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## **Medical Technologists to Sue INS Over Delay**

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Application for adjustment of status filed as early as five years ago by medical technologists, speech/language pathologists, medical technicians and physician's assistants are still being held in abeyance because of the absence of regulations implementing the health care certifications required by a 1996 immigration law.

Other groups of health care workers, namely nurses, occupational therapists and physical therapists, have now been processed for immigrant status because the INS already came out with regulations for them. The regulations for nurses and occupational therapists came out in late 1998 while the regulations for physical therapists became effective in June 1999.

Because of the hardship that these workers have suffered as a result of the processing delay, the American Immigration Law Foundation (AILF) is contemplating to file a lawsuit to compel the INS to act. This same organization initiated an earlier court action on behalf of nurses and occupational therapists. Immediately after the filing of the suit, the INS issued the regulation.

For the lawsuit to be filed, the AILF needs plaintiffs. Those who fall under any of the following categories may join:

- Speech/Language Pathologists, Medical Technologists, Medical Technicians and Physician's Assistants who filed I-485s before September 30, 1996;
- Hospitals and other healthcare providers who have been adversely affected by the INS's failure to issue regulations implementing 343 for these five classifications of healthcare workers;
- Children of healthcare workers who will age out in 2000;
- Healthcare workers who are separated from their families abroad because of the delay in issuance of regulations.

A bill to increase the number of H-1Bs was filed last February 9 by a bipartisan coalition of key senators. Senate Bill 2045 will provide 195,000 visas annually for the current and the next two fiscal years.

The current cap is 115,000 visas. Last year, the cap was reached five months before the end of the fiscal year. This year, it may be reached much sooner. If the bill becomes law this year, an additional 80,000 will be available immediately.

The bill was introduced to provide a limited solution to the national shortage of professional and high tech workers. A counterpart bill is expected to be filed in the House soon.

A troubling incident recently happened in San Antonio, Texas involving professional workers. The INS conducted a workplace raid at Randolph Air Force Base looking for undocumented aliens. Forty individuals were taken in handcuffs and detained.

The INS, acting on a tip from the Department of Labor, based its action on the fact that the workers had been the beneficiaries of H-1B petitions filed by companies in Houston and that amended petitions were not filed to reflect the temporary assignments in San Antonio.

The American Immigration Lawyers Association (AILA) filed a strong protest with the INS office in Washington, DC, claiming that the action was not warranted as no immigration law was broken, either by the employees or their employers. AILA argued that the transfer of employees to another site was permissible and that an amended petition was not required.

Many of the aliens were computer professionals. Some were even permanent residents.