

Nurses and Other Healthcare Workers—An Overview

Introduction

Experts at the Health Policy Institute predict that by the year 2020, the United States will experience a shortage of 90,000 to 200,000 healthcare workers. Thus, many U.S. employers are developing international recruitment programs utilizing Federal immigration programs for skilled workers. This article will provide an outline of the considerations that employers should make when undertaking an international recruitment program.

Does the Worker Require a Certificate?

Current law requires that certain designated healthcare workers present a certificate verifying their education, training, and experience. In addition, they must further certify that they meet minimum English language skill levels before they can be admitted to the United States. Although the statute does not define the term healthcare worker, occupations requiring a certificate are: registered nurses, licensed practical nurses, licensed vocational nurses, occupational therapists, physical therapists, speech-language pathologists and audiologists, medical technologists, physician assistants, and medical technicians. Holding a certificate is mandatory for all healthcare workers, except for a very limited number of Mexican and Canadian TN workers who may have a grace period before a certificate is required.

If a worker is required to have certificate, but does not have one at the time of hire, the attorney should assist the worker in obtaining the certificate prior to the time of his or her visa application or adjustment of status interview. Usually, the processing time for the immigration application is the same amount of time required by the worker to obtain the certificate so that it is available by the time of the interview.

Will the worker to be Permanent (Immigrant) or Temporary (Nonimmigrant)?

There are two occupations that are entitled to expedited immigrant or permanent processing under the Department of Labor's Schedule A, Group I program: professional nurses and physical therapists. This is possible since the Department of Labor has pre-determined that there are not sufficient U.S. workers who are able, willing, qualified, and available for these occupations and that the wages and working conditions of U.S. workers similarly employed will not be adversely affected by the employment of aliens. Thus, for professional nurses and physical therapists, both a permanent and temporary status should be considered.

In some cases, the processing times for an immigrant or permanent application coincide with the time needed for the worker to obtain a certificate. The overall processing time, however, is still very long, seven to twelve months. Thus, many employers inquire about the availability of a temporary or nonimmigrant status, while the permanent status is pending or put on hold, so that the worker can begin sooner. The availability of a nonimmigrant classification for professional nurses and physical therapists, however, is dependent upon State licensure requirements.

Practically speaking, if the relevant State licensure rules allow the worker to practice in the occupation without a full, unrestricted license, it may be advisable to pursue the nonimmigrant status

to fill the position in a timely matter and then later seek a permanent or immigrant status. However, if the state of intended employment requires a full and unrestricted license, it may be advisable to seek only the permanent status. This is because by the time such is obtained; the worker would be eligible for both statuses. This means that it would take the same amount of time to place the worker regardless of whether a temporary or permanent status is sought. However, when dealing with other healthcare workers, the nonimmigrant processing time would be shorter if the relevant State licensing rules do not require full and unrestricted licenses to practice in the occupation.

For More Information

For more information, please contact Lee Lane Smith LLP via e-mail at enquiry@leelanesmith.us or toll free at (800) 513-5699.