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CROSSCURRENTS

New RN law: boon or bane?

By REUBEN S. SEGURITAN

President Bush signed a new nursing law last week that, in effect, allows instant green cards to hundreds of Filipino nurses. On the surface, this measure appears to deserve commendation. Beneath the humanitarian gloss, however, lies a policy as restrictive and prejudicial as any of the immigration law that has preceded it.

As discussed in last week's column, the new law is essentially two pronged. The first focuses on the qualifying conditions under which nurses can apply for an adjustment of status from a temporary worker to a permanent resident. Eligible under this provision are registered nurses who are in possession of a valid H-1 visa as of September 1, 1989 until the day of filing their application, and have continuously worked as registered nurses (RNs) for at least three years. The second area concentrates on new stringent policies on the hiring of foreign nurse recruits.

Nurses adversely affected

The news may be godsend to many but the blessings have apparently stopped short of interceding for thousands of others who do not qualify. Among them, nurses who are still working under an expired visa after exceeding their six-year limitation on their H-1 visas, and nurses who failed the licensure exams but are scheduled to retake it, as well as those on the bottom hierarchy of nursing recruits—nurses who have just joined the workforce and those who have just passed the first of the qualifying exams, the CGFNS.

Also excluded are those who have passed the licensure exam having failed it the first time but chose instead to stay and work under invalidated visas because of known practices of unfair denials at the US embassy in Manila for many of such reapplications. Most of these nurses have been in fact working in the US for years.

The second phase of the law, on the other hand, notably draws up a tight set of procedures by which employing health care centers and hospitals must abide before recruiting foreign nurses. Basically, the law requires every employing facility to go to extreme lengths to attest to its need for recruits. Among other representations, employing facilities must certify that substantial service disruption will result should the nurses not be hired, and warrant as well that wages and working conditions of similarly employed RNs will not be undercut. In addition, employing facilities are to take significant steps to recruit and retain local nurses. The primary function is established as a way of getting the industry to reduce and eventually remove its dependence on foreign nurse recruits.

This rigorous measure will undoubtedly make entrance to the profession more daunting for Filipino nursing graduates. Given the rate our burgeoning Philippine nursing schools produce gratuates at US encouragement, our country may just soon find a glut of health care professionals with very limited opportunities.

Benefit only incidental

At this point, it should be said that the basis underlying the blueprint of the new law does not indicate a deliberate move to favor Filipino nurses nor placate their grievances which have long been addressed to Congress. Instead, the law, more than anything else, hopes to present itself as the solution to the long festering local nursing shortage. However, instead of accommodating the thousands of foreign nurses now working in the US and those wanting to enter, which should be more than enough to solve the nursing shortage, Congress has apparently bogged down from the pressures of the local labor force who foresee employment and big business opportunities in an unprecedented thriving health care industry.

Somewhere along the line, Filipino nurses have been dealt an unfair blow. For years, when Americans shunned the profession because of strenuous working conditions and the low pay, the US opened its workforce to foreign recruits. Many, after their visas expired, and others who have failed the licensure exams, contented themselves with working a level lower as nursing aides. Meanwhile, more foreign nurses were recruited from schools which had sprouted for the sole purpose of filling up the US labor shortage. Because these nurses were recruited under an extremely restrictive immigration policy, they were besieged by exploitative forces who constantly dangled the threat of deportation should the cry for better pay and fair working conditions grow into a clamor.

Remedy to nursing crisis

In the mid 80's, as the American population index spiralled and health care demands became more critical, US legislators saw that the nursing shortage had reached a crisis point. Instead of accommodating more foreign nurses to solve the problem, Congress saw a need to draft remedial measures favoring its own labor force, for which emerged its brainchild, the Immigration Nursing Relief Act of 1989.

As one of its attractions to lure the local labor force, wages under the law will increase at a more lucrative level, and working conditions will be upgraded to satisfy US union standards. As a short-term palliative to the nursing crisis, Congress predict that the full effect of the law will yet be felt in about five years or so, the foreign nurses will be retained and to a relative few, be allowed the adjustment of status into permanent residents. But to many other similarly employed but do not meet the conditions set by the law, and to those who have educated themselves in the hope of joining the once encouraging US workforce, the prospects of opportunities for staying, much less entering, will simply grow dimmer and uninviting as the years go by.

History of restriction

The year 1965 was the time the US opened its doors to professionals, including nurses. Shortly thereafter, the US imposed licensure requirements. Nurses were issued temporary licenses until they passed the licensure examination within a year of their arrival. Should they fail, they were required to leave for home or face deportation. This particular phase somehow became a pathetic sight as many of them had to shell out what little they had saved from their earnings to pay for their "fly now, pay later" plane tickets.

In 1980, the INS introduced another hurdle for Filipino nurses to take—another test more popularly known by its acronym, CGFNS. The exam is supposd to pre-screen applicants, who, if they pass, should mean that they have greater probability of passing the state licensure exam as well. Those who pass in the CGFNS, are then made to understand that they should take the very first licensure exam given since their arrival. It is not surprising but distressing to note nevertheless that many of these nurses, already saddled with a heavy workload under a gruelling schedule and strained by nightly study vigils to brace up for the exams, bear failing marks. In the last exam for instance, only about 20% of Filipino nurses passed.

Then, in one of its latest restrictions, INS instituted a five year limit on H-1 visas effective March 1987. Though applying for a sixth preference would have been an alternative for staying legally in the future, many had not taken this step for fear their H-1 visas would be discontinued. As a result, many found themselves "out of status" after their visa expired and instead of going home, opted instead to stay as an "illegal," vulnerable to INS agents on the lookout for them.

The new law, in essence or in its full context, does not address these difficulties nor attempt to favor any of these disadvantaged nurses by busting the spectre of deportation at their every move. On the surface, the new law serves to benefit many an aggrieved nurse. Skimmed of its charitable icing, however, the nursing law becomes but another US operation that dons a humanitarian front but only ends up leaving a trail of thwarted people.