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108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–730

TO IMPROVE ACCESS TO PHYSICIANS IN MEDICALLY UNDERSERVED AREAS

OCTOBER 5, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 4453]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4453) to improve access to physicians in medically underserved areas, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2006.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.

(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.".

(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking "agrees to practice medicine" and inserting "agrees to practice primary care or specialty medicine".

(d) EXEMPTION FROM GEOGRAPHIC LIMITATIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)), as amended by subsection (c), is further amended—

(1) by striking "except that," and all that follows through the period at the end and inserting "except that—"; and

(2) by adding at the end the following:

"(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary; and

"(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation described in subparagraph (B)) in accordance with the conditions of this clause to exceed 5.".

PURPOSE AND SUMMARY

H.R. 4453 would extend and modify the program whereby aliens who participate in medical residencies in the United States on exchange program visas (known as "J" visas) do not have to leave the U.S. at the conclusion of their residencies to reside abroad for 2 years if they agree to practice medicine for 3 years in an area designated by the Secretary of Health and Human Services ("HHS") as having a shortage of health care professionals.

BACKGROUND AND NEED FOR THE LEGISLATION

I. BACKGROUND

Aliens who participate in medical residencies in the United States on "J" exchange program visas must generally leave the U.S. at the conclusion of their residencies to reside abroad for 2 years before they can be eligible for permanent residence or status as "H-1B" or "L" visa nonimmigrants.[1] The intent behind this policy is to encourage American-trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries.

In 1994, Congress created a waiver (until June 1, 1996) of the 2-year foreign residence requirement when a state department of public health requested it for a foreign doctors who committed to

[1] *See* Immigration and Nationality Act § 212(e)(iii).

practicing medicine for no less than 3 years in a geographic area or areas designated by the Secretary of HHS as having a shortage of health care professionals.[2] The number of foreign doctors who could receive the waiver was limited to 20 per state. In 1996, Congress extended the waiver to June 1, 2002.[3] In 2002, Congress extended the waiver until June 1, 2004.[4] At the same time, the numerical limitation on waivers was increased to 30 per state.

The waiver requirements are as follows: the Secretary of Homeland Security may authorize a waiver upon the request of an interested U.S. government agency or a director of a state department of public health (or its equivalent) as in the public interest[5] if:

> 1) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the U.S. government with a statement in writing that it has no objection to a waiver,
>
> 2) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization and that employment has been determined by the Secretary of Homeland Security to be in the public interest,
>
> 3) the alien agrees to begin employment within 90 days of receiving the waiver, and agrees to continue to work for not less than 3 years (unless the Secretary determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such facility or organization, in which case the alien must demonstrate another bona fide offer of employment at a health care facility or health care organization for the remainder of the 3 year period), and
>
> 4) the alien agrees to practice medicine for the 3 year period only in the geographic area or areas which are designated by the Secretary of HHS as having a shortage of health care professionals (except in the case of a request by the Department of Veterans Affairs or in the case of a request by an interested Federal agency to employ the alien full-time in medical research or training).[6]

II. THE BILL AS REPORTED

H.R. 4453 as introduced would have extended the waiver for a year and continued the practice of allowing foreign doctors receiving a waiver to receive H-1B nonimmigrant status regardless of the annual H-1B visa quota.[7] At the full Committee markup, Representatives Hostettler and Jackson Lee offered an amendment in the nature of a substitute that would extend the program until June 1, 2006, specify that the H-1B cap exemption would apply to

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[2] *See* the Immigration and Nationality Technical Corrections Act, Pub. L. No. 103–416, § 220 (1994).

[3] *See* the Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104–208, § 622 (1996).

[4] *See* the 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107–273, § 11018 (2002). Section 11018 incorporated the language of H.R. 4858, which was reported by the House Judiciary Committee on June 24, 2002, and passed the House on June 25, 2002.

[5] *See* INA § 212(e).

[6] *See* INA § 214(l)(1).

[7] *See* The American Competitiveness in the Twenty-First Century Act of 2000, Pub L. No. 106–313, § 114 (2000). The H-1B quota is now 65,000 each fiscal year. See INA § 214(g)(1)(A).

doctors whether they were sponsored by a state or Federal agency, allow foreign doctors receiving a waiver to work in medically-underserved areas in either primary care or specialty medicine, and allow five of each state's 30 waivers to go to doctors that would practice medicine in areas not designated by the Secretary of Health and Human Services as having a shortage of health care professionals, if the doctors receiving the waivers would practice in facilities that serve patients who reside in areas designated by the Secretary as having a shortage of health care professionals. The Committee adopted the Hostettler-Jackson Lee amendment in the nature of a substitute, and the bill as reported reflects that text.

HEARINGS

No hearings were held in the Committee on the Judiciary on H.R. 4453.

COMMITTEE CONSIDERATION

On June 3, 2004, the Subcommittee on Immigration, Border Security, and Claims met in open session and ordered favorably reported the bill H.R. 4453, without amendment, by a voice vote, a quorum being present. On September 30, 2004, the Committee met in open session and ordered favorably reported the bill H.R. 4453, with an amendment, by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee's consideration of H.R. 4453.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee believes that the bill will have no significant cost for the current fiscal year, and no significant cost for the next five fiscal years. The Committee did not receive any estimates of the costs of this legislation from any other government agency as outlined in clause 3(d)(2)(B) of rule XIII. The bill does not authorize programs so the Committee cannot provide a comparison with relevant programs under current law as outlined in clause 3(d)(2)(C) of rule XIII.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4453 would extend and modify the program whereby aliens who participate in medical residencies in the United States on "J" exchange program visas do not have to leave the U.S. at the conclusion of their residencies to reside abroad for 2 years if they agree to practice medicine for 3 years in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This would increase the availability of doctors in these underserved areas.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following discussion describes the bill as reported by the Committee.

Section 1. Modification of Visa Requirements with Respect to International Medical Graduates.

Subsection 1(a) would amend § 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 to extend until June 1, 2006, the program under which aliens who participate in medical residencies in the United States on "J" exchange program visas do not have to leave the U.S. at the conclusion of their residencies to reside abroad for 2 years if they agree to practice medicine for 3 years in an area designated by the Secretary of HHS as having a shortage of health care professionals. This change shall take effect as if enacted on May 31, 2004.

Subsection 1(b) would amend § 214(l)(2)(A) of the Immigration and Nationality Act to provide that the 65,000 annual H-1B visa numerical limitation shall not apply to any alien who has obtained a waiver of the 2 year foreign residence requirement upon a request by an interested Federal agency or an interested state agency.

Subsection 1(c) would amend § 214(l)(1)(D) of the Immigration and Nationality Act to clarify that an alien participating in the waiver program can practice primary care or specialty medicine.

Subsection (d) would amend § 214(l)(1)(D) of the Immigration and Nationality Act to provide that for up to five of a state's 30 yearly waivers, the head of an interested state agency may determine that the alien may practice medicine in a facility that serves patients who reside in one or more geographic areas designated by the Secretary of the Department of HHS as having a shortage of health care professionals without regard to whether such facility is within such a designated geographic area.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 220 OF THE IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994

SEC. 220. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) * * *

* * * * * * *

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, **[**2004.**]** *2006.*

SECTION 214 OF THE IMMIGRATION AND NATIONALITY ACT

ADMISSION OF NONIMMIGRANTS

SEC. 214. (a) * * *

* * * * * * *

(l)(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 212(e) on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

(A) * * *

* * * * * * *

(D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien **[**agrees to practice medicine**]** *agrees to practice primary care or specialty medicine* in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals, **[**except that, in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary.**]** *except that—*

(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary; and

(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic

areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation described in subparagraph (B)) in accordance with the conditions of this clause to exceed 5.

(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien who qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b). *The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.*

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

THURSDAY, SEPTEMBER 30, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is the adoption of H.R. 4453, the "Access to Rural Physicians Improvement Act of 2004." The Chair recognizes the gentleman from Indiana, Mr. Hostettler, the Chairman of the Subcommittee on Immigration, Border Security, and Claims for a motion.

Mr. HOSTETTLER. And, Mr. Chairman, the Subcommittee on Immigration, Border Security, and Claims reports favorably the bill, H.R. 4453, and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point. The Chair recognizes the gentleman from Indiana to strike the last word.

[The bill, H.R. 4453, follows:]

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108TH CONGRESS
2D SESSION

H. R. 4453

To improve access to physicians in medically underserved areas.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2004

MR. MORAN of Kansas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To improve access to physicians in medically underserved areas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Rural Physicians Improvement Act of 2004".

SEC. 2. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of

1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "and before June 1, 2004." and inserting "and before the date that is 1 year after the date of the enactment of the Access to Rural Physicians Improvement Act of 2004.".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B) SPECIAL EFFECTIVE DATE.—With respect only to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)), or acquiring status under such section after admission, during the period beginning on June 1, 2004, and ending on the date of the enactment of this Act, the amendment made by paragraph (1) shall take effect as if this Act were enacted on May 31, 2004.

(b) EXEMPTION FROM H1B NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C.

1184(1)(2)(A) is amended by adding at the end the following:

"The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested State agency.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if this Act were enacted on September 30, 2003.

○

Mr. HOSTETTLER. Thank you, Mr. Chairman. Today we are marking up Terry Moran's bill, H.R. 4453, the Access to Rural Physicians Improvement Act of 2004. Aliens who participate in medical residencies in the United States on J exchange program visas must generally leave the U.S. after the completion of their residencies to reside abroad for 2 years. After this foreign residency they can be eligible for permanent residence or status as H-1B or L visa nonimmigrants. The intent behind the policy is to encourage American trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries.

In 1994, Congress created a waiver of the 2-year foreign residence requirement. State departments of health, public health may request a waiver for foreign doctors to commit to practicing medicine for no less than 3 years in geographic areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals. The number of foreign doctors who could receive the waiver was limited to 20 per State.

In 1996, Congress extended the waiver to June 1, 2002. In 2002, Congress extended the waiver until June 2004. At the same time the numerical limitation on waivers was increased to 30 per State. The waiver has proven to be an important means of ensuring quality medical care in areas of the United States with physician shortages.

H.R. 4453, as introduced by Mr. Moran, as approved by the Immigration, Border Security, and Claims Subcommittee would extend the waiver until 1 year after the bill's date of enactment. I plan to have the Subcommittee utilize that time frame to investigate the impact of foreign students and residents on comparable Americans before deciding on the longer term status of the program.

Ms. Jackson Lee and I have agreed to offer a substitute amendment that will extend the program until June 2006 and give the Committee a bit more time to consider the issue. A number of organizations have proposed that States be able to utilize their waivers in locations not designated as physician shortage areas by the Department of Health and Human Services. Not surprisingly, HHS is very much opposed to such proposals. I was hesitant to eliminate this requirement for all waivers without a hearing. The substitute that Ms. Jackson Lee and I will offer will allow each State to place five of the doctors it sponsors each year in areas not designated by HHS as physician shortage areas. The Committee will then have a year and a half to examine this pilot program and decide whether to extend it to the entire waiver program.

I urge my colleagues to support H.R. 4453 and to support my and Ms. Jackson Lee's substitute amendment.

Chairman SENSENBRENNER. The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. I thank the Chairman very much, and I thank the Chairman of the Subcommittee and his cooperation and working with me on the upcoming amendment to the Access to Rural Physicians Improvement Act of 2004, H.R. 4453. In our hearings of course it was certainly determined and acknowledged that the utilization of the J-1 visas to assist with physicians in rural communities is pivotal. In fact, it is a key element to good health in America. I would not want to say to our rural communities throughout

America today that we were not allowing good strong professional physicians to be able to come into the community to provide good health care.

The Chairman and myself have agreed from the beginning that the J-1 visa waiver program for doctors in underserved areas should be continued. But we have had, as I have indicated, significant differences of opinions over the details of extending the program. I wanted a 5-year program, which Members of the Senate joined me in, and also greater flexibility in dealing with the State health departments. I am gratified, however, that we are willing and collaborating on a compromise that will provide a 2-year extension and as well give some flexibility. Aliens who attend medical school in the United States on J exchange program visas generally must leave the country afterwards and reside abroad for 2 years before they can apply for another visa on some other basis such as an H-1B visa or an L visa.

In 1994, Congress created a temporary waiver of the 2-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than 3 years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for 10 years in bringing highly qualified physicians to medically underserved areas. It is sunsetting on June 1 of this year.

The first physician recommended for a waiver in Texas was a doctor Maria Camacho, a pediatric internist. Her services to the residents of Harlingen in Cameron County provide a level of health care to children that was previously unable in that country. It is extremely important that she happens to be of course bilingual. Additionally, she serves on the faculty of the Valley Regional Academic Health Center to train new physicians.

Dr. K.M. Moorthi is a nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis three times per week in that part of Texas used to have to travel more than 70 miles each way for treatments. Now it is available in this area.

Where else throughout the Nation do we find those same circumstances? The Gateway Community Clinic in Laredo is a federally qualified health center on the Texas-Mexico border. It obtained a J-1B waiver for Dr. Garcia-Cavazos. This doctor is a rheumatologist who provides specialty services to a patient population without regard to their insurance status or their ability to pay. The Access to Rural Physicians Improvement Act would authorize a 1-year extension of the waiver.

Our amendment, which is in the nature of a substitute, would provide a 2-year extension. It also has a pilot flexibility provision which would allow a State agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each State. I would venture to say that every Member of Congress, House and Senate, would be impacted positively by this compromise amendment, and I am gratified to be able to offer it and to support it.

Under the Access to Rural Physicians Improvement Act H-1B doctors who receive the waiver to serve at a State facility do not count towards the annual H-1B cap. Our amendment makes the same provision for H-1B doctors who serve at a Federal facility. The amendment also permits Federal J-1 visa waivers to apply to specialists in addition to the primary care physicians.

I would urge my colleagues to support the underlying legislation with the amendment, and I would venture to say that this amendment will contribute to positive health care in America. With that, I yield back and I thank the Chairman.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will appear in the record at this point.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND RANKING MEMBER, SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

I want to thank my distinguished colleague, the gentleman from Indiana, Mr. Hostettler, for working with me on this amendment to the Access to Rural Physicians Improvement Act of 2004, H.R. 4453. Although we have agreed from the beginning that the J-1 visa waiver program for doctors in underserved areas should be continued, we have had significant differences of opinion over the details of extending the program. I appreciate Mr. Hostettler's willingness to negotiate a compromise that can be moved forward as a bipartisan bill.

Aliens who attend medical school in the United States on J exchange program visas generally must leave the country afterwards and reside abroad for two years before they can apply for another visa on some other basis, such as an H-1B or an L visa. In 1994, Congress created a temporary waiver of the two-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than three years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for ten years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1st of this year.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a Pediatric Intensivist. Her services to the residents of Harlingen in Cameron County provide a level of health care to children that was previously unavailable in that county. Additionally, she serves on the faculty of the Valley Regional Academic Health Center to train new physicians.

Dr. K. M. Moorthi is a Nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis 3 times per week in that part of Texas used to have to travel more than 70 miles each way for the treatments. Now it is available in Pecos.

The Gateway Community Clinic in Laredo is a Federally Qualified Health Center on the Texas-Mexico border. It obtained a J-1 waiver for Dr. Rogelio Garcia-Cavazos. This doctor is a Rheumatologist who provides specialty services to a patient population without regard to their insurance status or their ability to pay.

The Access to Rural Physicians Improvement Act would authorize a one-year extension of the waiver. Our amendment, which is in the nature of a substitute, would provide a two-year extension. It also has a pilot flexibility provision which would allow a state agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each state.

Under the Access to Rural Physicians Improvement Act, H-1B doctors who receive the waiver to serve at a state facility do not count towards the annual H-1B cap. Our amendment makes the same provision for H-1B doctors who serve at a federal facility. The amendment also permits federal J-1 visa waivers to apply to specialists in addition to primary care physicians.

I urge you to vote for this amendment. Thank you.

Chairman SENSENBRENNER. Are there amendments? The gentleman from Indiana has the substitute.

Mr. HOSTETTLER. Mr. Chairman, I have a substitute at the desk.

Chairman SENSENBRENNER. The Clerk will report the substitute.

The CLERK. Amendment in the nature of a substitute to H.R. 4453 offered by Mr. Hostettler of Indiana and Ms. Jackson Lee of Texas.

[The amendment in the nature of a substitute follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4453 OFFERED BY MR. HOSTETTLER OF INDIANA AND MS. JACKSON-LEE OF TEXAS

Strike all after the enacting clause and insert the following:

SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2006.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.

(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any

alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.".

(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking "agrees to practice medicine" and inserting "agrees to practice primary care or specialty medicine".

(d) EXEMPTION FROM GEOGRAPHIC LIMITATIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)), as amended by subsection (c), is further amended—

(1) by striking "except that," and all that follows through the period at the end and inserting "except that—"; and

(2) by adding at the end the following:

"(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary; and

"(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is

to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation described in subparagraph (B)) in accordance with the conditions of this clause to exceed 5.".

Chairman SENSENBRENNER. Without objection, the substitute is considered as read and open for amendment at any point. The Chair recognizes the gentleman from Indiana, Mr. Hostettler.

Mr. HOSTETTLER. Mr. Chairman, I thank you, and as we said earlier, Mr. Chairman, H.R. 4453, introduced by Representative Moran, extends the J visa for foreign residency waiver program until 1 year after the bill's date of enactment. On June 3, 2004, the bill was approved by the Subcommittee on Immigration, Border Security and Claims by a voice vote. This substitute that Ms. Jackson Lee and I are offering would accomplish the following:

First, the substitute would extend the waiver until June 1, 2006. This will give the Subcommittee adequate time to fully explore all the issues involved with foreign medical students and foreign medical residents.

Second, the substitute would allow foreign doctors receiving a waiver to receive H-1B status regardless of the annual H-1B visa quota, whether they are sponsored by a State or Federal agency.

Third, the substitute would explicitly allow foreign doctors receiving a waiver to work in medically underserved areas in either primary care or specialty medicine. A number of State public health agencies have utilized the waiver program to meet needs for specialty care providers, and the substitute recognizes this practice.

Fourth, the substitute will allow five of each States 30 waiver recipients to practice medicine in areas not designated by the Secretary of Health and Human Services as having a shortage of health care professional, if the doctors receiving the waivers will practice in facilities that serve patients who reside in areas designated by the Secretary as having a shortage of health care professionals. The Subcommittee will review the operation of this program to ensure not only that the goal of the waivers is maintained; that is, serving the underserved, but also to determine the impact on American citizens who by very definition, at least 30 in each State, 30 per State spots, slots in medical schools must be, by definition of the result of this, the presence of this program, must be denied to American citizens for the purpose of practicing medicine. And so in the interim time we will not only be looking at the situation as it seeks to serve those that are in underserved areas, but obviously the impact on American citizens and their ability to attend medical school.

On that, Mr. Chairman, I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the adoption.

Ms. JACKSON LEE. Chairman.

Chairman SENSENBRENNER. The gentlewoman from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. As the Chairman mentioned, of the Subcommittee, this is a compromise. I would simply—I will be including most of my statement into the record, but I do want to make the point that this is a very, very well respected program and a well-needed program. I hope after we have had a successful study of this program in the 2-year extension we will be able to implement a J-1 visa program that will allow a 5-year program continuously. These are physicians who in most instances adhere to their visa time frame. They will return back to their nation of origin, but more importantly, they serve a very vital need in the battle for good health care in America to underserved

areas, and I believe it is crucial that this program continue with a 5-year program and the flexibility for the States.

The compromise I accept and support, and I ask my colleagues to support the amendment in the nature of a substitute of myself and Mr. Hostettler.

I would yield back.

Chairman SENSENBRENNER. Are there amendments to the amendment in the nature of a substitute? If there are none, the question is on agreeing to the amendment in the nature of a substitute offered by the gentleman from Indiana, Mr. Hostettler. Those in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it, and the amendment in the nature of a substitute is agreed to.

A reporting quorum is present. The question occurs on the motion to report the bill H.R. 4453 favorably, as amended. All in favor will say aye. Opposed, no. The ayes appear to have it. The ayes have it and the motion to report favorably is adopted.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendment adopted here today. Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the House rules in which to submit additional, dissenting, supplemental, or minority views.