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FOREIGN PHYSICIANS

Preliminary Findings on the Use of J-1 Visa Waivers to Practice in Underserved Areas

Statement of Leslie G. Aronovitz
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May 18, 2006

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Highlights

Highlights of GAO-06-773T, a testimony before the Subcommittee on Immigration, Border Security, and Claims, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

Many U.S. communities face difficulties attracting physicians to meet their health care needs. To address this problem, states and federal agencies have turned to foreign physicians who have just completed their graduate medical education in the United States under J-1 visas. Ordinarily, these physicians are required to return home after completing their education, but this requirement can be waived at the request of a state or federal agency if the physician agrees to practice in, or work at a facility that treats residents of, an underserved area. In 1996, GAO reported that J-1 visa waivers had become a major means of providing physicians for underserved areas, with over 1,300 requested in 1995. Since 2002, each state has been allotted 30 J-1 visa waivers per year, but some states have expressed interest in more.

GAO was asked to report on its preliminary findings from ongoing work on (1) the number of J-1 visa waivers requested by states and federal agencies and (2) states' views on the 30-waiver limit and on their willingness to have unused waiver allotments redistributed. Such redistribution would require legislative action.

GAO surveyed the 50 states, the District of Columbia, 3 U.S. insular areas—the 54 entities that are considered states for purposes of requesting J-1 visa waivers—and federal agencies about waivers they requested in fiscal years 2003–05.

www.gao.gov/cgi-bin/getrpt?GAO-06-773T.

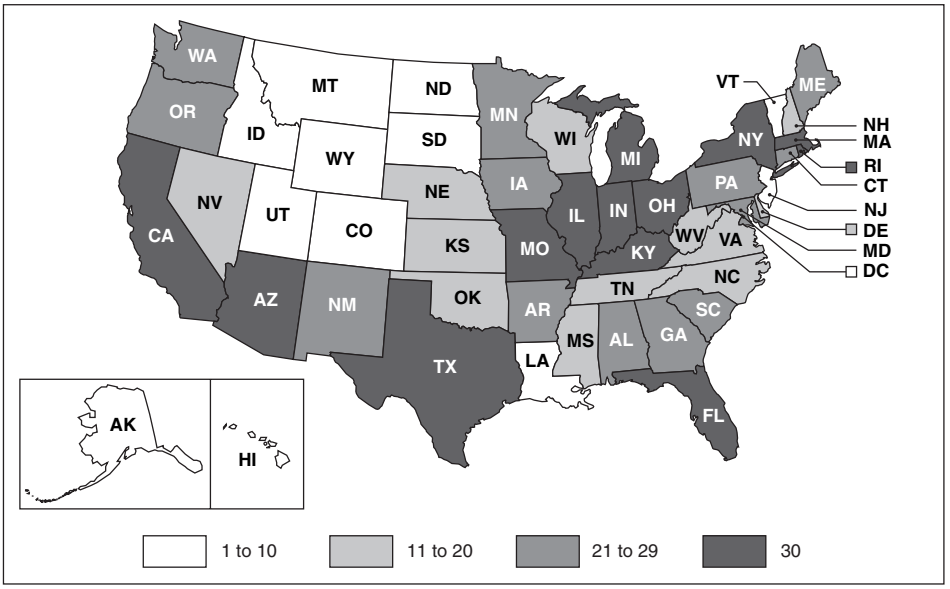
To view the full product, including the scope and methodology, click on the link above. For more information, contact Leslie G. Aronovitz at (312) 220-7600 or aronovitzl@gao.gov.

What GAO Found

The use of J-1 visa waivers remains a major means of placing physicians in underserved areas of the United States. States and federal agencies reported requesting more than 1,000 waivers in each of the past 3 years. In contrast to a decade ago, states are now the primary source of waiver requests for physicians to practice in underserved areas, accounting for more than 90 percent of such waiver requests in fiscal year 2005. The number of waivers individual states requested that year, however, varied considerably. For example, about one-quarter of the states requested the maximum of 30 waivers, while slightly more than a quarter requested 10 or fewer.

Regarding the annual limit on waivers, about 80 percent of the states—including many of those that requested the annual limit or close to it—reported the 30-waiver limit to be adequate for their needs. About 13 percent reported that this limit was less than adequate. Of the 44 states that did not always request the limit, 25 reported that they would be willing to have their unused waiver allotments redistributed, at least under certain circumstances. In contrast, another 14 states reported that they would not be willing to have their unused waiver allotments redistributed. These states cited concerns such as the possibility that physicians seeking waivers would wait until a redistribution period opened and apply to practice in preferred locations in other states.

States' Requests for J-1 Visa Waivers for Physicians to Practice in Underserved Areas, Fiscal Year 2005



Sources: GAO survey of states (data), 2005; copyright © Corel Corp., all rights reserved (map).

Note: Guam requested two J-1 visa waivers in fiscal year 2005; Puerto Rico and the U.S. Virgin Islands requested no waivers that year.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today as you consider the states' authority to request J-1 visa waivers for foreign physicians to practice in underserved areas[1] of the United States. As you know, many communities throughout the country—including rural and low-income urban areas—experience difficulties in attracting physicians to meet their health care needs. To address this problem, states and federal agencies have turned to foreign physicians who have just completed their graduate medical education in the United States. Many of these foreign physicians entered the United States on temporary visas, called J-1 visas, and are ordinarily required to return to their home country or country of last legal residence for 2 years when they complete their graduate medical education. This foreign residence requirement, however, can be waived by the Department of Homeland Security in certain circumstances, including at the request of a state or federal agency if the physician agrees to practice in an underserved area for at least 3 years.[2] By law, up to 30 J-1 visa waivers per year can be granted in response to each state's requests—regardless of the state's size or need for physicians.[3] There is no limit in the number of J-1 visa waivers that may be granted in response to federal agencies' requests.

In 1996, we reported that the number of J-1 visa waivers requested by states and federal agencies for physicians to work in underserved areas had risen dramatically—from 70 in 1990 to more than 1,300 in 1995—and that requesting waivers had become a major means of providing physicians for underserved areas. We estimated that, in 1995, the number of waiver physicians practicing in underserved areas exceeded the number of physicians practicing there through the National Health Service Corps (NHSC) programs—the Department of Health and Human Services' (HHS) primary mechanism for addressing shortages of physicians and other

[1]In this statement, we use the term "underserved areas" to refer to (1) areas, population groups within areas, and facilities with shortages of health care professionals or (2) areas or population groups with shortages of health care services. The Department of Health and Human Services has established specific criteria for identifying these areas, which are described in more detail later in this statement.

[2]Throughout this statement, we refer to a waiver of the 2-year foreign residence requirement as a "J-1 visa waiver" or "waiver."

[3]8 U.S.C. §§ 1182(e), 1184(l)(1)(B). States may request waivers for foreign physicians who enter the United States before June 1, 2006, under a J-1 visa for graduate medical education or who acquired such status after admission. 8 U.S.C. § 1182 note.

primary care health professionals.[4] We reported that slightly over half of these waiver physicians practiced internal medicine, and many also had medical subspecialties. Further, more than one-third of the waiver physicians practiced in nonprofit community and migrant health centers, while nearly one-fourth were in private practices. We also noted that controls for ensuring that these physicians met the terms of their waiver agreements were somewhat weak.[5] In the 10 years since our earlier report, the Department of Agriculture and the Department of Housing and Urban Development—which together requested more than 80 percent of the J-1 visa waivers for physicians in 1995—decided to stop doing so.

You and others have expressed an interest in determining how J-1 visa waivers are being used to place physicians in underserved areas. We were also asked to report on one option that has been raised as a possible means to accommodate those states that have expressed an interest in having more than 30 waivers granted at their request each year—the possibility of redistributing some states' unused waiver allotments. My remarks today are based on preliminary findings from our ongoing work and will focus on (1) the number of waivers requested by states in relation to the number requested by federal agencies; (2) practice specialties and settings of physicians whose waivers were requested by states; (3) states' activities to monitor compliance with waiver agreements; and (4) states' views on both the adequacy of the annual limit of 30 J-1 visa waivers per state and on having unused waiver allotments redistributed, which would require legislation.

To address these issues, we administered a Web-based survey to the entities eligible to request J-1 visa waivers for physicians under the authority granted to the states—the 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands (hereafter referred to as "states").[6] We sent the survey to the official in each state authorized to sign

[4]NHSC places physicians and other health care professionals who are U.S. citizens or U.S. nationals in underserved areas primarily through its scholarship and educational loan repayment programs. Participating students and health professionals are required to practice in underserved areas for at least 2 years.

[5]See GAO, *Foreign Physicians: Exchange Visitor Program Becoming Major Route to Practicing in U.S. Underserved Areas*, GAO/HEHS-97-26 (Washington, D.C.: Dec. 30, 1996), and "Related GAO Products" at the end of this statement.

[6]8 U.S.C. §1101(a)(36). We also sent a mail survey to the three federal agencies that requested waivers for physicians to practice in underserved areas in fiscal years 2003 through 2005. These included the Appalachian Regional Commission, the Delta Regional Authority, and the Department of Health and Human Services.

waiver requests or to his or her designee. The survey asked for information on states' J-1 visa waiver requests[7] for fiscal years 2003 through 2005 and on their views on the adequacy of the 30-waiver limit and having their unused waiver allotments redistributed.[8] We received a 100 percent response rate. We reviewed the surveys for internal consistency and followed up with respondents to resolve discrepancies and clarify responses; however, we did not verify the accuracy of the responses. We also reviewed relevant laws, regulations, and documents, and interviewed officials involved in reviewing and granting waivers at the Departments of State and Homeland Security. We also interviewed officials at HHS and the Educational Commission for Foreign Medical Graduates—the private, nonprofit organization that sponsors foreign physicians as exchange visitors for graduate medical education. We shared facts included in this statement with officials at the Department of State, the Department of Homeland Security, and HHS and made changes as appropriate. We conducted our work from August 2005 through May 2006 in accordance with generally accepted government auditing standards.

In summary, we found that the use of J-1 visa waivers remains a major means of placing physicians in underserved areas of the United States, with more than 1,000 waivers requested in each of the past 3 years for physicians to practice in nearly every state. In fiscal year 2005, states made more than 90 percent of these waiver requests. About 44 percent of the states' waiver requests were for physicians to practice exclusively primary care,[9] while about 41 percent were for physicians to practice exclusively nonprimary care specialties, such as anesthesiology or cardiology. Regarding practice settings, more than three-fourths of the states' waiver requests were for physicians to work in hospitals or private practices. While states do not have explicit responsibility for monitoring physicians' compliance with their waiver agreements, most states reported that they had conducted some monitoring activities, such as requiring periodic reports on patients treated and conducting site visits to the practice

[7]While comprehensive data on the number of J-1 visa waivers granted at the request of states do not exist, the federal agencies responsible for reviewing and granting state waiver requests indicated that, after review for compliance with statutory requirements and security issues, nearly all are recommended and approved.

[8]We did not ask states for their views on other options to accommodate states that would like more than 30 waivers granted at their request each year.

[9]For the purposes of this report, we define primary care to include family practice, internal medicine, obstetrics/gynecology, and pediatrics.

locations. Six states—which together accounted for about 13 percent of all state waiver requests in fiscal year 2005—reported that their states had not conducted any monitoring activities that year. Finally, regarding the states' authority to request waivers, about 80 percent of the states—including many of the states that requested the annual limit or close to it—reported the 30-waiver limit was adequate for their needs. About 13 percent, however, reported that this limit was less than adequate. Of the 44 states that did not always request the limit, 25 reported that they would be willing to have their unused waiver allotments redistributed, at least under certain circumstances, if authorized by law. In contrast, another 14 states reported that they would not be willing to have their unused waiver allotments redistributed. These states cited concerns such as the possibility that physicians seeking waivers would wait until a redistribution period opened and apply to practice in preferred locations in other states.

Background

Many foreign physicians who enter U.S. graduate medical education programs do so as participants in the Department of State's Exchange Visitor Program—an educational and cultural exchange program aimed at increasing mutual understanding between the peoples of the United States and other countries. Participants in the Exchange Visitor Program enter the United States with J-1 visas.[10] More than 6,100 foreign physicians with J-1 visas took part in U.S. graduate medical education programs during academic year 2004–05. This number was about 40 percent lower than a

[10]In addition to foreign physicians seeking to pursue graduate medical education, other categories of exchange visitors include professors and research scholars, short-term scholars, trainees, college and university students, teachers, secondary school students, specialists, international visitors, government visitors, camp counselors, au pairs, and summer work travel. *See generally* 22 C.F.R. pt. 62. Exchange visitors in these other categories are subject to the 2-year foreign residence requirement under certain circumstances. *See* 8 U.S.C. § 1182(e)(i), (ii). For more information on the Exchange Visitor Program, see GAO, *State Department: Stronger Action Needed to Improve Oversight and Assess Risks of the Summer Work Travel and Trainee Categories of the Exchange Visitor Program*, GAO-06-106 (Washington, D.C.: Oct. 14, 2005).

decade earlier, when about 10,700 foreign physicians with J-1 visas were in U.S. graduate medical education programs.[11]

Physicians participating in graduate medical education on J-1 visas are required to return to their home country or country of last legal residence for at least 2 years before they may apply for an immigrant visa, permanent residence, or certain nonimmigrant work visas.[12] They may, however, obtain a waiver of this requirement from the Department of Homeland Security at the request of a state or federal agency, if the physician has agreed to practice in, or work at a facility that treats residents of, an underserved area for at least 3 years.[13]

States were first authorized to request J-1 visa waivers on behalf of foreign physicians in October 1994.[14] Initially, states were authorized to request waivers for up to 20 physicians each fiscal year; in 2002, the annual limit was increased to 30 waivers per state.[15] Physicians who receive waivers may work in various practice settings, including federally funded health centers and private hospitals, and they may practice both primary care and

[11]The reasons for this decline are not completely understood. Foreign physicians also enter the United States for graduate medical education using other visa types, such as H-1B visas—temporary work visas for foreign nationals employed in certain specialty occupations. These other visa types may require the physician to meet additional statutory or regulatory requirements, such as evidence that the physician has a license to practice medicine in a particular state. Reliable data are not available on the extent to which these other visa types are used.

[12]8 U.S.C. § 1182(e). Such foreign medical graduates with J-1 visas are also prohibited from changing to any other type of nonimmigrant status. 8 U.S.C. § 1258(2).

[13]8 U.S.C. §§ 1182(e), 1184 (l)(1)(D). Physicians may also obtain a waiver at the request of the Department of Veterans Affairs (VA) if the physician has agreed to practice at a VA facility for at least 3 years. To obtain a waiver to practice in an underserved area or at a VA facility, such employment must also be determined by the Department of Homeland Security to be in the public interest. Physicians with J-1 visas may also obtain a waiver of the 2-year foreign residence requirement if the Department of Homeland Security determines that their departure from the United States would create an exceptional hardship for the physician's U.S. citizen or permanent resident spouse or child or if the return to the physician's home country or country of last residence would subject the physician to persecution because of race, religion, or political opinions.

[14]Pub. L. No. 103-416, § 220, 108 Stat. 4305, 4319. Federal agencies were first authorized to request J-1 visa waivers for physicians in graduate medical education in 1961. Pub. L. No. 87-256, § 109(c), 75 Stat. 527, 534.

[15]Pub. L. No. 107-273, § 11018(a), 116 Stat. 1758, 1825.

nonprimary care specialties.[16] States and federal agencies may impose additional limitations on their programs beyond federal statutory requirements, such as limiting the number of requests they will make for physicians to practice nonprimary care specialties.

Obtaining a J-1 visa waiver through a state request involves multiple steps. A physician must first secure a bona fide offer of employment from a health care facility that is located in, or that treats residents of, an underserved area. The physician, the prospective employer, or both then submit an application to a state to request the waiver. The state submits a request for the waiver to the Department of State. If the Department of State recommends the waiver, it forwards its recommendation to the Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS). USCIS is responsible for making the final determination and notifying the physician when a waiver is granted. According to officials involved in recommending and approving waivers at the Department of State and USCIS, after review for compliance with statutory requirements and security issues, nearly all states' waiver requests are recommended and approved. Once physicians are granted waivers, they must work at the site specified in their waiver applications for a minimum of 3 years.[17] During this period, although states do not have explicit responsibility for monitoring physicians' compliance with the terms and conditions of their waivers, states may conduct monitoring activities at their own initiative.

For purposes of J-1 visa waivers, HHS has specified two types of underserved areas in which waiver physicians may practice: health professional shortage areas (HPSAs) and medically underserved areas and populations (MUA/Ps).[18] In general, HPSAs are areas, population groups within areas, or facilities that HHS has designated as having a shortage of primary care health professionals and are identified on the basis of, among

[16]States and federal agencies requesting waivers for nonprimary care physicians are required to demonstrate a shortage of health care professionals able to provide services in that medical specialty for the patients who would be served by that physician, based on their own criteria. 8 U.S.C. § 1184(l)(1)(D)(iii).

[17]Physicians may obtain approval from USCIS to transfer to another facility or location when extenuating circumstances exist, such as when the physician's assigned facility closes.

[18]60 Fed. Reg. 48515–6 (Sept. 19, 1995).

other factors, the ratio of population to primary care physicians.[19] MUA/Ps are areas or populations that HHS has designated as having shortages of health care services and are identified using several factors in addition to the availability of primary care providers.[20] In 2004, Congress gave states the flexibility to use up to 5 of their 30 waiver allotments each year—which we call "flexible waivers"—for physicians to work in facilities that serve patients who reside in a HPSA or MUA/P, regardless of the facilities' location.[21]

No one federal agency is responsible for managing or tracking states' and federal agencies' use of J-1 visa waivers to place physicians in underserved areas. Further, no comprehensive data are available on the total number of waivers granted for physicians to practice in underserved areas. HHS's Health Resources and Services Administration is the primary federal agency responsible for improving access to health care services, both in terms of designating underserved areas and in administering programs—such as the NHSC programs—to place physicians and other providers in them. However, HHS's oversight of waiver physicians practicing in underserved areas has generally been limited to those physicians for whom HHS has requested J-1 visa waivers.

Waivers Remain a Major Means for Providing Physicians, and States Request Most Waivers

J-1 visa waivers continue to be a major means of supplying physicians to underserved areas in the United States, with states and federal agencies reporting that they requested more than 1,000 waivers in each of fiscal years 2003 through 2005. We estimated that, at the end of fiscal year 2005, the number of physicians practicing in underserved areas through the use

[19]HHS's Health Resources and Services Administration (HRSA) designates geographic areas, specific population groups within an area, or specific facilities as HPSAs. Separate designations exist for primary care and for other health care fields, such as mental health. For primary care HPSAs, designation is based in part on the basis of the ratio of population to the number of primary care physicians but may also include other factors such as health care resources available in neighboring areas. See http://bhpr.hrsa.gov/shortage/hpsacrit.htm, downloaded May 15, 2006.

[20]HRSA designates areas and populations as MUA/Ps. See http://bhpr.hrsa.gov/shortage/muaguide.htm, downloaded May 15, 2006.

[21]Pub. L. No. 108-441, § 1(d), 118 Stat. 2630.

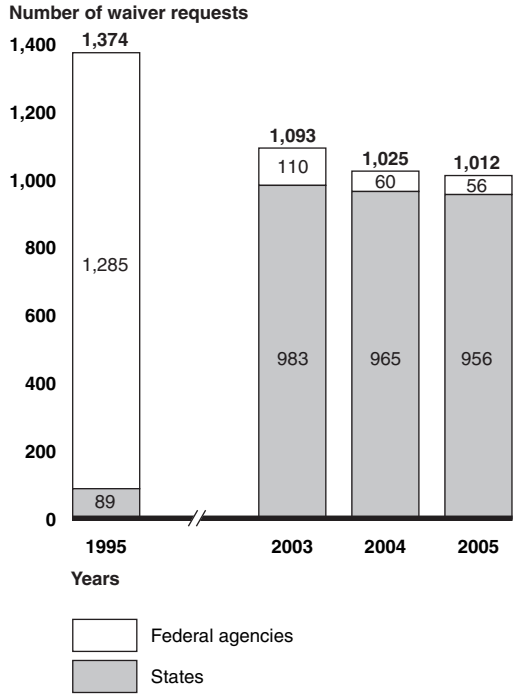
of J-1 visa waivers was roughly one and a half times the number practicing there through NHSC programs.[22]

In contrast to our findings a decade ago, states are now the primary source of waiver requests for physicians to practice in underserved areas. In fiscal year 2005, more than 90 percent of the waiver requests for physicians were initiated by the states, compared with fewer than 10 percent in 1995.[23] (See fig. 1.) Every state except Puerto Rico and the U.S. Virgin Islands reported requesting waivers for physicians in fiscal year 2005, for a total of 956 waiver requests. In 1995—the first full year that states had authority to request waivers—nearly half of the states made a total of 89 waiver requests.

[22]Data are not available on the number of waiver physicians practicing in underserved areas at any given time. We estimated that number by totaling the number of waiver requests in each of fiscal years 2003 through 2005–which would represent the physicians expected to be fulfilling their 3-year practice period or who had waivers in process to do so. We compared that number with the number of NHSC physicians practicing in underserved areas as of September 30, 2005.

[23]In 1995, up to 20 waivers per year could be granted in response to each state's requests, so the maximum number of waivers that could be granted that year in response to the 54 states' requests was 1,080. Since 2002, the maximum number has been 50 percent higher, so the maximum number of waivers that can be granted annually in response to the 54 states' requests has been 1,620.

Figure 1: States' and Federal Agencies' Requests for J-1 Visa Waivers for Physicians



Sources: GAO/HEHS-97-26; GAO survey of states, 2005; GAO survey of federal agencies, 2005.

Note: Data apply to calendar year 1995 and fiscal years 2003 through 2005. In 1995, up to 20 waivers per year could be granted in response to each state's requests. Since 2002, the annual limit has been 30 waivers per state.

During the past decade, the two federal agencies that requested the most waivers for physicians to practice in underserved areas in 1995—the Department of Agriculture and the Department of Housing and Urban Development—have discontinued their programs.[24] These federal agencies together requested more than 1,100 waivers for physicians to practice in 47 states in 1995, providing a significant source of waiver physicians for some states. For example, these federal agencies requested a total of 149 waivers for physicians to practice in Texas, 134 for New York, and 105 for Illinois in 1995. In fiscal year 2005, the three federal agencies that requested waivers for physicians to practice in underserved areas—the Appalachian Regional Commission, the Delta Regional Authority, and

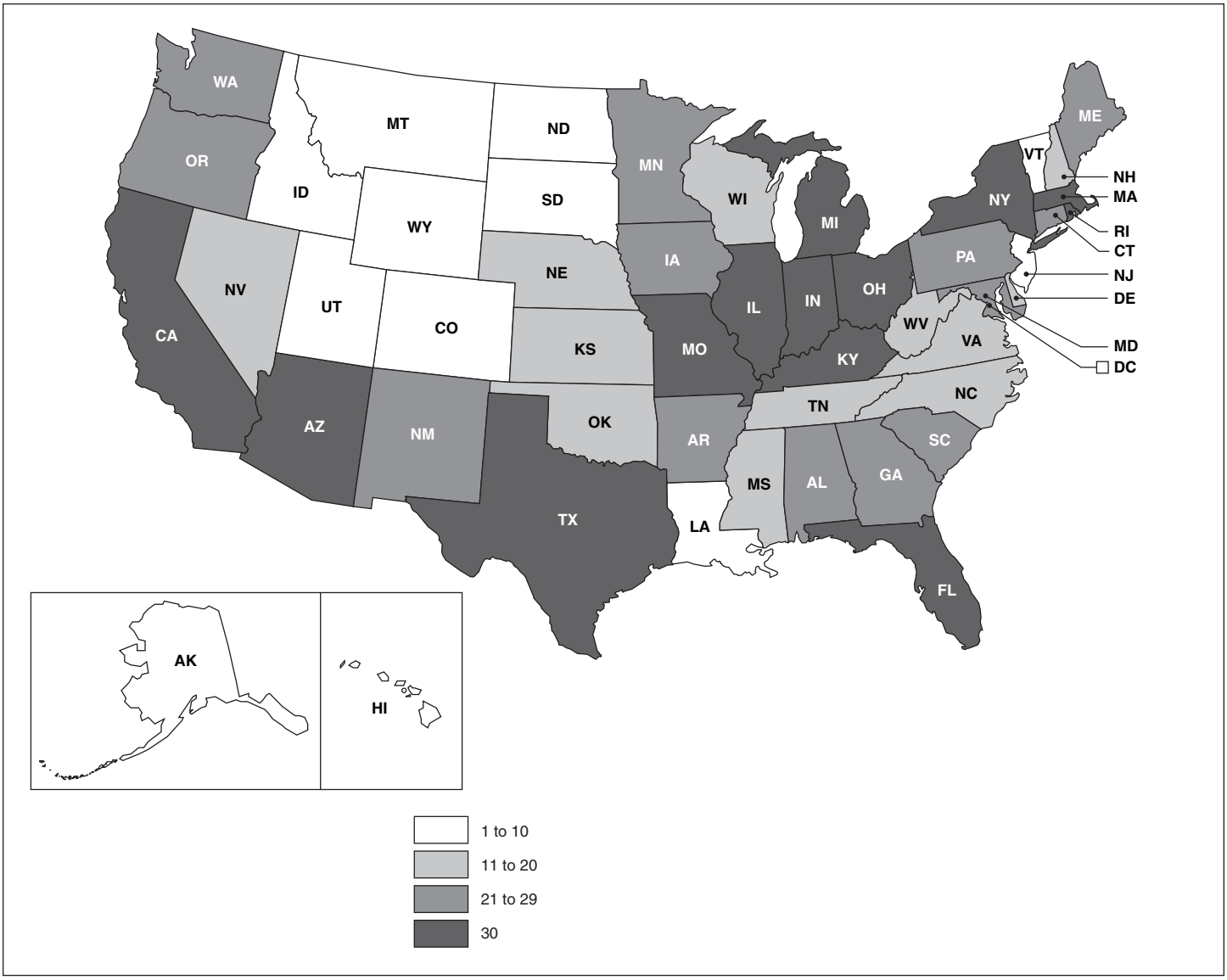
[24]The Department of Housing and Urban Development stopped requesting waivers for physicians in 1996; the Department of Agriculture stopped its program in 2002.

HHS—requested a total of 56 waivers for physicians to practice in 15 states.[25]

With diminished federal participation, states now obtain waiver physicians primarily through the 30 waivers they are allotted each year. The number of waivers states actually requested, however, varied considerably among the states in fiscal years 2003 through 2005. For example, in fiscal year 2005, about one-quarter of the states requested the maximum of 30 waivers, while slightly more than a quarter requested 10 or fewer (see fig. 2). Collectively, the 54 states requested 956 waivers, or roughly 60 percent of the maximum of 1,620 waivers that could have been granted at their request.

[25]The number of waivers requested by these agencies for physicians to practice in each of the 15 states ranged from 1 request for each of 6 states to 14 requests for Mississippi.

Figure 2: States' Requests for J-1 Visa Waivers for Physicians to Practice in Underserved Areas, Fiscal Year 2005



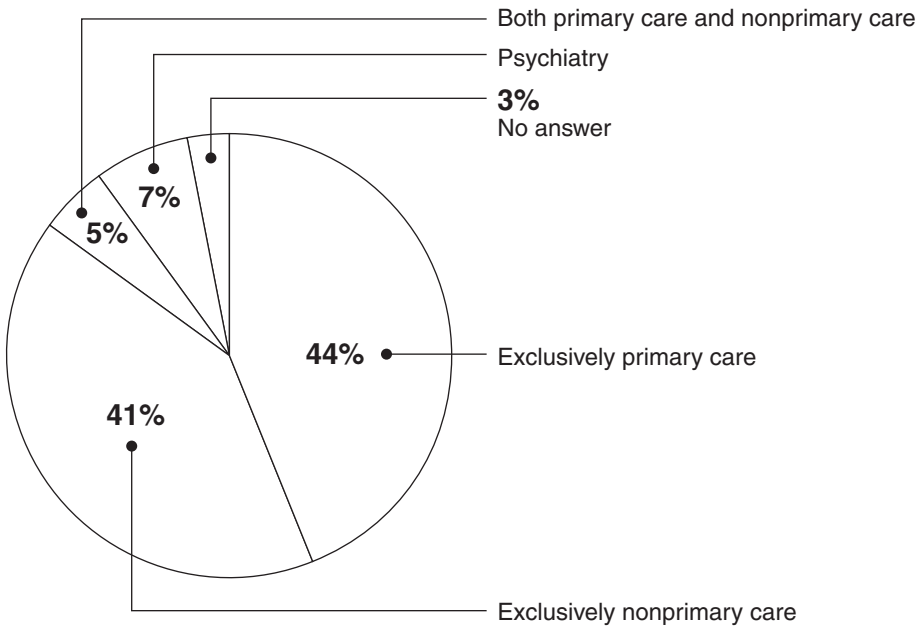
Sources: GAO survey of states (data), 2005; copyright © Corel Corp., all rights reserved (map).

Note: Guam requested two waivers in fiscal year 2005; Puerto Rico and the U.S. Virgin Islands requested no waivers that year.

States Requested Waivers for Physicians to Work in a Variety of Practice Specialties and Settings

Of the waivers states requested in fiscal year 2005, about 44 percent were for physicians to practice exclusively primary care, while about 41 percent were for physicians to practice exclusively in nonprimary care specialties, such as anesthesiology or cardiology. An additional 7 percent were for physicians to practice psychiatry.[26] A small proportion of requests (5 percent) were for physicians to practice both primary and nonprimary care—for example, for individual physicians who practice both internal medicine and cardiology (see fig. 3).

Figure 3: Specialties Practiced by Physicians for Whom States Requested J-1 Visa Waivers, Fiscal Year 2005



Source: GAO survey of states, 2005.

Note: Percentages are based on 956 waivers requested by 52 states in fiscal year 2005. Puerto Rico and the U.S. Virgin Islands did not request waivers that year. Psychiatry is reported as a separate medical specialty because some states' J-1 visa waiver programs have requirements for psychiatrists that differ from those for other physicians.

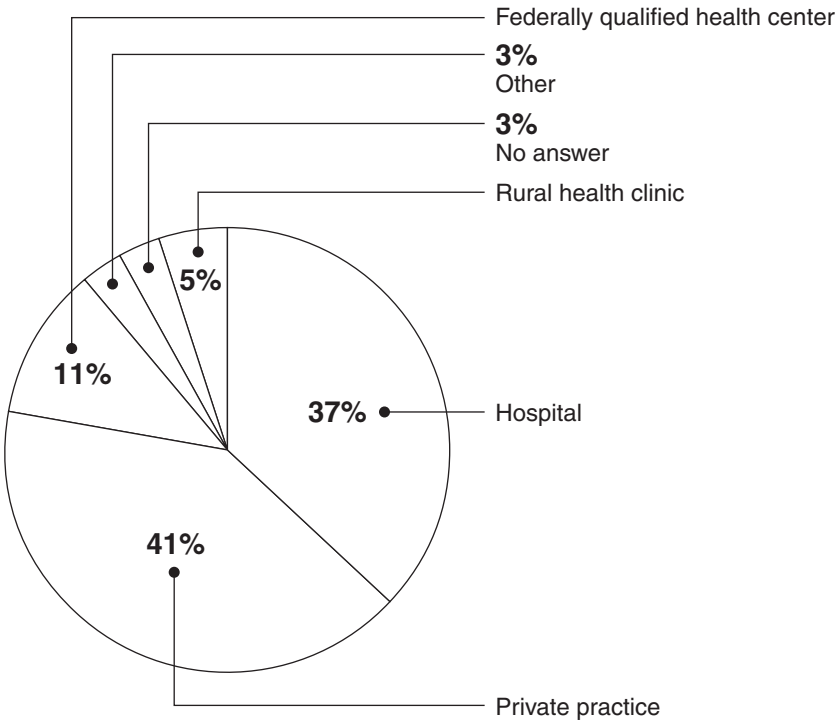
[26]Psychiatry is reported as a separate medical specialty because some states' J-1 visa waiver programs have requirements for psychiatrists that differ from those for other physicians. For example, a state might require psychiatrists seeking J-1 visa waivers to practice in areas that HHS has designated as mental health HPSAs.

More than 90 percent of the states that requested waivers in fiscal year 2005 reported that, under their policies in place that year, nonprimary care physicians were eligible to apply for waiver requests. Some of these states limited these requests. For example, some states restricted the number of hours a physician could practice in a nonprimary care specialty. Further, two states reported that they accepted applications from, and requested waivers for, primary care physicians only.

Regarding practice settings, more than three-fourths of the waivers requested by states in fiscal year 2005 were for physicians to practice in hospitals and private practices, including group practices. In addition, 16 percent were for physicians to practice in federally qualified health centers—facilities that provide primary care services in underserved areas—or rural health clinics—facilities that provide outpatient primary care services in rural areas (see fig. 4). More than 80 percent of the states requesting waivers in fiscal year 2005 reported requiring facilities where the physicians worked—regardless of practice setting—to accept some patients who were uninsured or covered by Medicaid.[27]

[27]Authorized under title XIX of the Social Security Act, Medicaid is the joint federal-state program that finances health care for certain low-income individuals.

Figure 4: Practice Settings of Physicians for Whom States Requested J-1 Visa Waivers, Fiscal Year 2005



Source: GAO survey of states, 2005.

Note: Percentages are based on 956 waivers requested by 52 states in fiscal year 2005. Puerto Rico and the U.S. Virgin Islands did not request waivers that year.

Most States Reported Conducting Some Monitoring Activities

Although states do not have explicit responsibility for monitoring physicians' compliance with the terms and conditions of their waivers, in fiscal year 2005, more than 85 percent of the states reported conducting at least one monitoring activity. The most common activity—reported by 40 states—was to require periodic reports by the physician or the employer (see table 1). Some states required these reports to specify the number of hours the physician worked or the types of patients—for example, whether they were uninsured—whom the physician treated.

Table 1: Monitoring Activities States Reported Conducting in Fiscal Year 2005

Activity	Number of states conducting activity	Percentage of states conducting activity
Required periodic reports by the physician or employer	40	75
Monitored through regular communication with employers	21	40
Monitored through regular communication with physicians	19	36
Conducted periodic site visits	18	34
Other	9	17

Source: GAO survey of states, 2005.

Note: Reported activities are for the 53 states that requested any waivers in fiscal years 2003 through 2005. Puerto Rico did not request waivers during that period.

Not all states that requested waivers conducted monitoring activities. Six states, which collectively accounted for about 13 percent of all state waiver requests in fiscal year 2005, reported that they conducted no monitoring activities in that year.

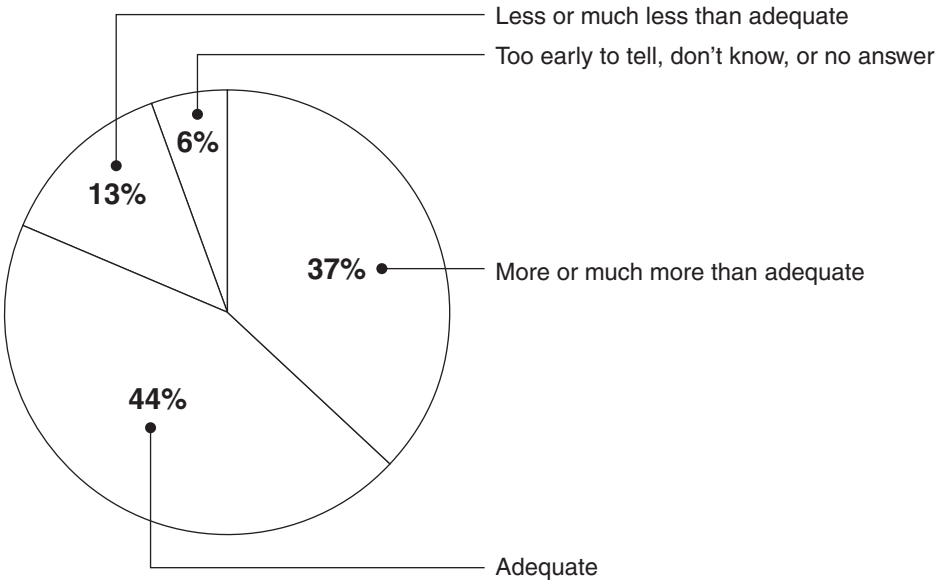
Most States Reported That the Annual Limit Was Adequate but Reported Differing Views on Having Allotments Redistributed

The majority of the states reported that the annual limit of 30 waivers per state was at least adequate to meet their needs for J-1 visa waiver physicians. When asked about their needs for additional waiver physicians, however, 11 states reported needing more. Furthermore, of the 44 states that did not request their 30-waiver limit in each of fiscal years 2003 through 2005, more than half were willing, at least under certain circumstances, to have their unused waiver allotments redistributed to other states in a given year. Such redistribution would require legislation. Fourteen states reported that they would not be willing to have their states' unused waiver allotments redistributed.

Most States Reported That the Annual Waiver Limit Was Adequate, While Some Reported the Need for More

About 80 percent of the states reported that the annual limit of 30 waivers per state was adequate or more than adequate to meet their needs for J-1 visa waiver physicians. However, 13 percent of the states reported that the 30-waiver limit was less than adequate (see fig. 5).

Figure 5: States' Views on the Adequacy of the Annual Limit of 30 J-1 Visa Waivers for Physicians, 2005



Source: GAO survey of states, 2005.

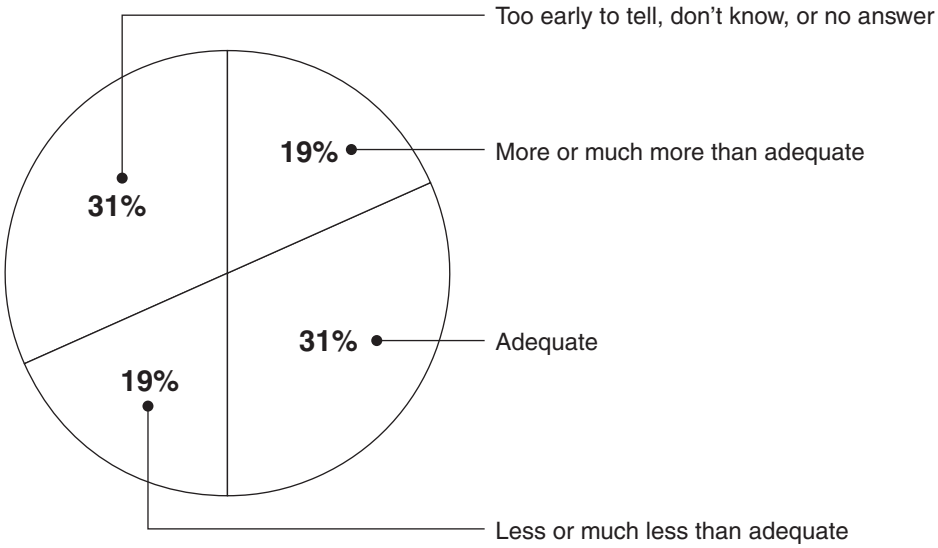
Note: Percentages are based on all 54 states eligible to request waivers.

Among the 16 states that requested 29 or 30 waivers in fiscal year 2005, 10 states reported that the annual limit was at least adequate for their needs. The other 6 states that requested all or almost all of their allotted waivers that year reported that the 30-waiver limit was less than adequate.

As mentioned earlier, states can use up to 5 of their waiver allotments for physicians to work in facilities located outside of HPSAs and MUA/Ps, as long these facilities serve patients who live in these underserved areas. While we inquired about states' views on the adequacy of the annual limit on these flexible waivers, fewer than half of the states reported requesting flexible waivers in fiscal year 2005—the first year they were authorized to do so. When asked about the annual limit of 5 flexible waivers, half of the states (27 states) reported that this limit was at least adequate, but nearly one-third (17 states) did not respond or reported that they were unsure of their need for flexible waivers. The remaining 10 states reported that the

annual limit of 5 flexible waivers was less than adequate (see fig. 6). Of these 10 states, 8 had also reported that the annual limit of 30 waivers per state was at least adequate for their needs, suggesting that some states may be more interested in increasing the flexibility with which waivers may be used than in increasing the overall number of waivers each year.

Figure 6: States' Views on the Adequacy of the Annual Limit of Five Flexible J-1 Visa Waivers for Physicians to Practice Outside of HPSAs or MUA/Ps, 2005



Source: GAO survey of states, 2005.

Note: Percentages are based on all 54 states eligible to request waivers.

In addition to commenting on the adequacy of the annual waiver limits, states estimated their need for additional physicians under their J-1 visa waiver programs. Specifically, 11 states (20 percent) estimated needing between 5 and 50 more waiver physicians each. Collectively, these 11 states reported needing 200 more waiver physicians (see table 2).

Table 2: Number of Additional J-1 Visa Waiver Physicians States Estimated Needing per Year, 2005

State	Estimated number of waiver physicians needed beyond annual limit of 30
Kentucky	5
Arkansas	10
Iowa	10
Louisiana	10
Massachusetts	10
West Virginia	10
California	20
Michigan	20
Arizona	25
New York	30
Texas	50
Total	**200**

Source: GAO survey of states, 2005.

Note: Data are from the 11 states that reported needing additional J-1 visa waiver physicians beyond the current annual limit of 30.

Although 10 states reported requesting the annual limit of 30 waivers in each of fiscal years 2003 through 2005, the large majority (44 states) did not. When asked to provide reasons why they did not use all 30, many of these states reported that they received fewer than 30 applications that met their requirements for physicians seeking waivers through their state J-1 visa waiver programs. Some states, however, offered further explanations, which touched upon difficulties attracting physicians to the state, low demand for waiver physicians among health care facilities or communities, and mismatches between the medical specialties communities needed and those held by the physicians seeking waivers. For example:

- *Difficulties attracting waiver physicians:* One state commented that the increase in the annual limit on waivers from 20 to 30 in 2002 opened more positions in other states, contributing to a decrease in interest among physicians seeking waivers to locate in that state. Two states suggested that because they had no graduate medical education programs or a low number of them, fewer foreign physicians were familiar with their states, affecting their ability to attract physicians seeking J-1 visa waivers.
- *Low demand for waiver physicians:* Many states noted low demand for foreign physicians among health care facilities or communities in the

states. Two of these states commented that they had relatively few problems recruiting U.S. physicians. Another state commented that health care facilities—particularly small facilities and those located in rural areas—may be reluctant to enter into the required 3-year contracts with waiver physicians because of their own budget uncertainties.

- *Lack of physicians with needed specialties:* One state commented that most communities in the state need physicians trained in family medicine and that few physicians with J-1 visas have that training. Similarly, another state noted a lack of demand among the health care facilities in the state for the types of medical specialties held by physicians seeking waivers.

In response to a question about whether they had observed any significant changes in the number of physicians seeking J-1 visa waivers, 15 states reported seeing less interest from physicians, or fewer applications, since 2001. Some states suggested that the decline might be due to an overall reduction in the number of physicians with J-1 visas who were in graduate medical education programs. Three states mentioned the possibility that more physicians may be opting to participate in graduate medical education on an H-1B visa, which does not have the same foreign residence requirement as a J-1 visa.

States' Views Differed on Having Unused Waiver Allotments Redistributed

Of the 44 states that did not use all of their waiver allotments in each of fiscal years 2003 through 2005, slightly over half (25 states) reported that they would be willing, at least under certain circumstances, to have their unused waiver allotments redistributed to other states. In contrast, about one-third of the states with unused waiver allotments (14 states) reported that they would not be willing to have their unused waiver allotments redistributed. (See table 3 and, for further details on states' responses, see app. I.)

Table 3: Views Reported by States with Unused Waiver Allotments on Their Willingness to Have Them Redistributed, 2005.

Willingness to have their unused waiver allotments redistributed	Number of states	Total number of unused waiver allotments in fiscal year 2005
Willing	11	161
Willing under certain circumstances	14	237
Not willing	14	200
No opinion	2	23
Don't know/no answer	3	43
Total	**44**	**664**

Source: GAO survey of states, 2005.

Note: Data are from the 44 states that did not request the annual limit of 30 waivers in each of fiscal years 2003 through 2005.

The 14 states that reported they would be willing under certain circumstances to have their unused waiver allotments redistributed listed a variety of conditions under which they would be willing to do so, if authorized by law. These conditions centered around the timing for redistribution, the approach for redistribution, and the possibility for compensation.

- *Timing of redistribution:* Seven states reported that their willingness to have their unused waiver allotments redistributed depended in part on when the redistribution would occur in a given year. Their comments suggested concerns about states being asked to give up unused waiver allotments before having fully determined their own needs for them. For example, three states reported that they would be willing to release at least a portion of their unused waiver allotments midway through the fiscal year. One state reported that it would be willing to have its unused waiver allotments redistributed once the state reached an optimal physician-to-population ratio. Finally, two states specified that states benefiting from any redistribution should be required to use the redistributed waivers within the same fiscal year.
- *Approach for redistribution:* Three states reported that their willingness to have their unused waiver allotments redistributed depended on how the redistribution would be accomplished. Two states reported a willingness to do so if the allotments were redistributed on a regional basis—such as among midwestern or southwestern states. Another state reported that it would be willing to have its unused waiver allotments redistributed to states with high long-term vacancy rates for physicians. This state was also

willing to have its unused waiver allotments redistributed in emergency relief situations, such as Hurricane Katrina's aftermath, to help attract physicians to devastated areas.

- *Possibility for compensation:* Two states stated that they would be willing to have their unused waiver allotments redistributed if they were somehow compensated. One state remarked that it would like more flexible waiver allotments, equal to the number of unused waiver allotments that were redistributed. The other state did not specify the form of compensation.
- *Other issues:* One state commented that it would be willing to have its unused waiver allotments redistributed as long as redistribution did not affect the number of waivers it could request in future years. Another state responded that any provision to have unused waiver allotments redistributed would need to be pilot-tested for 2 years so that its effect could be evaluated.

The 14 states that reported that they would not be willing to have their unused waiver allotments redistributed to other states cited varied concerns. Several states commented that, because of physicians' location preferences and differences in states' J-1 visa waiver program requirements, a redistribution of unused waiver allotments could possibly reduce the number of physicians seeking waivers to practice in certain states.

- *Physician location preferences:* Three states commented that physicians seeking J-1 visa waivers might wait until a redistribution period opened so that they could apply for waivers to practice in preferred states. As one state put it, if additional waivers were provided to certain states, a physician might turn down the "number 15 slot" in one state to accept the "number 40 slot" in another. This concern was also raised by four states that reported they were willing to have their unused waiver allotments redistributed under certain circumstances; two of these states specifically mentioned the possible negative impact that redistribution could have on rural areas.
- *Differences in state program requirements:* One state commented that until state requirements for waivers were made consistent among states, having unused waiver allotments redistributed would benefit states with more lenient requirements or force states with more stringent requirements to change their policies. While this state did not specify what it considered to be stringent or lenient requirements, substantial differences in state programs do exist. For example, some states restrict their waiver requests solely to primary care physicians, while others place no limits on the number of allotted waivers they request for nonprimary care physicians. In another example, four states require 4- or 5-year

contracts for all physicians or for physicians in certain specialties. One state commented that if it lost an unused waiver allotment to a state with more lenient requirements, it would have given away to another state a potential resource that it had denied its own communities.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions that you or Members of the Subcommittee may have.

Contact and Acknowledgments

For information regarding this testimony, please contact Leslie G. Aronovitz at (312) 220-7600 or aronovitzl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Kim Yamane, Assistant Director; Ellen W. Chu; Jill Hodges; Julian Klazkin; Linda Y.A. McIver; and Perry G. Parsons made key contributions to this statement.

Appendix I: State Responses to Selected Survey Questions

State	Number of waivers states reported requesting in each fiscal year			Views on adequacy of annual limit of 30 waivers	Views on adequacy of annual limit of 5 flexible waivers	Willingness to have unused waiver allotments redistributed to other states
	2003	2004	2005			
Alabama	18	19	24	Adequate	Adequate	Yes
Alaska	5	0	1	Adequate	Adequate	Yes, under certain circumstances
Arizona	30	30	30	Adequate	Adequate	[a]
Arkansas	30	30	29	Less than adequate	Don't know	Yes
California	30	30	30	Much less than adequate	No answer	[a]
Colorado	11	3	5	Much more than adequate	Much more than adequate	Don't know
Connecticut	27	30	26	More than adequate	No answer	Yes
Delaware	21	21	16	Adequate	Adequate	Yes, under certain circumstances
District of Columbia	3	9	3	More than adequate	Less than adequate	Yes
Florida	30	30	30	Adequate	No answer	[a]
Georgia	30	30	28	Adequate	More than adequate	Yes
Guam	0	1	2	Much more than adequate	Much more than adequate	Yes
Hawaii	2	1	4	More than adequate	More than adequate	Yes, under certain circumstances
Idaho	0	0	1	More than adequate	More than adequate	No
Illinois	28	30	30	Adequate	Too early to tell	No
Indiana	27	30	30	Adequate	Adequate	No
Iowa	30	30	28	Less than adequate	Too early to tell	Yes, under certain circumstances
Kansas	14	26	17	Adequate	Adequate	Yes, under certain circumstances
Kentucky	30	30	30	Adequate	Less than adequate	[a]
Louisiana	15	13	10	Too early to tell	Adequate	No
Maine	29	18	25	More than adequate	Adequate	No
Maryland	15	22	29	Adequate	Adequate	Yes, under certain circumstances
Massachusetts	28	30	30	Less than adequate	No answer	No answer
Michigan	30	30	30	Less than adequate	Less than adequate	[a]
Minnesota	30	15	21	Adequate	Too early to tell	Yes
Mississippi	19	17	18	Adequate	Less than adequate	No

State	Number of waivers states reported requesting in each fiscal year			Views on adequacy of annual limit of 30 waivers	Views on adequacy of annual limit of 5 flexible waivers	Willingness to have unused waiver allotments redistributed to other states
	2003	2004	2005			
Missouri	30	30	30	More than adequate	Much more than adequate	[a]
Montana	2	1	2	More than adequate	Adequate	Yes, under certain circumstances
Nebraska	15	7	13	Adequate	Adequate	Yes, under certain circumstances
Nevada	26	18	13	Adequate	Adequate	No
New Hampshire	6	11	15	Much more than adequate	Less than adequate	Yes, under certain circumstances
New Jersey	2	1	2	Much more than adequate	Adequate	Yes, under certain circumstances
New Mexico	29	27	29	Adequate	Adequate	Yes
New York	30	30	30	Less than adequate	Too early to tell	[a]
North Carolina	10	11	16	More than adequate	More than adequate	No
North Dakota	11	13	6	More than adequate	Much less than adequate	Yes, under certain circumstances
Ohio	30	30	30	Adequate	Much more than adequate	[a]
Oklahoma	0	17	12	More than adequate	Less than adequate	No
Oregon	20	19	22	Adequate	Too early to tell	Yes, under certain circumstances
Pennsylvania	13	16	22	More than adequate	Too early to tell	No
Puerto Rico	0	0	0	Much more than adequate	Much more than adequate	Yes
Rhode Island	30	30	30	Adequate	Too early to tell	[a]
South Carolina	30	26	21	Adequate	Adequate	No
South Dakota	10	6	6	Much more than adequate	Too early to tell	No
Tennessee	21	27	12	Adequate	Too early to tell	No
Texas	30	30	30	Much less than adequate	Adequate	[a]
Utah	4	6	5	Much more than adequate	Don't know	Yes
Vermont	0	1	2	Adequate	Less than adequate	Yes
Virgin Islands	1	0	0	Too early to tell	More than adequate	Yes, under certain circumstances
Virginia	17	13	19	No answer	Much less than adequate	No opinion
Washington	30	30	28	Adequate	Too early to tell	Yes, under certain circumstances
West Virginia	22	14	18	Adequate	Adequate	No opinion

State	Number of waivers states reported requesting in each fiscal year			Views on adequacy of annual limit of 30 waivers	Views on adequacy of annual limit of 5 flexible waivers	Willingness to have unused waiver allotments redistributed to other states
	2003	2004	2005			
Wisconsin	29	23	12	More than adequate	Too early to tell	Don't know
Wyoming	3	3	4	Much more than adequate	Much less than adequate	No

Source: GAO survey of states, 2005.

[a]States that requested 30 waivers in each of fiscal years 2003 through 2005 were not asked about their willingness to have unused waiver allotments redistributed to other states.

Related GAO Products

State Department: Stronger Action Needed to Improve Oversight and Assess Risks of the Summer Work Travel and Trainee Categories of the Exchange Visitor Program. GAO-06-106. Washington, D.C.: October 14, 2005.

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Health Care Access: Programs for Underserved Populations Could Be Improved. GAO/T-HEHS-00-81. Washington, D.C.: March 23, 2000.

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Health Care Shortage Areas: Designations Not a Useful Tool for Directing Resources to the Underserved. GAO/HEHS-95-200. Washington, D.C.: September 8, 1995.

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