

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Visa Waiver Program for International Medical Graduates
- 2) Code Citation: 77 Ill. Adm. Code 591
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
591.20	Amendment
591.30	Amendment
591.100	Amendment
591.120	Amendment
591.130	Amendment
591.140	Amendment
591.150	Amendment
591.160	Amendment
591.165	New Section
591.180	Amendment
- 4) Statutory Authority: Authorized by and implementing sections 212(e) and 214(l) of the Immigration and Nationality Act (8 USC 1182(e) and 1184(l)), and 22 CFR 62 (Exchange Visitor Program), and Section 5.5(b) of the Illinois Rural/Downstate Health Act [410 ILCS 65].
- 5) Effective Date of Rule: **SEP 19 2022**
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency amendment will expire at the end of the 150-day period, upon repeal of the emergency rulemaking, or upon adoption of permanent rulemaking, whichever comes first.
- 7) Date Filed with the Index Department: **SEP 19 2022**
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are necessary to implement Public Act 102-0488 and allow the Department to consider forensic pathologists and medical examiners' offices for the J-1 Visa Waiver Program. Pursuant to 77 Ill. Adm. Code 591.110(a), the Department will accept J-1 Visa (medical education) Waiver

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applications beginning October 1, 2022, with the intent to include forensic pathologists of Illinois medical examiners' offices.

Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45] defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The emergency rules are needed for the application cycle, assisting and monitoring waiver recipients, assisting with addressing the shortage of forensic pathologists to alleviate the backlog of inquests and autopsies at Illinois medical examiners' offices, and expanding the waivers to include much needed forensic pathologists so they are not required to return to the home countries (or countries of last legal residency) after education is completed and be disallowed from returning to the U.S. for 24 months.

- 10) A Complete Description of the Subject and Issues: In 1994 Congress passed Public Law 103-416, which amended the Immigration and Nationality Act. This law allows physicians who are foreign medical graduates to obtain a J-1 visa from the U.S. Department of State. This visa is used by physicians to come to the U.S. to further medical education (through residency or fellowship). Physicians who have a J-1 visa designation, can petition a state health agency to make a recommendation to the U.S. Department of State that the physicians receive a "waiver" from returning home. In exchange for the waivers, the physicians must work at medical facilities that are located in a Health Professional Shortage Area (HPSA) for a minimum of three years.

Public Act 102-0488 amended the Department of Public Health Powers and Duties Law [20 ILCS 2310] and provided that the Department ensure that a medical examiner's office be considered to be a medical facility in connection with the J-1 Visa Waiver Program. The result will be that the Department will also consider a forensic pathologist for the waiver program. A forensic pathologist is a physician who specializes in and investigates deaths that occur under unusual circumstances, performs post-mortem examinations, and initiates inquests.

Under the current administrative rules for the program, the Department can consider primary care physicians (family medicine, internal medicine, obstetrics, pediatrics and hospital medicine), psychiatrists, or specialists (physicians who are not primary care or psychiatrists) for J-1 waivers. The current administrative rules, however, do not contain a provision for forensic pathologists.

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The upcoming application cycle for the J-1 Visa Waiver Program is October 2022. Physicians who apply in October 2022, whose applications are deemed complete, and who receive waiver recommendations from the Department will begin working at their respective medical facilities in July 2023. Without the emergency rulemaking, the Department will be unable to review waiver applications for forensic pathologists. If these physicians are unable to apply and be given consideration during the 2022 application cycle, their next opportunity will be October 2023.

Due to the upcoming application cycle, changes to Part 591 (to accommodate medical examiner's offices and forensic pathologists) cannot yet be accomplished through the proposed rulemaking process. Proposed rulemaking will be presented at the next State Board of Health Meeting for approval. This emergency rulemaking contains only the emergency portions of the intended proposed rulemaking that are needed for the upcoming application cycle and for the subsequent implementation until proposed rules can be adopted.

- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Department of Public Health
Attention: Tracey Trigillo, Rules Coordinator
Lincoln Plaza
524 South 2nd Street, 6th Floor
Springfield, IL 62701

(217) 782-1159
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The full text of the Emergency Amendments begins on the next page: