Strategies for Immigrant Professional Nurses

As it becomes increasingly difficult for employers to obtain skilled nursing staff, the employment of nurses from outside the United States has become one strategy to meet the need for high-quality patient care. This increase in demand comes at a fortunate time, as many nurses abroad are looking to international relocation as a means of obtaining better pay, improved working conditions and professional advancement. This Update outlines strategies to help match these complementary needs of employers and immigrant nurses.

Immigration Issues

The central issue facing immigrant nurses and their prospective employers is that there is no visa specifically designed to allow nurses to work temporarily in the United States, though there is a “short cut” to permanent residence (a “green card”) for immigrant nurses. A strategy based on temporary visas, therefore, will have to work around the employment restrictions of temporary visa categories not designed to allow the full-time employment of an immigrant nurse. Fortunately, the permanent residence strategy provides a way for immigrant nurses to enter the U.S. and work for a sponsoring employer, even though the processing times are such that immediate needs for immigration to the U.S. for employment cannot be met.

Temporary Visa Strategies

The most common type of working visa for entry into the United States, the H-1B, is generally not usable for employment of professional nurses. To qualify for H-1B issuance, an occupation must require a bachelor’s degree in a specific field as the minimum qualification necessary to enter the occupation. Whether the nurse actually holds a Bachelor of Science in Nursing (BSN) or equivalent foreign degree is irrelevant, because the occupation of “nurse” does not, generally, require a BSN for entry into the profession (indeed, the only state licensing authority that requires a BSN in order to obtain a nursing license is North Dakota). Hence, the only categories of nursing professionals who are able to obtain H-1B status are those whose positions, arguably, require at least a bachelor’s degree (for example, nurse practitioners, nurse anesthetists and professors of nursing).

There used to be a special category of temporary visas just for nurses, the H-1A category, but that category was allowed to expire in 1996. A recently enacted replacement program, the so-called “H-1C” category, only applies to nurses who will serve in acute care facilities in “medically underserved areas,” so is only potentially useful to a dozen hospitals in the entire United States. Restrictive attestation requirements also make the H-1C category somewhat unattractive, even for those
locations; the visas are also strictly numerically limited.

There is one temporary visa category that does allow employment of professional nurses, called the “TN” category. Because this visa category was created by the North American Free Trade Agreement, only nurses who are Canadian or Mexican nationals may enter in this category. For Canadian nurses, procedures are straightforward, as the visa may be obtained at the border as the nurse enters the United States. For Mexican nurses, a petition must first be approved by the INS, which may take 30 to 90 days, and then the nurse may obtain a visa in Mexico and enter the United States. For Mexican nurses, the employer must also make certain attestations regarding the wages and working conditions offered to the Mexican nurse, and must offer at least the prevailing wage for nurses in the area where the nurse will be employed.

For non-Canadian and Mexican nationals, there are three visa categories that can be used in order to enter the United States, though none is designed to allow the full-time, long-term employment of nurses.

The first option is to bring foreign nurses to the United States for an academic program, such as a BSN program, using the student visa (F-1). Students, generally, can work part time (up to 20 hours per week) while “on campus,” and can be authorized for “practical training” at other locations during the course of study. Nurses wishing to enter may want to apply to a BSN program to enter the United States and improve their credentials, and employers may wish to partner with local nursing schools to offer placements to student nurses. This option has the advantage that, for licensing and immigration purposes, many foreign nurses will require some extra coursework not normally part of the nursing education in their country of origin in order to have the equivalent of a U.S. nursing degree.

The second option is to use the J-1 trainee visa, which allows entry of individuals for up to 18 months to receive training in a specific area. Such trainee programs are administered by outside program sponsors that approve training programs and issue visa documentation for nurses. The trainee category of J-1 visas will, generally, require establishing a training program of some sort (this might be a combination of coursework at a local nursing school, rotations at the hospital and seminars) and limit “productive” work to that which is necessarily required for the training program.

The third option is the H-2B category, which is for temporary workers in occupations that do not require a bachelor’s degree for entry into the occupation. The problem with this category is that, unlike the H-1B where the position being filled by the foreign worker may be a permanent position, the H-2B is only for workers coming to fill a “one-time,” “intermittent,” “peak-load” or “seasonal” need. (Examples of the H-2B include resort workers only needed for the summer, or cannery workers only needed during the season for a particular fish.) Assuming an employer wishes to use immigrant nurses to fill only a temporary need (generally, lasting less than 10 months), this category may be worth exploring.

One practical difficulty with the student, trainee and H-2B options is that these visas generally require the nurse to demonstrate that he or she intends to return to the home country after his or her education, training or temporary work, which may mean that some nurses will not be able to obtain the visas needed to come to the U.S. temporarily, and that these categories may be inconsistent with an employer’s wish to have the nurses for long-term employment.
Immigrant Visa Strategy

A more elaborate procedure, which should be considered as part of employer’s planning to meet longer-term nursing needs, is the strategy of recruiting nurses from abroad, but bringing them to the United States only after they have obtained permanent residence. Ideally, an employer would file an immigrant visa petition with the U.S. Citizenship & Immigration Services offering a position as a registered nurse to an identified candidate overseas. This immigrant visa petition will usually be adjudicated within four to six months, and notice cabled to the State Department for transmission to the U.S. Embassy or consulate in the nurse’s home country. Because of immigrant visa quotas, a delay of three to five years between approval of the visa petition (the nurse being given a “place in the line” to immigrate) and the approved petition to be sent to the relevant consulate and an immigrant visa interview to be arranged, this strategy will not be practical for most nursing employers. When there are no quota delays (for example, when Congress has provided extra visas for nurses), an immigrant nurse could be working for the employer as a permanent resident within seven to twelve months of having been identified. For a facility with an ongoing need for nursing professionals, advance planning will make it feasible to use immigrant nurses to meet at least part of their nursing staff needs.

Licensure Requirements

Nurse licensing is regulated by the 50 states, each of which has its own criteria for issuing a nursing license to a nurse educated abroad. State Boards of Nursing may require a certificate of educational equivalence from the Commission on Graduates of Foreign Nursing Schools (see “Credentialing Requirements”) in order to allow an international nurse to take the NCLEX examination, though some will not. In addition, Canadian nurses may be eligible for licensure through reciprocity in many jurisdictions. Nurses and employers should consult with the Board of Nursing in the state where the nurse will be employed for the particular requirements of that state.

For nurses educated abroad, immigration law also requires that they hold a nursing license in the country where they were educated, in addition to any U.S. licenses they hold. For nurses educated in the United States, licensure in the state of intended practice is all that is required.

Credentialing Requirements

In addition to state licensure, the immigration laws provide two additional credentials that must be obtained prior to immigration to the United States as a nurse. The first of these credentials applies only to nurses educated abroad, while the second is required of all immigrant nurses (even those educated in the United States).

For nurses educated abroad, the Commission on Graduates of Foreign Nursing Schools (CGFNS) administers an examination and educational evaluation service used by many state licensing boards as a prerequisite for permission to take the NCLEX exam (the national nurse licensing exam) in their state.
In addition, for a nurse coming from abroad with no U.S. license yet, the CGFNS certificate is required in order to file the immigrant visa petition on behalf of the nurse (the immigrant visa petition may be filed without the CGFNS certificate if the nurse holds a U.S. license in the state of intended practice). A nurse seeking to immigrate to the U.S. should contact CGFNS at +1.215.349.8767 or on the internet at http://www.cgfns.org.

In addition to the CGFNS examination required at the start of the process, the process cannot be completed until the nurse has obtained a “Visa Screen” certificate from the International Commission on Healthcare Professions (ICHP), a part of CGFNS. The Visa Screen must be obtained whether the nurse’s education was obtained in the U.S. or abroad, and is a certification that:

1) The nurse’s education, training and experience are comparable to a U.S. nurse’s, and are authentic;

2) The nurse’s overseas and U.S. licenses are authentic and not restricted in any way; and

3) The nurse is fluent in English, as demonstrated by either a passing score on a standard test of English fluency or the fact that the nurse was educated in English in one of six countries (Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom and the United States).

Because of the processing times at INS and ICHP, nurses should contact ICHP as soon as possible once they decide to immigrate and should use the time that the immigrant petition is pending with INS on their behalf to obtain the ICHP certificate, so that the entire process can be completed as quickly as possible.

Conclusion

Immigration of nurses is no longer as easy as it was from 1989 to 1996, when a category of temporary visas specifically for nurses existed. With appropriate planning, however, international nurses can still develop their careers in the United States, and U.S. healthcare providers can successfully recruit from abroad.