Disability Waiver Information for Physicians

Part 1 - Introduction

1. What is an N-648 and why do I have to do it? The N-648 is the disability waiver form that exempts applicants for U.S. citizenship from (1) demonstrating they can speak, read, and write English, and/or (2) passing a test of U.S. history and civics. With a waiver, the applicant can have the naturalization interview conducted in his/her native language and will not have to answer questions about U.S. history and government. U.S. Citizenship and Immigration Services (CIS) relies on the medical opinion of the applicant’s doctor in deciding whether to grant the waiver. CIS generally makes a decision as to whether to grant or deny citizenship at the naturalization interview. Under current law, the N-648 must be submitted at the same time as the N-400 application for citizenship.

As the patient’s physician (M.D., D.O., licensed clinical psychologist), you are the only one who can complete the N-648 for your patient and help him/her with this process! Your staff members can help, but you must sign the form. As frustrating as it is, there are no doctors at CIS to evaluate your patient or interpret your medical terminology. The best thing you can do to help your patient is to use clear, plain language and remember that CIS has no expertise in medicine and is looking for certain bits of information, as described below. CIS officers are not looking to do your patient any favors and will review the form with a skeptical eye. (Often if they see similar language from one form to another they may suspect fraud.)

Finally, N-648 forms submitted by qualified applicants are rejected every day purely because they do not contain enough information from the physician.

Note: The doctor completing the N-648 must have the appropriate expertise to diagnose the named disability/ies. If you are not a specialist in the field of the patient’s disability, you should have training, experience or other qualifications to assess such disability. Sometimes, because the regular treating physician has no such training or qualification, a specialist may complete the form.

2. Why do many immigrants need to become U.S. citizens? The statuses and rights of many immigrants, including Lawful Permanent Residents, are very unstable and limited: (1) at any time they may face the risk to be deported from the U.S. and (2) their rights as residents in the U.S. are fairly restrained. By becoming U.S. citizens, long-time residents of the United States will earn the right to vote, to travel on a U.S. passport, to be eligible for a wider range of government jobs and benefits, and to invite family members to immigrate to the U.S.

3. Who is eligible for a disability waiver (Nature and Duration of Disability)?

- The applicant must have a medically determinable physical or developmental disability or mental impairment that causes the applicant to be unable to learn English and/or U.S. history and civics.
- The disability is expected to last at least 12 months. (Question 7)
- The disability is not the result of illegal drug use. Note that illegal drug use may may disqualify the applicant from citizenship and make him/her deportable.

4. What do I need to include to complete the form properly? Just Remember:

Diagnosis, Origin, Nature, Effect (DONE)
You must include each element of **DONE** in order to successfully complete the form for your patient.

1. **DIAGNOSIS:** The nature of the illness or disability described in lay terms, as if you are describing it to a middle school student.
2. **ORIGIN:** The origin of the disability or illness described in lay terms.
3. **NEXUS:** The specific symptoms associated with the disability or illness that make it impossible for the applicant to learn English and/or U.S. Civics.
4. **EFFECT:** Your conclusion that the applicant cannot learn English and/or U.S. Civics.

**In addition:**

- Provide specific examples of the way in which your patient’s symptoms affect cognitive functioning. Clearly state whether the disability affects the patient’s ability to learn English, civics, or both.
- Use clear and unequivocal language, e.g., “As a result of his disabilities, Mr. X will not be able to learn English or civics sufficiently to pass the citizenship exam.”

**Note:** Medicine is, of course, probabilistic by nature, and you may feel that it goes against your natural grain as a physician to state a prognosis in definitive terms. However, by using clear and unequivocal language, such as the statement above, you are telling the CIS officer that you are reasonably certain of the patient’s condition and prognosis.

**5. What needs to be included in the answer to Question 9?**

**Question 9 appears as follows:**

<table>
<thead>
<tr>
<th>Applicant’s Name</th>
<th>Alien Registration Number</th>
</tr>
</thead>
</table>

9. (a) Provide your clinical diagnosis of the applicant’s disability or impairment(s) and its origin. Describe the disability or impairment(s) in terms a person without medical training can understand (See Instructions for examples).

**NOTE:** The description should include the severity of the effects of the disability or impairment(s) on specific functions of the applicant’s daily life.

(b) What medically acceptable clinical or laboratory diagnostic techniques were used to arrive at this diagnosis, as well as the plan of treatment administered or to be administered? (List and provide the results and conclusions drawn from these tests.)

(c) Provide the relevant DSM-IV-TR code(s) for each disability or mental impairment(s) that you described above. If a DSM-IV-TR code does not exist, write “N/A.”

You must include:
• (a) A layperson's description of the applicant's disability and the origin of the disability, including the severity and duration, if known. Try to use simple language, as if you are explaining the diagnosis to a middle school student.

• (b) A clear explanation of how the diagnosis was made, including a list of any applicable laboratory or clinical tests administered and their rules (e.g., Mini Mental State Examination, Magnetic Resonance Imaging, clinical history and interviews). If no tests were used, please explain why not medically appropriate.

• (c) A description of the medication(s) and treatment plan that the patient has received or will receive for the condition and whether or not such medication and treatment have improved or will improve the patient's ability to learn.

• (d) A DSM-IV diagnostic code is required for mental impairments.

6. What are good examples of answers to Question 9?

<Example 1: clinical diagnosis>

- POST TRAUMATIC STRESS DISORDER AND DEPRESSION: Ms. D suffers from major depression, recurrent and severe, with a history of suicidal ideation resulting in multiple in-patient psychiatric hospitalizations. Ms. D currently receives medication and treatment for depression to control the desire to harm herself. She does not pose a threat to others. She also has been diagnosed with Post Traumatic Stress Disorder related to war trauma in Bosnia which persists through nightmares and flashbacks.

- DEMENTIA: The patient has severe dementia. Dementia is the loss of intellectual functioning which is significant enough to interfere with daily life. It is not caused by depression or mental illness. It progressively worsens over time and is irreversible. It is present in Ms. N. in the form of forgetfulness, impairments in understanding, reasoning, learning and language.

- MULTIPLE SCLEROSIS: The patient has severe, advanced multiple sclerosis. Multiple sclerosis is a degenerative disease of the nerves in the brain and spinal cord. Because of the damage to these nerves, the patient has severe dementia, she is mute, she must use a wheelchair to move around, and she is incontinent of urine. Her memory, concentration and judgment are severely impaired.

- BIPOLAR DISORDER: Bipolar II Disorder is characterized by periods of major depression and periods of hypomania during which the patient has problems of thought disorder and difficulty learning, trouble with memory, and intrusive thoughts coming to her which block her thinking and ability to plan. The patient has had intermittent trouble mot of her adult life interfering with work and school.

- DEPRESSION: Major Depressive Disorder. Patient feels depressed most of the time. She is disinterested in things. She also gets very anxious and worried. This interferes with her functioning. She has great problems with concentration.

<Example 2: diagnostic techniques>

- Patient’s depression and Post Traumatic Stress Disorder (PTSD) were diagnosed through clinic and interviews and there are no specific imaging or blood tests that can be done. Instead, tests have been done to rule out a physical cause for her memory problems, insomnia and chronic fatigue. She has been taking anti-depressants since July 2007 but they have not improved her memory. Treatment has included Trazodone and Zoloft.

- Mr. D’s Alzheimer’s Dementia and Depression was diagnosed through clinical interview, history and neuro psych testing. The patient scores 15/30 on a Folstein’s cognitive exam showing clear moderate to severe memory loss. He is treated with Sertaline 125 mg for depression-this medicine will not improve his ability to learn.

<Example 3: DSM-IV diagnostic code>

- DSM IV 296. 33 – Major Depressive Disorder, Recurrent; 309.81 – Post Traumatic Stress Disorder
- DSM IV 294.8
- DSM IV 294. 11
• DSM IV 296.89.
• DSM IV 296.33 – Major Depressive Disorder, Recurrent.

7. What needs to be included in the answer to Question 10?

**Question 10 appears as follows:**

<table>
<thead>
<tr>
<th>Nexus (connection) Between Disability or Impairment(s) and Inability to Learn/Demonstrate</th>
</tr>
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<tbody>
<tr>
<td>10. In your professional opinion, based on your examination of the applicant, provide detailed information on the nexus (connection) between the disability, impairment, or combination of impairments and the applicant's inability to demonstrate knowledge of English or civics (see instructions for examples). Notethis description can address the severity of the effects of the medical condition on:</td>
</tr>
<tr>
<td>1. The applicant's ability to learn and demonstrate the required knowledge; and</td>
</tr>
<tr>
<td>2. The activities of the applicant's daily life.</td>
</tr>
</tbody>
</table>

**You must include:**

- **A detailed nexus** between the symptoms of the applicant's disability/ies and their impact on learning and retaining new material or demonstrating knowledge (e.g. "My patient's severe depression causes inability to concentrate and interferes with cognition."). You may include severity and duration information here as well. Below is a list of symptoms relevant to showing a connection between the applicant's ability to learn or demonstrate knowledge of English and/or civics:

  > Memory impairment: inability to learn new information or to recall previously learned information
  > Disturbance in executive functioning, which involves planning, organizing, sequencing and abstracting
  > Difficulties with concentration and focus
  > Delirium, disorientation, confusion, agitation
  > Difficulty in expressing herself or in understanding what is said to her (expressive/receptive communication disorders)
  > Painful or medically fragile condition which impairs concentration and prevents the patient from leaving home to attend English or civics classes
  > Fatigue, loss of energy or a sense of hopelessness (often associated with depression) which impairs concentration and prevents the patient from leaving home to attend English or civics classes
  > Paranoia, hostility, anxiety and/or delusions which prevent the patient from expressing what he knows or has learned
  > Unpredictable behavior in response to stress and anxiety (which may be a result of post-traumatic stress disorder or other anxiety disorders) so that the patient cannot perform in a testing, classroom or interview/interrogation setting
  > Low intellectual functioning and/or learning disabilities that affect reading and writing ability

  - **The area of the brain affected by the disability/ies.** If not applicable, please explain why.
- A strong concluding statement as to the effect of the patient's disability/condition, stating that because of the disability, s/he is unable to learn enough English and U.S. civics for the exam ("difficulty learning" is not sufficient).

8. What are good examples of how to answer Question 10?

- CONGESTIVE HEART FAILURE: Mrs. A has congestive heart failure, atherosclerosis and high blood pressure. As a result of these conditions, Mrs. A has symptoms of extreme fatigue, recurrent pneumonia and debilitating headaches. Long-term high blood pressure and high cholesterol affected this patient's brain vessels which compromise oxygen supply to brain tissue, causing short attacks of neurological deficit and long-term generalized declining memory. As a result of her fatigue, frequent illness and headaches, she cannot attend English language or U.S. history and civic classes, and does not have the stamina to study on her own. Moreover, her fatigue and headaches make it impossible for her to concentrate enough to learn a new language or to memorize new information. Mrs. A is unable to pass the written or spoken English tests or the U.S. history and civics test in order to naturalize.

- DEMENTIA: The dementia and stroke significantly affect this patient's physical and cognitive ability. Patient has short as well as long term memory deficits. She is not able to distinguish recent events from long past events. She is not able to communicate her needs without prompting, nor is she able to answer complex or complicated questions or make decisions for herself. She does not have the mental or cognitive capacity to learn, speak or write the English language; and would not be able to memorize information or answer about government and history (civics) sufficient to pass the CIS citizenship test. She is able to speak 2-3 English words and could speak her dialect in a limited way. Overall, she speaks very little as a result of her stroke and dementia.

- SIDE EFFECT OF TREATMENT: Poor health is aggravated by multiple medical problems, of which most severe is end-stage metastatic endometrial carcinoma. Patient recently had several courses of chemotherapy. Cancer treatment leaves her extremely fatigued, to the point where she is often bedridden and is too ill to concentrate to study. Clinical interviews show that she has serious problems with executive functioning, such as planning and organizing information. As the result of her medical conditions, she will be unable to learn English and U.S. history/civics to pass the naturalization exam.

Part 3 - Special Circumstances

9. Can an elderly applicant qualify for an N-648 on the basis of old age alone? No. Old age in itself is not a qualifying disability for purposes of the disability waiver. However, elderly applicants who suffer from age-related impairments that do impair learning (e.g. depression, dementia, or strokes) may be eligible for a waiver. In such cases, it is important to stress that the inability to learn is as a result of the medically determinable disability or mental impairment and not simply old age.

10. What if my patient is illiterate in his or her native language? The CIS will not approve a waiver for applicants unable to learn solely on the basis of illiteracy in their native language. In many cases, however, the applicant's illiteracy is causally connected to his or her disability. For example, the illiteracy may be the result of previously undiagnosed developmental delay, particularly if the applicant is from a country with few or no special education programs. Your answer should stress that the underlying disability is the primary cause of the applicant's inability to learn English and/or the civics materials.

11. Can an applicant qualify for an N-648 on the basis of a physical disability? An applicant with physical disabilities will only be approved for a waiver if the disability or accompanying symptoms affect his or her ability to learn or demonstrate knowledge. For example, illness may be accompanied by pain, fatigue, or nausea, which impair concentration and may prevent the patient from attending classes.

Generally speaking, N-648s are only approved if deafness or blindness is accompanied by another disability and the deafness or blindness compounds that disability. As such, being blind or deaf is not a per se disability that prohibits learning. CIS will be looking for ways that a deaf or blind individual can be
accommodated in order to learn English and civics. If there is no accommodation that could possibly be made for your patient such that they could learn, you must explicitly explain why.

- If a patient is blind, CIS will waive the writing requirement, but will expect the applicant to learn English orally. If a blind patient cannot learn English or civics due to their disabilities, you must explain why the patient cannot learn through audio tapes at home or by attending classes where information is presented verbally.
- If a patient is deaf, CIS will want to know whether hearing aids improve the patient’s hearing enough to allow them to hear and speak. If not, CIS will offer to use a sign language interpreter during the interview or perform the interview in writing. Careful explanation must be given as to why a deaf patient cannot learn, if that is the case, even if accommodated in these ways.

Example answer to Question 10 for this type of patient: “Chronic Obstructive Pulmonary Disease and severe asthma limit this man’s total function where he cannot walk a flight of stairs or walk a half block. Most of the time he uses all his concentration and focus on just being able to breathe. He has severe visual impairment requiring corrective lenses. With this aid, he can only read for brief periods of time. He has a hearing deficit diagnosed by audiogram 2-2-02 that demonstrated a progressive type disorder that is not very responsive to hearing aids. This is partly because of the difficulty to keep the aid in adjustment to meet the continued deterioration. This man was referred to me to see if he had a mental disorder affecting his ability to learn. I was unable to define such a problem, but instead found a man with many severe medical problems that affect his ability to perceive and understand his world. His permanent hearing deficit that is not correctable interferes with his ability to understand sounds and words, even in his native language. This is then complicated by severe visual defect that is not compensated by glasses. This is then complicated by his pulmonary disease that restricts his ability to leave home and requires him to use energy to focus on breathing. All of this permanent loss of function will prevent this man from being able to learn English, history or civics to pass any examination.”

12. Effects of Medication

The medication or treatment for a condition may affect vision, cause drowsiness or nausea or have other side effects that prevent the patient from the physical act of attending classes and studying. If this is the case, please note this in your answer to Question 10. The DSM-IV code for Adverse Effects of Medication NOS is 995.2.

Additionally, if medication is not likely to improve a patient’s condition to the point where they could be capable of learning English and/or civics, it is useful to state this clearly (e.g. “patient has end stage disease and no treatment is available” or “there is no medication that will improve the patient’s cognitive ability”).

13. What is an oath waiver? When does an oath waiver need to be completed?

An oath waiver is a separate letter from the physician describing the applicant’s condition in lay terms and explaining why and how the applicant is unable to understand the meaning of the oath. The physician must state that the applicant cannot communicate or demonstrate an understanding of the oath now or in the near future due to his medical condition. An oath waiver will allow a patient’s “designated representative” to speak on his/her behalf. If you believe that the patient’s impairment is such that the oath should be waived, please indicate this clearly on the N-648. There is an Oath Waiver form although a letter is also acceptable.

On the other hand, if the patient’s condition is such that CIS might mistakenly conclude that the patient is incompetent to take the oath, state clearly that you believe the patient to be competent to take the oath. For those able to understand the oath in simpler form, the CIS is required to ask the questions which demonstrate attachment to the United States in a simpler form. If you believe that the applicant needs a simpler form of the question, it is helpful to indicate this and state that the patient is able to form an attachment to the U.S. and to affirmatively choose to become a citizen.

For more information, contact: The Berkshire Immigrant Center (413) 445-4881, info@berkshireic.com