

New US law puts Asian doctors in tough spot

NEW YORK.— Filipino doctors in the United States and those desiring to come for graduate training in hospitals here have become the targets of a new immigration law that has imposed additional burdens upon them.

The new law requires that graduates of foreign medical schools who want to undertake internship and residency programs in American hospitals must first pass a two-day Visa Qualifying Examination (VQE), before they can be issued an exchange visitor of J-1 visa.

At present, prospective medical trainees are already required to pass a test given by the United States Educational Commission for Foreign Medical Graduates to be eligible for this visa.

FOR INCOMING foreign medical graduates to the United States, the requirement for the new exam took effect last Jan. 10. The new regulation has already barred those who have not yet taken or have failed the VQE from internship and residency programs to start in July. A number of hospitals here have such programs that start in January, and some doctors have been lucky to have already obtained appointments for them before the new exam requirement goes into force.

Alien physicians here have also been required since January this year to pass the VQE if they want to become permanent residents of the United States. But those who have been permanently licensed to practice medicine here and have been certified as specialists on or before Jan. 9 this year are exempt from taking this exam in order to become eligible for permanent residence.

By KUMAR J. BALANI

The requirement for passing this new exam, in addition to the long-standing ECFMG test, has aroused a lot of indignation and sparked cries of 'discrimination' in the foreign medical community here, especially among doctors from the Philippines and India, who constitute the bulk of alien physicians in the United States.

LEADERS of several Filipino medical associations view the VQE requirement as basically unfair, unjust and discriminatory to Asians, since most foreign doctors in the United States have come from

Asian countries. They have pointed out that a doctor's competence in medicine should have nothing to do with his eligibility for a visa.

Since the ECFMG exam already serves to screen out incompetent foreign medical graduates, the VQE is unnecessary as an additional basis for an exchange visitor visa or a permanent visa, the doctors add.

American graduates of medical schools abroad are not required to pass either of the two exams, in order to train in US hospitals, so why should non-Americans be subject to these requirements some have asked. The general opinion seems to be that there should be only one exam comparable in standards to the American medical board exams, for foreign doctors who want to undergo training and practice here.

ALIEN DOCTORS who are in the United States as exchange visitors are also required as a rule, to go back to their countries of origin or of last stay for a period of

two years before they can qualify for adjustment of status to permanent residence.

Many such doctors have families; some are already licensed to practice here after having passed a federal licensing exam; others hold specialty certificates and have established medical practices in specific fields.

The two-year foreign residence requirement has had the harsh effect of forcing alien doctors to transfer or abandon their families and medical practice temporarily before they can come back and resettle in the United States permanently.

NOT A FEW foreign physicians contend that the best way to fight discriminatory laws adversely affecting them and their colleagues is to lobby in the US Congress. Some have urged that a nationwide alliance of foreign medical organizations be formed to present common proposals on Capitol Hill to amend existing laws.

Other Filipino community leaders besides doctors hold similar views. Some Filipino immigration lawyers, for example, have been attempting to persuade government officials to eliminate the VQE and the two-year foreign residence requirements for alien doctors.

Reuben Seguritan, a Filipino attorney with a practice based in New York, contends that "there is a deliberate pattern of discrimination against Asian, as far as immigration legislation is concerned."

And he has pointed out to the two requirements - VQE and two-year return to home country - as examples.

Seguritan, who specializes in



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immigration law, has noted that the US Congress was well aware that Asian doctors comprise the great majority of foreign medical personnel coming to and already here in the United States, when it adopted the law requiring the Visa Qualifying Examination. Also the two-year foreign residence rule applies mainly to doctors from developing nations in Asia, he explained.

Seguritan and a number of other Asians constituting an "immigration task force" have brought these matters to the attention of Leonel Castillo, commissioner of the US Immigration and Naturalization Service. They have also expressed their concern that President Carter's alien amnesty bill, now pending in Congress, contains a provision that is discriminatory to exchange visitors and certain other classes of aliens.

OFFICIALS of the ECFMG have explained that the exchange visitor program, which is administered by

that agency, is one whose sole purpose is to enable foreign physicians to gain specialized knowledge and expertise in US hospitals which they could use in their respective countries after their return. The program is not a means to recruit foreign doctors to staff American hospitals.

Showing that it meant business, in April 1975, the Commission warned that all exchange visitors who attempted to obtain permanent residence would cease to be sponsored by it and would be subject to deportation. But an "emergency defense committee" composed mainly of Filipinos, who were affected most, fought this ruling and it was withdrawn.

The VQE rule pertaining to foreign doctors was imposed by a law that was passed by the US Congress in 1976 after American medical groups advised that the US already had a sufficient number of physicians and surgeons.

But while the proposal was being debated by legislators, hospitals

were warning that new restrictions against alien physicians coming to the United States would create a severe shortage of available interns and residents and a "medical crisis" would ensue.

The decision of Congress to mandate the taking of this new and second screening exam was also influenced by claims of the American medical establishment that the competence of foreign medical graduates was questionable. But as early as 1974, a committee of the American Medical Association had declared that "there is no hard evidence to substantiate the charges of incompetence."

AT LEAST one legislator, Rep. Adam Benjamin (Democrat-Indiana), has indicated that the VQE regulation applies only to incoming foreign medical graduates, and not to alien doctors practising here.

He said that his colleagues in Congress "did not understand" the impact of the new law.

He added the US Department of

Health, Education and Welfare has misinterpreted the law, "contrary to Congressional intent," by requiring thousands of foreign physicians, already in the United States, to take VQE as part of the process of status adjustment.

THE TWO-YEAR residence requirement aboard, as prerequisite to eventual permanent residence

here, was imposed in 1948, and applied to all foreign medical graduates in the United States. But it has been especially detrimental to the interests of doctors coming from Asian countries.

Physicians from Europe and other developed areas generally have been exempt from this rule because the specialized knowledge and skills they acquired here are not required in their countries of origin.

This exemption is due to an amendment in 1956 to the Information and Educational Exchange Act of 1948, which set up the exchange visitor program. That change in the law empowered the US Secretary of State to draw up a list of countries that did require doctors with competence in a number of medical specialties.

The Philippines, being a developing country, was part of the list; hence Filipino doctors are still required, as they have been since 1948, to go back to the Philippines for two years after completing their advanced medical education here, before they can qualify to obtain permanent resident status, or 'green cards.'

AS THE SITUATION stands, the VQE and ECFMG exams and the two-year residence requirements have already made it increasingly difficult for foreign, but especially Asian doctors, to settle in the United States.

For Filipino doctors, it is even more difficult and entails years of waiting because the quota available to them for permanent residence has been oversubscribed. In other

words, the demand for permanent visas by Filipino physicians greatly exceeds supply.

Generally, a third preference petition, limited to professionals with 'exceptional ability in science and the arts; is filed with the INS by doctors who wish to acquire permanent residence. At present, however, over 22,000 Filipinos already hold approved petitions under this preference category, but only 2,000 permanent visas are available each year.

The 2,000 limit represents only 10 percent of the 20,000 quota numbers available to nationals from each of the nine countries in the Eastern Hemisphere, including the Philippines.

These difficulties, however, have not dampened the generally optimistic attitude of Filipino doctors who seek permanent status here as well as graduates of Philippine medical colleges who want to benefit from the high quality of teaching, advanced facilities and modern equipment used in hospitals and medical centers here.

But many are still unaware that President Carter's immigration bill, which he presented to Congress last July, would, if approved in its present form, lay down further restrictions upon exchange visitors who desire to eventually practice medicine here. That bill prohibits holders of J-1 visas who have not fulfilled the two-year foreign residence requirements from even applying for the proposed five-year temporary resident alien status.