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Immigration Dead End Bodes Ill for Health Care

By Reuben S. Seguritan

The nursing shortage in the US has reached such alarming levels that a number of hospital deaths have been blamed on it. A recent report by ABC News on a study conducted by the Joint Commission on Accreditation of Health Care Organizations revealed that tens of thousands of hospital deaths every year can be blamed on the nursing shortage. These so-called "adverse" events took place because hospitals had an insufficient number of registered nurses on the job. These incidents include medication errors, patient falls and hospital infections.

Other Indicators of the US Nursing Shortage

All other signs point to the seriousness of the nursing shortage. Recent studies reported by the American Hospital Association state that there are 126,000 RN vacancies in hospitals and 13,900 RN vacancies in nursing homes. Thirty states were estimated to have Registered Nurse (RN) shortages in 2000, which will intensify over the next 20 years with 44 states plus the District of Columbia, according to reports by the Health Resources and Services Administration.

Even the US Department of Labor projects that 1.1 million new and replacement nurses will be needed by 2012. It has further identified Registered Nursing for the first time as the top occupation in terms of job growth through 2012.

Unfortunately, the nursing shortage will still get worse before it gets better. The existing nursing workforce is aging with less than a third of them being under the age of 40 in 2000. The average age of a working RN in March 2000 was 43.3, according to a survey.

Many US nurses leave their jobs because of poor staffing, heavy workload and inadequate wages.

Compounding the shortage is the impending increase in demand for nurses as baby-boomers reach their 60s and 70s. The Subcommittee on Health, Committee on Ways and Means of the House of Representatives has reported that the population, age 65 years and older, will double from 2001 to 2030.

Development of US-trained Nurses

The US Congress and other concerned sectors have chosen to approach the nursing shortage problem in two ways simultaneously. First, programs have been established to internally develop a pool of US-trained nurses. The principal initiative in this direction is the enactment of the Nurse Reinvestment Act whereby funds have been earmarked to support scholarship programs, develop accelerated nursing courses and promote nursing as a career among young Americans.

While there has been a marked increase in nursing school enrollments, such increase still falls short of the existing need. The American Association of Colleges of Nursing, for instance, reported in December 2003 that the 16.6 percent increase in enrollments in entry level bachelor's degree nursing programs is not sufficient. Nursing programs would have to increase at least 40 percent annually to replace nurses who retire from the workforce.

This approach has not been making as much headway as expected. A 20 percent drop in the number of first-time US-educated nursing graduates taking the NCLEX-RN exam from 1995 to 2003 has been observed. The vicious cycle has also caused a shortage of nursing school faculty in addition to insufficient clinical sites, classroom space and budgetary constraints.

Recruitment of Foreign-Trained Nurses

So far, the second approach appears more promising in alleviating the nursing shortage in the US. Many hospitals, nursing homes and medical facilities acknowledge that foreign-trained RNs are usually young, highly-motivated bachelor degree-holders who bring with them a wealth of experience from around the world. A major, if not the most important source, of foreign-educated RNs is the Philippines.

The recruitment of foreign-trained nurses is also a relatively faster way of filling the RN shortage, notwithstanding several obstacles in the form of restrictive US immigration laws and regulations.

From the standpoint of the primary source country, the Philippines, the deployment of nurses to the US, is one of the strategies it has adapted to sustain its undeveloped economy. Nurses in the US earn substantially more than their counterparts and even physicians in the Philippines. It has become a career of choice for many young Filipinos who wish to venture into the greener pastures of America.

There are generally two ways by which foreign-trained nurses can enter the US for employment, either, through a nonimmigrant worker visa, or through an employment-based immigrant visa.

The process of obtaining an employment-based immigrant visa for foreign-trained nurses is slow and circuitous. The CGFNS certification and testing of foreign RNs could take a year, while the immigrant petition and visa application could take much longer. Still, this mode of entry for foreign RNs is the most effective way of filling the nursing shortage. There are, however, thousands of nursing positions that could not wait a year, or even a month.

Temporary Work Visa

Thousands of foreign RNs entered the US over the past two decades through temporary or nonimmigrant work visas. Medical facilities, hospitals and nursing homes resorted to petitioning for temporary work visas on behalf of foreign RNs because the documentary requirements were understandably less complicated and the processing time was shorter than that for the immigrant visa.

When the nursing shortage worsened in the late 1980s, the US Congress enacted the Nursing Relief Act of 1989, which created a five-year pilot program granting the H-1A temporary worker visa for foreign nurses. Some 6,500 nurses were admitted under the H-1A program. Unfortunately, Congress allowed the program to expire in 1995. No comparable law of such nature and scope has been passed since.

Needless to say, the nursing shortage continued unabated over the following decade. The US Congress responded to the situation by enacting another law in 1999 which allowed foreign nurses to enter the US to work in so-called "health professional shortage areas." The

Nursing Relief for Disadvantaged Areas Act created a new nonimmigrant category, called the H-1C especially for nurses. This law, however, was too limiting to be effective.

Hospitals hardly utilized the H-1C program to recruit foreign nurses because the conditions imposed in the labor attestation are difficult to fulfill. The number of H-1C visas available each year is too few to make a dent on the nursing shortage. Only 500 H-1C visas are issued annually with only 25 visas allocated for each state, 50 in states with a population of nine million. The H-1C program is scheduled to end in June 2005.

Up until last week, the only alternative to the limiting requirements of the H-1C program was the H-1B temporary work visa for specialty occupations. To qualify for an H-1B visa, the position offered to a foreign professional requires as a minimum a bachelor's degree. Most nursing vacancies, however, do not require the bachelor's degree minimum, unless they are high administrative positions or are highly specialized. Foreign RNs who do qualify for H-1B, however, must also obtain a Visa Screen Certificate, a requirement that was not implemented for nonimmigrant working visas before July 25, 2004.

Prospects for Foreign RNs' Temporary Visas

A press release issued by the US Citizenship and Immigration Services (USCIS) on October 1 confirmed fears of an H-1B blackout for 2005. According to the USCIS, the annual cap of 65,000 H-1B visas for 2005 had already been exhausted.

As it stands now, the only temporary work visa program available to foreign nurses, other than those from Canada and Mexico, is the H-1C. With the H-1C program set to expire in just nine months, the only way for foreign nurses to enter the US is through an immigrant petition, a process that could take years to complete.

The immigrant petition route could be a dead end for foreign nurse recruitment soon. The US State Department already raised the probability of imposing cut-off dates for immigrant visa applications by January 2005 because of oversubscription of immigrant visa numbers. This could translate in serious processing delays because a nurse-beneficiary of an immigrant petition whose priority date is on or after the cut-off date would have to wait for the immigrant visa number to be available before she can come to the US.

This brings to the fore the urgency of enacting a law that would create a temporary work visa specifically intended for foreign RNs. Many hospitals and foreign nurse recruiters hope that the US Congress would consider a program similar to the H-1A visas under the Nursing Relief Act of 1989, or at least extend and liberalize the existing H-1C program. While a temporary work visa program for nurses alone will not completely solve the nursing shortage, it represents a viable supplemental measure for re-staffing US medical facilities and prevent the quality of healthcare from further deteriorating. Unfortunately, initiatives in Congress in this direction have fizzled out for lack of public support.

On July 27, 2001, Senator Sam Brownback and two co-sponsors introduced the Rural and Urban Health Center Act of 2001. Rep. Sheila Jackson Lee introduced a similar legislation on August 1, 2001 in the Lower House. These bills sought to remove the stringent requirements of the H-1C visa to enable all hospitals to hire foreign nurses. Both bills died for lack of support. Rep. Jackson Lee reintroduced her bill on January 7, 2003, but there has been no show of support from the public yet.

It is clear that the American public still has to appreciate the implications of the nursing shortage on the quality of health care. Thousands of "adverse events" will continue to occur, if not worsen, due to insufficient and overworked hospital staff, unless America opens its doors to foreign RNs. A new program for temporary work visas would be a good start.