

International Health Care Professional Migration

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Foreign-educated nurses and other health care professionals have played an important role in the U.S. health care system for many years. To compensate for the lack of available U.S.-educated health care professionals, employers have looked to employ those educated outside the United States. When dealing with foreign-educated health care professionals there are additional federal and state requirements related to licensure and visa status to consider. This article provides the basics of those requirements.

Keywords: international migration; VisaScreen; visa; foreign educated; license

Although very little data exist to reflect the exact number of foreign-educated health care workers, in the United States, a recent publication (Paral, 2004) using 2000 U.S. Census data provides the following statistics regarding foreign-educated health care workers in the United States:

- registered nurses—11.5%
- licensed practical nurses—8.8%
- physical therapists—7.4%
- occupational therapists—7.4%
- medical technologists and medical laboratory technicians—15.8%
- physicians—25.2%
- dentists—14.4%

A word of caution related to the significance of these percentages: the percentages represent foreign-born and not just foreign-educated professionals. Therefore, those health care professionals who were born outside the United States but educated in the United States are also included in the count.

The interest in foreign-educated health care professionals has increased over the years. Buerhaus, Staiger, and Auerbach's (2004) research revealed that the new entry of foreign-born nurses, along with the reentry of older nurses, accounted for the increased employment growth in the 2002 registered nursing workforce. In fact, the use of foreign-born nurses has dramatically increased. From the years 1994 to 2001, the increase in growth of foreign-born nurses averaged 6%. The in-

crease in growth in 2001 to 2003 was 12.5% (Buerhaus et al. p. 526).

The employment of foreign-educated health care workers involves an interplay of state licensure and immigration requirements.

LICENSURE

U.S. states regulate the practice of health care professionals independently. However, all states do not regulate all professions. For example, all states regulate the practice of nursing, medicine, physical therapists, occupational therapists, and pharmacists. However, only 11 states regulate the practice of medical technology (U.S. Department of Labor, 2005) and 47 states regulate speech-language pathologists (American Society for Clinical Pathology, 2005). As part of state regulation, the licensing boards usually require foreign-educated professionals to have their credentials—education and license—evaluated by an approved credentialing agency prior to taking the licensing or certifying examination.

For nursing, the Commission on Graduates of Foreign Nursing Schools (CGFNS) is the organization named by most state boards of nursing to perform the credential evaluation (CGFNS *HealthScope* International, 2005). Before a nurse is allowed to take the National Council Licensure Examination (NCLEX), state boards of nursing will require the foreign-educated nurse to obtain either the CGFNS certificate or a Credential Evaluation Service report from CGFNS.

CGFNS was created in 1977 as an independent and not-for-profit organization to provide a predictor

examination that would be given worldwide. Because the examination gave nurses the opportunity to take the predictor examination in their own country, they would not have to travel to the United States until they knew their chance of success on the state licensing examination was good. That predictor examination, called the CGFNS Qualifying Exam, is still given today and is still used as part of the CGFNS Certification Program.

CGFNS Certification Program

The Certification Program consists of three parts. First, CGFNS does an evaluation to determine if the nurse is a first-level nurse. This means that the education must be post-secondary and must include sufficient hours of clinical and theoretical hours in all the areas of nursing from a government-approved nursing school. Those areas include adult care (medical/surgical), maternal and infant care, care of children, and psychiatric/mental health (Commission on Graduates of Foreign Nursing Schools, n.d., p. 3). Second, the nurse must pass a paper-and-pencil examination of nursing knowledge. The examination is given four times a year in 40 sites worldwide. Third, the nurse must pass an English language proficiency examination. Several English language exams are acceptable, including the Test of English as a Foreign Language (TOEFL), Test of English in International Communications (TOEIC), or International English Language Testing System (IELTS) (Commission on Graduates of Foreign Nursing Schools, n.d., p. 9).

Nurses educated in the United Kingdom, Ireland, Canada (except Quebec), Australia, New Zealand, and the United States are exempt from the English language examination if the textbooks and the instruction were in English (Commission on Graduates of Foreign Nursing Schools, n.d., p. 3).

If the nurse satisfies all three elements, CGFNS will issue a CGFNS Certification Program certificate (Commission on Graduates of Foreign Nursing School, n.d., p. 3) This certificate is then used as part of the state board of nursing application for authorization to take the NCLEX-RN examination for the state of intended employment.

CGFNS Credentials Evaluation Service

Some state boards of nursing do not require the foreign-educated nurse to obtain the CGFNS certificate. Instead, those states require the nurse to obtain a Credential Evaluation Service (CES) report from CGFNS. This report consists of a more in-depth evaluation of the nurse's education and license and includes an analysis of whether the foreign education and license are comparable to U.S. education and licensure. The CES report does not require the CGFNS qualifying exam or the English language examinations (CGFNS, *Credentials Evaluation Service*, 2005).

Other State Regulatory Boards

A few state boards of nursing have unique requirements. For example, the State Board of Nursing for the State of New York requires the nurse to complete the Credentials Verification Service from CGFNS. CGFNS obtains the international documents and verifies that they are authentic. The New York State Board of Nursing evaluates whether the education and license are comparable to U.S. requirements (CGFNS, *Credentials Verification Service*, 2005).

In contrast, the California Board of Registered Nurses and the California Board of Vocational Nurses do not require the foreign-educated nurse to use the services of CGFNS. Instead, the board employees perform the evaluations.

The other foreign-educated health care professionals go through a similar process for state licensure. Most state boards of physical therapy require foreign-educated physical therapists to obtain a credential evaluation from the Foreign Credentialing Commission on Physical Therapy (FCCPT, 2004). The occupational therapist must go through the credentialing program with the National Board for Credentialing in Occupational Therapy (NBCOT, 2005); pharmacists are evaluated by the Foreign Pharmacy Graduate Examination Committee (NABP, 2005); and physicians are evaluated by the Educational Commission for Foreign Medical Graduates (ECFMG, 2005).

IMMIGRATION

The Immigration and Nationality Act (1952) requires foreign-educated health care workers to apply for and receive work authorization from the U.S. Citizenship and Immigration Service before they work lawfully.

There are two broad categories of employment status: temporary classifications are referred to as non-immigrant status (INA §101(a)(26)) and permanent classifications are referred to as immigrant status (INA §101(a)(16)). The temporary status is valid for a definite period of time (usually three years). The permanent status remains valid unless revoked or abandoned. However, the Green Card needs to be renewed every 10 years (Pearson, 1999).

Temporary Status

Temporary status used by health care professionals includes the H-1C (INA §101(a)(15)(H)(i)(c)), the H-1B (INA §101(a)(15)(H)(i)(b)), and Trade NAFTA. The H-1C visa was created by The Nursing Relief for Disadvantaged Areas Act of 1999 and is exclusive for registered nurses. Unfortunately, it has not proved to be effective because the sponsoring hospital needs to

be located in an underserved area and have a certain percentage of Medicare and Medicare beds (INA §212(M)(6)). There are very few hospitals in the United States that qualify, and as a result the annual cap of 500 registered nurses allowed in under this visa is never reached.

The H-1B status has not been useful for the registered nurse either. To qualify for an H-1B, the health care professional must hold the equivalent of a baccalaureate degree and the position must require at least the equivalent of a baccalaureate degree (INA §214(i)). Because entry-level positions for registered nurses do not require the baccalaureate degree, the typical staff nurse position does not qualify. However, health care professionals such as physical therapists, occupational therapists, medical technologists, and others do qualify for the H-1B. The H-1B is usually issued for a three-year period with the possibility of another three years' renewal.

The North American Free Trade Agreement (NAFTA) of 1993 allows for free movement of trade and services between the countries of the United States, Mexico, and Canada. Some health care professionals are covered by NAFTA. Those professionals, described as "TNs" for "Trade NAFTA," include registered nurses, physical therapists, occupational therapists, medical technologists, pharmacists, psychologists, physicians engaged in research and education only, dietitians, nutritionists, dentists, veterinarians, and recreational therapists (8 C.F.R. §214.6). The process for entry into the United States to work is far easier for Canadian health care professionals than it is for those from Mexico. For a Canadian health care professional to enter the United States to work, they only need to show evidence of employment; Canadian citizenship; and if required, a *VisaScreen*[™] (to be described below). The TN status needs to be renewed every year. There is no limit on the number of times one can renew it.

Permanent Status

Because the temporary employment-based visas are not useful to registered nurses, the best option usually is to apply for permanent residence status. Permanent status is referred to as permanent residence and is signified by a document referred to as a "Green Card." The nurse can apply for the Green Card from his or her home country and enter the United States once the visa is issued (INA §221.111(m), 8 U.S.C. §1201-1202)). Alternatively, if the nurse is in the United States on a temporary status, he or she can obtain permanent residence directly in the U.S. (INA §245, 8 U.S.C. 1255).

Other health care professionals may also apply for permanent residence; however, the process is longer for other health care workers than it is for registered

nurses and physical therapists. Occupations other than registered nurse and physical therapist require the prospective employer to test the U.S. market to determine if there are any U.S. workers who are willing and able to do the job (INA §212(a)(5)(A)). In contrast, because of the well-established shortage, registered nurses and physical therapists may file for permanent residence as a Schedule A worker, by which a labor certification does not need to be done (20 C.F.R. §656.10, §656.22(c)(2)).

Healthcare Worker Certificate

As part of the visa process, certain health care professionals applying for employment status, whether temporary or permanent, will be first required to obtain a Healthcare Worker Certificate as mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

Section 343 of IIRIRA states that certain health care workers who wish to enter the United States for the purpose of working in their profession can not be admitted unless the health care worker has a Healthcare Worker Certificate issued under Section 212 (a)(5)(C) of the Immigration and Nationality Act (INA) or a health care worker certified statement issued under Section 212(r) of the INA.

IIRIRA was passed into law in 1996; however, the final rules to implement Section 343 of the law were not promulgated until 2003. From 1996 until 2003 three sets of interim rules governed. These interim rules named the certifying organizations authorized to issue the Healthcare Worker Certificate and named the health care workers covered under the act (Immigration and Naturalization Service, 1998, 1999, 2001).

The interim rules exempted Trade NAFTA health care professionals and those seeking temporary employment statuses. However, the final rules removed these exemptions. Therefore health care workers listed in Section 343 wishing to enter the United States to work under either a permanent or a temporary status must first obtain the Healthcare Worker Certificate from one of the named credentialing organizations.

Only certain health care workers are covered under Section 343 and therefore must obtain a certificate. They include: nurses—RNs and LPN/LVNs—occupational therapists, medical laboratory technicians, medical technologists, physical therapists, physician assistants, and speech language pathologists/audiologists (8 C.F.R. §212.15(c)).

By far, the largest number of health care worker certificates issued are for registered nurses. Table 1 shows the number of Healthcare Worker Certificates issued in the year 2004 (CGFNS, *VisaScreen Program Data*, 2005; FCCPT, *Summary of Credential Review*, 2005; NBCOT, *Visa Certificate Holders*, 2005).

TABLE 1. Healthcare Worker Certificates Issued in 2004

Profession	CGFNS	FCCPT	NBCOT	Total
Registered nurses	15,613			15,613
Licensed practical/vocational nurses	51			51
Occupational therapists	91		320	411
Medical laboratory technicians	39			39
Medical technologists	610			610
Physical therapists	465	782		1247
Physician assistants	4			4
Speech language pathologists/audiologists	153			153

The list of health care workers who are not covered under Section 343 and do not need to obtain the Healthcare Worker Certificate includes, but is not limited to:

- physicians
- dentists
- dental technicians
- medical sonographers
- nuclear medical technicians
- any other health care workers not listed in the act
- spouses or dependent children of covered health care workers (8 C.F.R. §212(b))

Section 343 names three credentialing organizations that are authorized to issue the Healthcare Worker Certificates. They are CGFNS, the Foreign Credentialing Commission on Physical Therapy (FCCPT), and the National Board for Certification in Occupational Therapy (NBCOT)(8 C.F.R. §212.15(e)). Registered nurses, licensed practical nurses, physical therapists, occupational therapists, medical technologists, medical laboratory technicians, speech language pathologists, audiologists, and physician assistants may obtain the certificate from CGFNS (8 C.F.R. §212.15 (e)(1)). Physical therapists may obtain a certificate from either CGFNS or FCCPT (8C.F.R. §12.15(e)(1),(3)). Occupational therapists may obtain a certificate from either CGFNS or NBCOT (8 C.F.R. §212.15(E)(1),(2)).

CGFNS calls its certificate the *VisaScreen™* Certificate (*Path to CGFNS/ICHP VisaScreen™*) while NBCOT calls its certificate the Visa Credential Verification Certificate (NBCOT, *Visa Certificate Holders*). FCCPT does not have a particular name for the certificate they issue but refer to it as the visa certificate.

Before CGFNS, FCCPT, and NBCOT can issue a health care worker certificate, they must first evaluate whether the applicant's education is comparable to U.S. education in the same profession, the applicant is proficient in written and spoken English, and all of the

applicant's professional licenses currently held or have ever been held are valid and unencumbered. In addition, if the applicant is a registered nurse, he or she must have passed either the CGFNS Qualifying Examination or the NCLEX-RN examination (8 C.F.R. §212.15(f), INA §212(a)(5)(C)).

Section 343 also names the acceptable English language proficiency examinations. Unless exempt, the health care professional must pass one of the following exams:

- Test of English as a Foreign Language (TOEFL) plus Test of Written English (TWE) and Test of Spoken English (TSE)
- Test of English for International Communication (TOEIC) plus TWE and TSE
- International English Language Testing Service (IELTS) (8 CFR §212.15 (G)(3))

All the listed health care workers are exempt from the English language examination if their entry-level professional program was in the United Kingdom, Ireland, Canada (except Quebec), Australia, New Zealand, or the United States and the textbooks and instructions were in English (8 CFR §212.15(g)(3)).

Physical therapists and occupational therapists do not have the option of taking one of the three named examinations. They are only allowed to take TOEFL along with TWE and TSE. In addition, passing scores for them are slightly higher than for the other health care workers (8 C.F.R. § 212.15(h)(3)(i)).

Foreign-Born but U.S.-Educated

Foreign-born health care professionals who were educated in a U.S. school must still obtain a Healthcare Worker Certificate (INA §212.15(a)(5)(C)). However, the process is slightly faster. Foreign-born occupational therapists, physical therapists, nurses, and speech language pathologists and audiologists are exempt from the English language examination and the educational comparability requirement if their entry-level program

was in the United States and the educational program is approved by the following accrediting agencies:

- occupational therapists—program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE)
- physical therapists—program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE)
- nurses—program accredited by National League for Nursing Accreditation Commission or the Commission on Collegiate Nursing Education.
- speech language pathologists and audiologists—program accredited by the Council on Academic Accreditation in Audiology and Speech Language Pathology (CAA) (8 C.F.R. § 212.15(i)(1–4))

212(r) Certified Statement

Registered nurses who were educated (textbooks and instructions in English) in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad/Tobago, the UK, and the United States and who are licensed by NCLEX-RN examination in Florida, Georgia, Michigan, New York, and Illinois are issued a 212(r) Certified Statement (8 C.F.R. §212.15(h)).

For the purpose of the 212(r) Certified Statement, CGFNS will accept the following as English-speaking schools in Quebec:

- McGill University in Montreal
- Vanier College in St. Laurent
- John Abbott College in Anne de Bellevue
- Dawson College in Montreal
- Heritage College in Gatineau (CGFNS News Release, 2005)

Applicants for the 212(r) Certified Statement are exempt from the English language examination and the educational comparability requirements. The 212(r) Certified Statement has the same impact and legal authority as the *Visa Screen*[™] (8 C.F.R. §212.15(g)(2)).

Foreign-educated health care professionals have played an important role in the U.S. health care system for many years, and the increasing interest in them does not appear to be lessening in the foreseeable future. However, because these health care professionals have additional requirements to fulfill, it is important for them, their employers, and recruiters to understand the processes that lie before them.

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