

# Nursing in the U.S.

by Sherry L. Neal, Esq.

EVERY day in the United States, administrators at healthcare facilities struggle with the reality of a nursing shortage and the impact the shortage has on the quality of health care. Like many other countries, the United States is in the midst of a nursing shortage which is potentially reaching a crisis level. The national unemployment rate for registered nurses in the U.S. is at its lowest level in more than a decade with estimates of more than 120,000 nurse vacancies. There are no signs of an end to the nursing shortage. In fact, a report published in a reputable American medical journal estimates the nursing will increase to a shortage of 400,000 nurses by 2020.

While the nursing shortage presents problems for U.S. healthcare facilities, it also presents vast opportunities for foreign-educated nurses outside the U.S. who desire to live and work in the United States.

Perhaps now more than ever, leading hospitals, research facilities, and healthcare staffing agencies are looking beyond the U.S. borders to find registered nurses to help alleviate the nursing shortage in the United States.

A foreign nurse who wants to work in the U.S. must meet immigration requirements and state licensing requirements before she can work legally in the U.S. The Bureau of Citizenship and Immigration Services (BCIS), formerly known as the Immigration and Naturalization Service, regulates the immigration aspect of all foreign workers, including registered nurses, coming to the United States. In addition, each of the fifty individual states regulates the practice of nursing within its state by imposing state licensing requirements on domestic nurses as well as foreign nurses. In most cases, the BCIS will issue a visa to a foreign nurse before she has a state license, thereby allowing the nurse to obtain the license after she enters the U.S.

The BCIS has two broad visa categories: temporary visas and permanent visas. A temporary visa (also known as a nonimmigrant visa) entitles a foreign national to enter the U.S. for a specific purpose, such as employment with a specific employer, and for a specific period of time. A permanent visa, also referred to as an immigrant visa or a "green card", entitles a foreign national to remain in the U.S. indefinitely. The BCIS will approve a visa for a foreign nurse to work in the United States on either a temporary visa or a permanent visa.

The most common method for a foreign nurse to work in the United States is through an immigrant visa or green card. For most occupations the green card process involves a filing with both the U.S. Department of Labor and the Bureau of Citizenship and Immigration Services and takes an average of 2 to 4 years because employers must convince the U.S. Department of Labor that there are not any U.S. workers qualified and interested in the job. However, registered nurses can obtain a green card in less than a year because the U.S. Department of Labor has predetermined that the nursing industry has a well-known shortage. Therefore, the U.S. Department of Labor

directly with the BCIS. The U.S. Department of Labor has selected only two professionals – registered nurses and physical therapists – as occupations that have a well-known shortage.

To obtain an immigrant visa, a foreign nurse must have an employment offer from a U.S. healthcare facility, which is a fairly simple task with the current demand for nurses in the U.S. After finding an employer, a foreign-educated nurse can file for a green card. For a registered nurse overseas, the green card process is a two-step process. The first step of the green card process involves filing a petition with the Bureau of Citizenship and Immigration Services. As part of this process, the Registered Nurse must provide proof that she has a diploma from a nursing school in her home country, a

nursing license from her home

country, and either a license to

practice as a registered nurse in

the state where she intends to

work in the U.S. or a certification

that she has passed the

examination given by the

Commission on Graduates of Foreign

Nursing Schools (CGFNS). The second

step of the green card process

involves an interview at a U.S.

Embassy or Consulate where the nurse

is living. At the time of the interview the

registered nurse must show proof that she

has obtained a VisaScreen certificate from

a healthcare credentials organization in

the U.S. known as the International

Commission on Healthcare Professions

(ICHP).

The VisaScreen certificate issued by the International Commission on Healthcare Professions establishes that the nurses education is equivalent to U.S. education, the nurses license is valid, the nurse is proficient in the English language and the nurse has passed an approved nursing licensing examination, which is either the NCLEX exam (National Council Licensing Exam) or the CGFNS exam (Commission on Graduates of Foreign Nursing Students). The immigration laws do not allow ICHP to accept proof of any other licensing examination besides the NCLEX or CGFNS. As part of the English language proficiency part of the VisaScreen, registered nurses from non-English speaking countries must prove English proficiency by passing an English language proficiency exam. However, not all international nurses have to take an English language proficiency exam. A registered nurse who received her professional education in Australia, Ireland, United Kingdom, United States, or any part of Canada except Quebec does not have to take an English proficiency exam if her native language is English and the professional textbooks and instruction were in English.

A nurse who obtains a green card can live and work in the U.S. on a permanent basis and apply for citizenship after five years. The green card offers many benefits. However, because it typically takes 9 to 12 months for a nurse to obtain the green card and enter the U.S., some registered nurses prefer to enter the U.S. on a temporary visa and then apply for a green card after entering the U.S. Some foreign





the U.S. and then file for a temporary visa or green card soon after entering the U.S. However, a foreign nurse should refrain from using a visitor visa under these circumstances. If a foreign nurse enters the U.S. on a visitor visa and then quickly files for a green card the BCIS can deny the green card if it feels the nurse had intended to file the green card when she entered on the visitor visa.

While the visitor visa is not a viable option, there are other visa options for foreign educated nurses to enter the U.S. in a relatively short period of time and then subsequently file for a green card. For example, a foreign nurse who qualifies for an H-1C visa, an H-1b visa or a TN visa can enter the U.S. within a few months as compared to the normal 9 to 12 month timeframe that it takes for a green card. The TN visa is the most restrictive visa because it is available only for Canadian and Mexican citizens based upon an agreement between the United States, Canada and Mexico known as the North American Free Trade Agreement. The H-1C visa is available for a registered nurse who agrees to work for a healthcare facility in a health profession shortage area. There are only fourteen facilities that qualify to accept foreign nurses under the H-1C program, all of which are located in Texas, California, New Jersey, Georgia, Missouri, Maryland, New York, North Carolina and Illinois. In addition, the U.S. immigration laws permit only 500 H-1C visas per year.

Currently, the H-1b visa is the most attractive, widely-used temporary visa option for a foreign-educated nurse who is not a Canadian or Mexican citizen. The H-1b visa is for "specialty occupations" which are occupations where employers require at least a bachelor's degree. While many healthcare facilities may prefer nurses to have a bachelor's degree, not all healthcare facilities require a bachelor's degree. Most nurses in the United States receive their education through a two-year degree or a diploma rather than a four year bachelor's degree program. In fact, there are estimates that less than 20% of the nurses in the U.S. have bachelor's degrees. Since healthcare facilities in the U.S. do not require its nurses to have bachelor's degrees, not all registered nursing positions meet the requirements for an H-1b visa.

However, the H-1b visa is still a viable option for some foreign-educated nurses. The BCIS acknowledges that foreign nurses in certain specialized positions are eligible for H-1b visas. First, positions that require nurses who are certified advanced practice registered nurses (APRN) will generally be H-1b eligible due to the advanced level of education and training required for certification. These positions include Clinical Nurse Specialists, Nurse Practitioners, Certified Registered Nurse Anesthetist and Certified Nurse-Midwife. Second, certain nursing positions such as an upper-level "nurse manager" in a hospital administration position may be H-1b eligible since administrative positions in healthcare facilities generally require at least a bachelor's degree. Third, a nursing position in a state that requires at least a bachelor's degree for state licensure is H-1b eligible. Currently, the state of North Dakota is the only state in which a bachelor of nursing is a prerequisite to practicing in the field of nursing; however the legislature of North Dakota is expected to eliminate the bachelor's degree requirement within the next six months. Fourth, nursing specialty positions that require a higher

examples of the many types of nursing specialties that may require at least a bachelor's degree.

The BCIS requires a nurse to obtain a state license before it will approve an H-1b for a registered nurse. However, the BCIS will approve a green card, H-1C visa or TN visa for a nurse before she obtains the state license. This allows the foreign-educated nurse to enter the U.S. and then obtain the state license after she enters.

All fifty state boards of nursing in the U.S. have slightly different criteria to practice as a registered nurse. However, the process generally includes a state application, a nominal processing fee, an evaluation of the nurses' educational documents, an evaluation of the nurses' license from the home country and the registered nursing licensure examination, called the NCLEX.

There are two separate procedures whereby state boards of nursing license registered nurses: licensure by examination or licensure by endorsement. The criteria for licensure varies depending upon whether the nurse is applying for licensure by examination or licensure by endorsement. If a foreign nurse has never been licensed in any state in the United States then she must apply for licensure by examination which requires the nurse to take the NCLEX examination. For a nurse who applies for licensure by examination, some states such as Alaska, Michigan, Kentucky, and North Carolina require a foreign-educated nurse to prove that she has passed the CGFNS examination administered by the Commission on Graduates of Foreign Nursing Schools before the state board will allow her to take the NCLEX exam.

For nurses who have already passed the CGFNS exam, applying for a license in a state that requires the CGFNS as a prerequisite for the licensure by examination procedure is fairly simplistic. However, even foreign nurses who have not passed the CGFNS exam and do not want to take the examination during one of the three times it is offered throughout the year can still bypass the CGFNS requirement through some strategic maneuvering. For example, the foreign nurse can obtain a state license through the licensure by examination in a state that does not require the CGFNS exam and then apply to the state where she intends to work using the licensure by endorsement procedure.

Navigating through the maze of the immigration requirements and state licensing requirements can be challenging. However, a foreign-educated nurse who desires to work in the U.S. can proceed smoothly through the process and find a rewarding career in the U.S.

For several decades foreign-educated nurses have been a significant part of the U.S. nursing workforce and it is predicted that foreign nurses will continue to play a vital role in the U.S. healthcare industry for many years to come. With the current nursing shortage and the myriad of nursing opportunities in the United States, foreign nurses are well positioned to gain work authorization and permanent residence in the U.S.



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