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H-1C Visa Category for Nurses Planned

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Because of the shortage of nurses in certain parts of the U.S., Congress is considering the institution of a work visa program for nurses called the "H-1C" program. This program would provide up to 500 visas per year for five years.

H.R. 2759 or the "Health Professional Shortage Area Nursing Relief Act of 1997" was approved by the immigration subcommittee of the House of Representatives on February 4, 1998. The bill sets down criteria that must be met by hospitals to justify the hiring of foreign nurses. First, the hospital must be located in a Health Professional Shortage Area (HPSA). Second, the hospital must have at least 190 acute care beds. Third, there must be a Medicare population of at least 35% in the HPSA. Lastly, there must be a Medicaid population of at least 28%.

In his February 4 opening statement, subcommittee chairman Lamar Smith said that any legislation must "balance both the continuing need for foreign nurses in certain specialties and localities for which there are not adequate domestic registered nurses and the need to continue to lessen employers' dependence on foreign registered nurses and protect the wages and working conditions of U.S. registered nurses." Mr. Smith also offered amendments to the bill by omitting any reference to exempting the H-1C nurses from certification requirements for foreign healthcare workers until regulations are issued. He also opposed the operation of the program using regulations from the previous H-1A program.

At present there is no nonimmigrant visa category that may be used by nurses to work temporarily in the U.S. This is the reason why recruitment of nurses from the Philippines has practically stopped for the last two to three years.

The H-1A classification which was established in 1990 as an exclusive category for nurses expired in September 1995. The H-1B classification was considered an option until the INS issued an advisory opinion stating that most professional nurses were not qualified under the H-1B rule. According to the INS H-1B status would be granted only if the petitioner was able to prove that it hired only nurses with baccalaureate degrees or that the state license requirement was a minimum of a bachelor's degree.

Under this strict INS rule only nurses with highly specialized skills and knowledge like nurse practitioners, nursing directors and supervisors and clinical specialist nurses were granted H-1B status.

The creation of the H-1C visa category under H.R. 2759 comes at a no more opportune time, as foreign nurses are finding themselves increasingly incapacitated by the rules regarding their employment in the U.S. H-1C visas will initially be good for one year, and can be renewed for three more years.

As legislation is not yet in place, there are still many technicalities which have to be dealt with and the possibility of further amendments and/or changes that the bill could go through.