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LEGAL NOTES

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New visa for nurses may pass this year

A bill creating a temporary nurse visa program has been introduced in the Senate as well as in the House of Representatives. Because of the worsening shortage of nurses in underprivileged communities congressional observers note that the bill has a good chance of passage this year. A similar bill failed to pass last year.

In introducing the Nursing Relief for Disadvantaged Areas Act of 1999, Senator Burbin, co-sponsor in the Senate, said that the measure "will ensure that hospitals in desperately undeserved areas can continue to provide adequate healthcare to our most needy communities." To underscore his point, he cited the case of St. Bernard Hospital in Chicago, which has had extreme difficulty hiring nurses because it is located in one of the poorest and most crime ridden neighborhoods in the country.

The bill sets down strict criteria that must be met by hospitals to justify the hiring of foreign nurses. The hospital must: (1) be located in Health Professional Shortage Area (HPSA); (2) have at least 190 acute care beds; (3) have a Medicare population of at least 35 percent; and (4) have a Medicaid population of at least 28 percent.

To balance the need for foreign nurses and the need to continue to lessen America's dependence on them and protect the jobs of domestic nurses, the measure will require a hospital to certify that it has gone through great lengths to hire and retain domestic nurses before it can petition foreign nurses. In addition, the wages and working conditions of the foreign nurses will be the same as those of domestic nurses.

The program will provide for 500 non immigrant visas per year and will cap the number of nurses for each state.

At present, there is no non immigrant 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 last three or four years.

The H-1A classification, which was established in 1990 as an exclusive category for nurses expiration but the INS issued an advisory option stating that most professional nurses were not qualified under the H-1B rule. According to the UNS, 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 of intended employment required a

bachelor's degree for licensure.

Under the 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 a new nursing visa category 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.