

J-1 EMPLOYMENT CONTRACT POLICY OF THE SOUTH DAKOTA DEPARTMENT OF HEALTH

44:63:02:10. Employment contract.

- a) Every employment contract shall address all regularly scheduled working hours of the J-1 physician. For example, if the physician is expected to be in the clinic setting for 40 hours a week and on-call for 10 hours per week, all 50 hours must be documented.
- b) All contracts will be reviewed on the basis of a standard 40-hour average workweek per four week period. Based on the 40-hour average, every contract must require the J-1 physician to provide at least 64 hours per four week period of direct patient care in a South Dakota shortage area and no more than 96 additional hours per four week period in approved alternate settings within South Dakota. If the contract documents a longer workweek, applicants must apportion time in alternate settings accordingly. For example, if a 50-hour average workweek is set forth, a minimum of four of those additional ten hours must be served in the shortage area and no more than six of those additional hours can be served in approved alternate settings.
- c) For hours spent on-call, our interpretation is that on-call: 1) should be taken only for those facilities located in a shortage area or approved alternate settings; 2) cannot substitute for any of the 64-hour minimum direct patient care in a shortage area time, or any of the 96-hour approved alternate settings time; and 3) hours are above and beyond the 40-hour average workweek and do not need to be matched by hours of service in a shortage area.
- d) Telemedicine hours (e.g. telemedicine clinics) cannot replace any of the 64-hour minimum direct patient care in a shortage area time.
- e) If the J-1 physician provides telemedicine outreach, the remote site must be located in a shortage area within the state of South Dakota. The only exception is if electronic outreach is provided on an unscheduled, ad hoc basis. In such cases, DOH will allow the patient or remote site to be located in a non-shortage area or across state borders, provided such time is: 1) unscheduled; 2) above and beyond the 64-hour minimum direct patient care in a shortage area time; and 3) above and beyond the minimum 40-hour average workweek.
- f) Acceptable "public health activities" include providing direct patient care to: 1) South Dakota residents as required by a contract with DOH; 2) patients in the custody of the state, or any governmental unit within South Dakota; and 3) patients at any facility in South Dakota owned and operated by the federal government, such as Indian Health Service, Veterans Administration, or Military. In order to qualify as public health activities, such services must be evidenced in the minimum 3-year employment contract. Administrative services, including teaching and lecturing, do not qualify as public health activities.
- g) Service to an out-of-state resident is permitted only if the out-of-state resident: 1) travels to South Dakota to receive those services; or 2) receives an *unscheduled telemedicine consult*.
- h) A discounted fee clinic, including a "free" clinic, is allowed as an approved alternate setting provided: 1) the facility adopts a *standard, written policy that is non-discriminatory and clearly outlines how discounts will be applied*, with procedures and documentation; and 2) a readable sign, meaning at least 16 point boldface font, is posted in a clearly visible location, such as the clinic waiting room, stating: "Discounts for services are offered based on family size and income." Also:
 - Fees may be set lower than those set forth in rule.
 - Sites should use the United States Department of Health and Human Services federal poverty guidelines issued each spring when designing their discounts (since the guidelines offer only 100% of federal poverty level, such must be doubled to arrive at 200%).