

Community Action Needed to Extend H-1A

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The H-1A visa category which was created by the Immigration Nursing Relief Act of 1989 (INRA) was terminated on 9/1/95.

The INS has instructed its field offices on how to handle H-1A petitions filed before or after 9/1/95 as follows:

1. All H-1A previously filed on or before 9/1/95 are to be adjudicated under the Immigration and Nursing Relief Act of 1989 (INRA). "If approved, such petitions may be granted the period of time requested by petitioner, notwithstanding the 9/1/95 sunset date."
2. Extension of H-1A or change of status to H-1A properly filed on or before 9/1/95 should be adjudicated also under the INRA.
3. All new H-1As, extensions of H-1As and applications to change to H-1A filed after September 1, 1995 should be held in abeyance until further notice (This is probably in anticipation of a possible congressional action extending the H-1A program. But extension of the program is unlikely in the immediate future, according to informed sources.

The Department of State has likewise issued its instructions to all consular posts.

1. All consular offices would issue H-1 visas for the validity period specified on the date of the INS approval notice.

Under these instructions, all H-1A nurses with valid visas who take their vacation outside the U.S would presumably be able to come back. Also, they may still petition their dependents under the H-4 visa.

Background Information

The INRA took effect 5 years ago in response to the severe shortage of registered nurses in the U.S. It allowed certain foreign RNs to get their green cards quickly but at the same time it imposed stricter admissions procedure for nonimmigrant nurses. Its termination date was 9/1/95.

INRA also created an Advisory Committee charged with advising the Department of Labor on the impact of the new law on the nursing shortage. Last March, it recommended the extension of the H-1A program beyond the 9/1/95 sunset date. Neither the DOL nor the Congress acted. Rep. Patsy Mink introduced a bill to extend the deadline to 12/31/95 but no action has been taken on the bill.

Some findings by the Advisory Committee.

1. The number of H-1A is estimated to be about 13,800 which was less than 1% of the employed RNs in fiscal year 1994. A large proportion of them are from the Philippines. They have filled positions that are difficult to fill like evening, night and weekend shifts.
2. NYC, Chicago, Houston, LA and Miami together account for 2/3 of the H-1A population. New York accounts for the greatest number (3,600 in 1994).
3. About 7,700 foreign nurses obtained their green cards under the INRA program that ended on 3/15/95 but this had a small impact on ending the nursing shortage.

What We Can Do

In a series of articles I wrote for the Filipino Reporter in 1989-1990, I criticized the Nursing Relief Act as a bane rather than a boon to foreign nurses. I said then that:

"In reality, the new Nursing Relief Act in its entirety intends to stifle the future entry of foreign nurses in the country while it lures the local labor force into the industry with its new offer of more attractive package benefits.

"Somewhere between America's interest to preserve its own labor force and the right of the Filipino nurses to obtain benefits for their years of service lies unresolved conflict that finds us again in the losing end. When America found itself in a crisis situation, it looked out and saw in us an answer to its problems. Now that it believes it has found a semblance of a solution to the crisis, it finds ways to dump us, refusing those who have served to be part of the permanent solution.

"It is time our community actively reacted to the slight. This is clearly a Filipino issue and nobody else's. It is not the Chinese's concern, nor the blacks', nor Hispanics', nor any other minority's. Those affected are Filipinos, basically because of the comparatively longer waiting list of Filipino nurses awaiting permanent residency status. Thus we cannot expect anybody else standing on the frontlines of this fight but ourselves."

I cannot help but compare the present crisis affecting Filipino nurses with the nursing problems in the late seventies when hundreds of Filipino nurses who failed their licensure exams were issued deportation notices. Fortunately, the Filipino community acted at that time. A group called NAFL-FNG was organized to lobby congressman, senators and other officials. After a series of meetings with the INS in Washington, these nurses were spared. I was privileged to serve as their legal counsel.

We should do the same now.