMPLETE TERMS ONLY OF JOB OFFERS (PROGRAMME NO. OF JOB IS INDICATED ON FRONT)

1. No. of Offers to Be Filled By Aliens Under Job Offer	2. Exact Dates You Expect To Employ Alien From _____ To _____	3. Number of Local	4. Name of Local City and State
---	--	--------------------	------------------------------------

20. STATEMENT FOR LIVE-AT-WORK JOB OFFERS (Complete for Private Household Job ONLY)

1. Description of Residence		2. No. Persons Residing in Place of Employment		3. Will free board and private room not shared with anyone be provided? <input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> House <input type="checkbox"/> Apartment	Number of Rooms	Adults	Children	
		BOYS	GIRLS	

21. DESCRIBE EFFORTS TO RECRUIT U.S. WORKERS AND THE RESULTS. (Specify Sources of Recruitment by Name)

WE REQUEST A WAIVER OF FURTHER RECRUITMENT.

22. Applications require various types of documentation. Please read PART II of the instructions to assure that appropriate supporting documentation is included with your application.

23. EMPLOYER CERTIFICATIONS

By virtue of my signature below, I HEREBY CERTIFY the following conditions of employment.

1. I have enough funds available to pay the wage or salary offered the alien.
2. The wage offered equals or exceeds the prevailing wage and I guarantee that, if a labor certification is granted, the wage paid to the alien when the alien begins work will equal or exceed the prevailing wage which is applicable at the time the alien begins work.
3. The wage offered is not based on commissions, bonuses, or other incentives, unless I guarantee a wage paid on a weekly, bi-weekly or monthly basis.
4. I will be able to place the alien on the payroll on or before the date of the alien's proposed entrance into the United States.
5. The job opportunity does not involve unlawful discrimination by race, creed, color, national origin, age, sex, religion, handicap, or ancestry.
6. The job opportunity is not:
  - (1) Vacant because the former occupant is on strike or is being locked out in the course of a labor dispute involving a work stoppage.
  - (2) At issue in a labor dispute involving a work stoppage.
7. The job opportunity's terms, conditions and occupational environment are not contrary to Federal, State or local law.
8. The job opportunity has been and is clearly open to any qualified U.S. worker.

24. DECLARATIONS

DECLARATION OF EMPLOYER Pursuant to 25 U.S.C. 1746, I declare under penalty of perjury the foregoing is true and correct.

SIGNATURE: *Charles J. Fella* DATE: 11/3/92

NAME (Type or Print): TITLE:

AUTHORIZATION OF AGENT OF EMPLOYER I HEREBY DESIGNATE the agent below to represent me for the purpose of labor certification and I TAKE FULL RESPONSIBILITY for accuracy of any representations made by my agent.

SIGNATURE OF EMPLOYER: *Charles J. Fella* DATE: 11/3/92

NAME OF AGENT (Type or Print): ADDRESS OF AGENT (Number, Street, City, State, ZIP Code)

Palma R. Yanni  
Palma R. Yanni, Attorney at Law  
1250 24th Street, NW, Suite 300  
Washington, DC 20037



INFORMATION REQUEST FOR EMPLOYERS OF  
J-1 WAIVER PROGRAM PHYSICIANS

*received  
9-15-94  
Charles Holland*

Name of Physician:

Name and Address of Employer:

SOUTHERN WEST VIRGINIA CLINIC, INC.  
302 STANAFORD ROAD  
BECKLEY, WV 25801

Date of J-1 Waiver Approval:

12/28/93

=====

REQUESTED INFORMATION

=====

Is physician currently employed by your facility?  Yes  No

What is the type of medical practice? INTERNAL MEDICINE

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

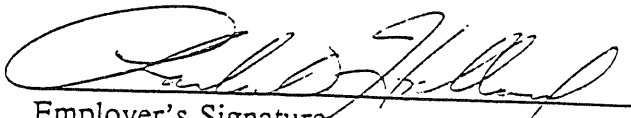
40 HOURS

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

302 STANAFORD ROAD, BECKLEY, WV 25801

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

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

  
Employer's Signature

ADMINISTRATOR

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

*received*  
*9-15-94*  
*Charles Holland*

Name of Physician:

Name and Address of Employer:

SOUTHERN WEST VIRGINIA CLINIC, INC.  
302 STANAFORD ROAD  
BECKLEY, WV 25801

Date of J-1 Waiver Approval:

05/07/93

=====

REQUESTED INFORMATION

Is physician currently employed by your facility?  Yes  No

What is the type of medical practice? INTERNAL MEDICINE

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

40 HOURS +

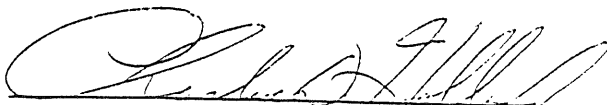
At what location(s) is/was the primary care provided? (Please note addresses and average weekly direct hours at locations)

504 JONES AVENUE, OAK HILL, WV 25901 40 HOURS

302 STANAFORD ROAD, BECKLEY, WV 25801 8 HOURS

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

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

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

ADMINISTRATOR  
\_\_\_\_\_  
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

Exhibit I  
received  
9-15-94  
Charles Holloman

Name of Physician:

Name and Address of Employer: SOUTHERN WEST VIRGINIA CLINIC, INC.  
302 STANAFORD ROAD  
BECKLEY, WV 25801

Date of J-1 Waiver Approval: 12/08/93

=====

REQUESTED INFORMATION

Is physician currently employed by your facility?  Yes  No

What is the type of medical practice? INTERNAL MEDICINE

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

40 HOURS +

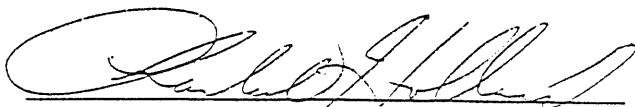
At what location(s) is/was the primary care provided? (Please note addresses and average weekly direct hours at locations)

504 JONES AVENUE, OAK HILL, WV 25901 40 HOURS

302 STANAFORD ROAD, BECKLEY, WV 25801 10 HOURS

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

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



Employer's Signature

ADMINISTRATOR

Title

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

Fax No.: (202) 884-7682

# WEST VIRGINIA J-1 VISA WAIVER PROGRAM

## Physician Reporting Form

J-1 Physician Name: \_\_\_\_\_ Specialty: INTERNAL MEDICINE

Report for the six-month reporting period from 1/1/94 to 6/31/94.

Item 6 of the West Virginia J-1 Visa Waiver Policy states: "The J-1 Visa physician, Chief Executive Officer, and Chief of Staff or Medical Director must agree to provide the West Virginia Bureau of Public Health a semi annual report that will be furnished by the Bureau."

In accordance with that requirement:

1. I maintain a full-time clinical practice at:

Practice Name:	* <u>SOUTHERN WEST VIRGINIA CLINIC</u>	**	SWVC - OAK HILL OFFICE
Street Address:	<u>302 STANAFORD ROAD</u>		504 JONES AVENUE
City/State/Zip:	<u>BECKLEY, WV 25801</u>		OAK HILL, WV 25901
Telephone:	<u>304-252-7331</u>		304-469-3912

2. During this reporting period, I maintained office hours (use "x" for days not usually practicing). **DO NOT** include "on call" status time.

	<u>8.5</u>	<u>9</u>	<u>8.5</u>	<u>8.5</u>	<u>9</u>		
	Sun.	Mon.	Tue.	Wed.	Thurs.	Fri.	Sat.
		**	*	**	**	*	
From:	<u>X</u>	<u>8:30</u>	<u>8:00</u>	<u>8:30</u>	<u>8:30</u>	<u>8:00</u>	<u>X</u>
To:	<u>X</u>	<u>5:00</u>	<u>5:00</u>	<u>5:00</u>	<u>5:00</u>	<u>5:00</u>	<u>X</u>

3. During this reporting period, approximately 10 hours/week were required to treat hospitalized patients of the practice.

4. During this reporting period, I was absent from the practice for 3 days due to illness, vacation, or for continuing professional education.

5. For this reporting period:

- |   |            |
|---|------------|
| a. Number of office visits (do not include telephone consultations or hospital visits).               | <u>803</u> |
| b. Number of visits from 5a who reside in a Health Professional Shortage Area (HPSA).                 | <u>208</u> |
| c. Number of hospital visits.   | <u>896</u> |
| d. Number of patient visits for whom a Medicare Claim was submitted.                                  | <u>128</u> |
| e. Number of patient visits for whom a Medicaid Claim Medicaid claim was submitted.                   | <u>96</u>  |
| f. Number of patients wherein services were rendered at a rate less than the usual and customary fee. | <u>-0-</u> |

g. Number of patient visits for which no charge was made (based on inability to pay). 10

6. My Medicare Provider Number is MC UPIN F65783 MC PEIN KA0747681

7. My Medicaid Provider Number is 6001000

**CERTIFICATION**

I HEREBY CERTIFY THAT I, THE UNDERSIGNED, DO PROVIDE PRIMARY HEALTH CARE SERVICES AT THE ABOVE HPSA LOCATION AND THAT THE INFORMATION AS STATED ABOVE IS TRUE, ACCURATE, AND COMPLIES WITH ALL TERMS AND CONDITIONS OF THE APPALACHIAN REGIONAL COMMISSION AND THE STATE OF WEST VIRGINIA J-1 VISA WAIVER POLICIES. ALSO, I UNDERSTAND THAT THIS INFORMATION WILL BE PROVIDED TO THE APPALACHIAN REGIONAL COMMISSION.

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
J-1 Physician  
Signature

9/12/94  
Date

**ENDORSEMENT**

I DO HEREBY CERTIFY THAT Dr. \_\_\_\_\_ IS EMPLOYED AT THE ABOVE STATED HPSA LOCATION AND THAT THE INFORMATION AS STATED ABOVE IS TRUE, ACCURATE, AND COMPLIES WITH ALL TERMS AND CONDITIONS OF THE APPALACHIAN REGIONAL COMMISSION AND THE STATE OF WEST VIRGINIA J-1 VISA WAIVER POLICIES.

SOUTHERN WEST VIRGINIA CLINIC, INC.  
Organization

A. Randall Brewer  
Chief Executive Officer Signature

9/9/94  
Date

Joseph A. Mando, MD  
Chief of Staff or Medical Director  
Signature/Title

9/12/94  
Date

Business Address:

302 STANAFORD ROAD

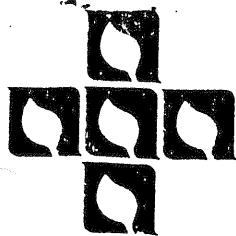
Street

BECKLEY, WV 25801 304-252-7331

City State Zip Telephone

PLEASE REMIT TO:

WEST VIRGINIA BUREAU OF PUBLIC HEALTH  
Health Professions Recruitment  
1411 Virginia Street, East  
Charleston, West Virginia 25301-3013



# Southern West Virginia Clinic

302 Stanaford Road  
Beckley, West Virginia 25801  
(304) 252-7331  
FAX (304) 252-4484

August 24, 1994

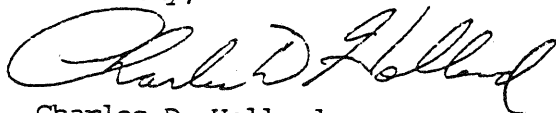
Ms. Linda Atkins  
Director of Health Profession Recruitment  
State Health Department  
1411 Virginia Street, East  
Charleston, WV 25301

Dear Ms. Atkins:

This letter is to formally notify you that \_\_\_\_\_, M.D., is no longer contractually affiliated with Southern West Virginia Clinic as of September 1, 1994. Dr. \_\_\_\_\_ was not compatible with our rural patients and we separated on a no fault basis.

Dr. \_\_\_\_\_ is available for ressignment, although I doubt that she is suitable for employment in West Virginia.

Sincerely,



Charles D. Holland

CDH/sll