

The Visalaw.com Health Care Newsletter
February 2004

Published by Greg Siskind, partner at Siskind Susser, P.C. - Immigration Lawyers;
telephone: 800-343-4890, 901-682-6455; facsimile: 901-273-8770; email:
gsiskind@visalaw.com, WWW home page: <http://www.visalaw.com/>.

Siskind Susser serves immigration clients throughout the world from its offices in the US, Canada, Mexico, Argentina and the People's Republic of China. To schedule a consultation with the firm by telephone or in-person, go to <http://www.visalaw.com/intake.html>.

Editor: Greg Siskind

To receive a free e-mail subscription to VISALAW.COM Health Care Immigration News, fill out the form at <http://www.visalaw.com/IMG/email.htm>

For our charts on Nurse and Physician Licensing by State, go to <http://www.visalaw.com/IMG/charts.html>.

1. Openers
2. Ask Visalaw.com for Healthcare Workers
3. Health Care News Bytes
4. Health and Immigration Experts Question Tactics of CGFNS
5. Chart Of Physician Licensing Requirements By State
6. State 30 Physician Waiver Chart
7. Physician Job Center

1. Openers

Dear Readers:

This month the H-1B visa cap is expected to be hit. We have received many questions regarding exactly what impact this will have on the health care profession. To find more information about H-1B visas generally, you may want to see the recently updated ABCs of Immigration article on our web site at <http://www.visalaw.com/04feb3/2feb304.html>.

The H cap will affect the health care community in a number of different ways. But it is first important to know who is NOT subject to the H-1B cap –

1. Employees of institutions of higher education – people working for university hospitals, clinics and university-owned medical groups and any other university employees should be safe
2. Employees of non-profit or government research hospitals and institutions
3. Physicians seeking H-1Bs based on State 30 J-1 waiver applications

There was some debate about the third group on this list, but the USCIS has indicated that they will continue to treat State 30 physicians as exempt from the cap.

The cap will be a problem for a variety of other individuals including

1. All professionals – nurses, doctors, physical therapists, etc. - at for-profit, non-university employers
2. Physicians in residency programs that are at private hospitals that are not properly connected to a university
3. Physicians in residency training at exempt employers who seek to switch to a non-exempt employer when visa numbers are not available

The key for most people is to file as far in advance as possible and to consider visa alternatives when H-1Bs are not around. Once the cap is hit, applications will not be accepted for positions with start dates before October 1st. And since an employer can only apply 180 days ahead of the start date, an H-1B application would not be submitted until early April.

We remind readers that our firm for quite some time has assisted health care professionals in locating employment in the US. You can go to <http://www.visalaw.com/IMG/regform.htm> to send us information on what you are seeking. Also beginning this month we will be listing job announcements for physicians that are available to H-1B and J-1 applicants. Please e-mail me at gsiskind@visalaw.com if you see a position that interests you.

Finally, I remind you all that you are welcome to send me your questions, comments and tips. My email address is gsiskind@visalaw.com.

Kind regards,

Gregory Siskind, Attorney at Law

2. Ask Visalaw.com for Healthcare Workers

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - I am a Canadian registered nurse working in Texas, I have a TN visa.

I have been working here for 6 years, my Texas license was granted to me by endorsement, I was not required to take NCLEX and I did not have to be screened by CGFNS. Here is the problem:

I trained in the UK in 1975, I sat the Canadian licensing exams in 1980 and passed. I have been actively practicing nursing in Canada and the United States since then. I am a Canadian Citizen.

The new visa screen requires that my training transcripts be reviewed from England even though I trained 29 years ago, the nursing school has closed and my personal transcripts have been destroyed or archived. The nursing board in England has an outline of the nursing course but not my personal records. This is not acceptable to the CGFNS.

Is there a grandfather clause in the visa screen process in view of the fact that I have been actively working here for 6 years and hold a valid Texas RN license?

Do you have any information on this issue?

A - The CGFNS web site has the following to say about this:

“What do I do if my educational institution has closed?

ICHP only accepts certain documentation from source agencies (such as transcripts and validations of registration/ licensure). If your school has closed or no longer operates, you will need to contact the organization or agency authorized to hold documentation for that institution (such as a ministry of health or the national, provincial or state licensing authority in your country of education). If you are uncertain about where to go, call the ICHP Customer Service Department.”

I think you are going to have to contact the ICHP Customer Service Department and ask who you should call in the UK and Canada and get to work in getting the documents un-archived. I would also leave and reenter the US just before July 25th so you can buy an extra year just in case this process is not going fast.

3. Health Care News Bytes

The North Carolina Court of Appeals has ruled that the state must expand Medicaid to cover illegal immigrants to allow for longer treatment for serious health problems. This ruling can expand the number of medical treatments that illegal immigrants in North Carolina are able to receive and may allow hospitals that already treat illegal immigrants to receive more Medicaid reimbursements.

The panel of appellate judges found that the state's Department of Health and Human Services had misapplied Medicaid rules in the treatment of an undocumented worker from Mexico, Benito Luna. Luna was admitted to Moses Cone Hospital in Greensboro, North Carolina in December 1999, where doctors discovered that he had cancer of the spine. Two days after being admitted, doctors operated on Luna and gave him chemotherapy for the next month. State and county Medicaid officials paid the hospital for the surgery but not the chemotherapy.

Medicaid does not fully cover illegal immigrants, but federal and state regulations require that the program must cover treatment for emergency medical services given to the poor. State officials had denied the chemotherapy claim because they felt that the surgery had stabilized Luna's condition. The court found that the state and a lower court had not considered that Luna's health could have seriously deteriorated without the chemotherapy treatments.

The appellate decision can be found online at
<http://www.aoc.state.nc.us/www/public/coa/opinions/2004/020557-1.htm>

The El Paso Service Processing Center, the immigration detention facility in El Paso, Texas, is has taken on the role of a mini-hospital for detainees. Between 150 and 200 come to the center for medicine, exams, blood analysis, X-rays and dental work. The Joint Commission on Accreditation of Health Care Organizations, the National Commission on Correctional Health Care and the Commission on Accreditation for Corrections recently accredited the detention facility.

The detention facility houses about 700 immigrants and its medical center has a physician, a psychiatrist, nurses and a visiting dentist, most of whom are bilingual.

A provision of the Medicare bill provides \$1 billion for hospitals that provide emergency medical care for undocumented immigrants. Much of this money will be allocated over a period of four years to hospitals in states that have the highest numbers of undocumented migrants. The Department of Health and Human Services still needs to determine how much money should be given to the individual hospitals that qualify.

By law, hospitals cannot turn away patients who need emergency medical care, nor can they ask about a patient's immigration status. Health care analysts estimate that hospitals pay \$2 billion to treat undocumented immigrants who cannot pay their bills.

Representative Dana Rohrabacher (R-CA) introduced HR 2722 to Congress on January 21, which would limit health care to illegal immigrants. The bill proposes to hold employers who employ illegal immigrants responsible for their healthcare bills. The bill would also require hospitals that receive federal funding for treating illegal immigrants to ask their patients whether they are US citizens and enter information about non-citizens into a database. The database could then be accessed and used by the Department of Homeland Security.

According to Rohrabacher's office, since introduction of the bill, the Representative and his staff have received several death threats and abusive phone calls.

Federal officials will review the Commission on Graduates of Foreign Nursing Schools, a not-for-profit Philadelphia company that screens most foreign nurses seeking jobs in the US. The company has been in operation since 1996, and has no rival companies, nor any federal oversight. Media reports, particularly an extensive investigative piece on the Philadelphia Inquirer, have questioned CGFNS' poor customer service, particularly its slow processing times and errors made in processing applications.

According to a 2003 survey of 681 emergency department managers and administrators, the increase of ambulance diversions can be attributed the lack of specialty physicians for certain medical situations. This view is contrary to the popular belief that ambulance diversions are due to overcrowding in emergency rooms.

Of those hospital administrators surveyed, 18% said overcrowding caused them to divert ambulances to other hospitals. 75% of those surveyed said lack of specialty physicians caused them divert ambulances to those hospitals with specialty physician coverage. This is an increase from the 63% in 2001.

33% of surveyed hospitals said that they had lost specialist who were willing to be on call in the emergency room over the last year. 15% of the administrators surveyed said that, if given a choice, they would not go to their own hospital's ER if they were seriously injured due to inadequate specialist coverage.

4. Health and Immigration Experts Question Tactics of CGFNS

Some nurses, nurse recruiters, immigration experts and hospitals are accusing the Commission on Graduates of Foreign Nursing Schools of delaying or denying the applications of an unknown number of qualified immigrants, according to an extensive exposé published in the Philadelphia Inquirer newspaper. At a time when one in ten nursing jobs in the US is vacant, there are widespread complaints that CGFNS acts as a monopoly with inaccessible customer service and whose slow processing is delaying visas for nurses by many months. CGFNS is a nonprofit screening company that oversees foreign nurse credential verifying. Under the 1996 Immigration Act, Congress requires that health care workers have their credentials verified before being admitted to the US. That requirement is in addition to the verification process that every state licensing board goes through. CGFNS reportedly lobbied for the insertion of this requirement into the 1996 Act.

Experts are concerned that waiting times may worsen in July, when CGFNS will start screening thousands of Canadian nurses, whose current NAFTA-based exemption will end under a new federal rule. Because foreign recruitment is one technique for dealing with the nursing shortage, anything that slows the recruitment process greatly worries hospitals. There is already extensive advocacy work taking place by groups like the American Hospital Association and the American Immigration Lawyers Association to delay the July implementation date.

Beyond screening nurse visa applicants, the company runs interference for state nursing boards. Forty states require foreign-educated nurses seeking a license to first to pass the CGFNS qualifying test. The test is given a few times each year at 40 foreign and 9 US cities and predicts whether the applicant will pass the national nursing-board exam, which is a requirement in order to obtain a state license. Only after nurses get their certificate from the Commission on Graduates of Foreign Nursing Schools may they apply for a visa at a US consulate.

CGFNS contends that some are bound to get upset by its meticulous process of scrutinizing education and credentials, testing nursing knowledge, verifying language

ability and checking for fraud. Spokesmen said the vast majority of qualified nurses pass its reviews smoothly. They do, however, admit that the company had trouble with its filing and customer-service systems and has made costly investments in the last year to fix them.

With immigrants now accounting for a third of new US nurses each year, some hospitals, recruiters and regulators are demanding alternatives or improvements to the company's screening process, which can take six months to two years.

The number-one complaint of customers has been the inability to contact the company. According press statements by CGFNS, about one-third to one-half of the 1,300 daily phone calls to its customer-service line in Philadelphia end in busy signals, hang-ups or automatic disconnects after a long wait. However, the company says that it is trying to fix these problems. Applicants can now check their status through a new automated phone system or through the Web. It also has more customer service representatives to answer the phones and e-mails.

CGFNS may not retain the monopoly that it has now. Two firms have expressed interest in competing. The CGFNS' board president told the press that it welcomes the competition.

5. CHART OF PHYSICIAN LICENSING REQUIREMENTS BY STATE

Linked at <http://www.visalaw.com/IMG/charts.html>.

6. STATE 30 PHYSICIAN WAIVER CHART

Linked at www.visalaw.com/IMG/state30.html.

7. PHYSICIAN JOB CENTER

Siskind Susser, through its numerous health clients and its working relationships with physician recruiting firms, is able to assist international medical graduates seeking employment opportunities in the US with employers interested in going through the visa application process. We do not charge physicians for these services. If you are interested in our help, please e-mail us at gsiskind@visalaw.com. If you are an employer or recruiter interested in listing a position in our newsletter, please also e-mail us at gsiskind@visalaw.com.

Employers Seeking Physicians

[H-1B Opportunity - Cardiologist](#)

Offering very aggressive recruitment package for BC/BE Invasive Cardiologist for this west Texas town south of Lubbock and northeast of Odessa/Midland. Solo with coverage provided by another cardiologist in town. Hospital has a cath lab. The hospital has a service area population of 35,000. Excellent comprehensive recruitment package including but not limited to cash collections guarantee, CME, relocation allowance and potential medical education debt assistance and potential commencement bonus. E-mail gsiskind@visalaw.com with "EMP-0204-01" in the subject line if interested.

H-1B Opportunity - Oncologist

BC/BE Medical Oncologist to join one other in private solo practice that has been in operation since 1984, physician very busy and need help, 2 RN's one LPN. Kem done in office, call 1:5 which is shared with IM docs in the area. 90 miles from Atlanta, GA and 60 miles from Birmingham.

Physicians Seeking Employment

The following physicians are seeking employment and visa sponsorship. For more information on any of these candidates, please email us at gsiskind@visalaw.com with the physician's candidate number in the subject line of your email.

Anesthesiologist - AN-0104-01 – Available 02/2005 – J-1
Anesthesiologist – AN-0104-04 – Available 07/2005 – J-1
Anesthesiology/Pain Management – AN-0104-02 – H-1B (no need for underserved area)
Anesthesiologist/Pediatric Anesthesiology – AN-0104-03 – J-1
Anesthesiologist/Cardiac Anesthesiologist – AN-0104-05 – H-1B (no need for underserved area)
Anesthesiologist/Pain Management – AN-0104-06 – Available 07/04 – J-1
Cardiology (Invasive/Non-Interventional) – CAR-0104-02 – Available 07/2005 – J-1
Cardiology (Invasive/Non-Invasive) – CAR-0204-01 – Available 07/2005 – J-1
Cardiology/Pediatric Cardiology – CAR-0104-01 – Available 07/2004 – J-1 – Spanish speaker
Cardiology – CAR-0104-04 – Available 07/2005 – J-1
Endocrinology - END-0104-01 – Available 07/2004 – J-1
Endocrinology - END-0104-02 – Available 07/2005 – J-1
ENT – ENT-0104-01 – Available 07/04 – J-1
Family Practice – FAM-0104-01 – Available 03/05 – J-1
Gastroenterology/Pediatric Gastroenterology - GAS-0104-01 – Available 07/2005 – J-1
Hospitalist/Internal Medicine - IM-0204-01 – Available 07/2004 – J-1
Internal Medicine – IM-0104-01 – Available 07/2004 – J-1
Internal Medicine – IM-0104-02 – Available 07/2004 – H-1B
Internal Medicine – IM-0104-03 – Available 07/2004 – J-1
Internal Medicine – IM-0104-04 – Available 07/2005 – J-1
Internal Medicine – IM-0204-01 – Available 07/2005 – J-1 (husband-wife combo)
Nephrology – NEP-0104-01 – Available 7//2005 – J-1
Nephrology – NEP-0104-02 – Available 07/2005 – H-1B (no need for underserved area, but spouse seeking J-1 cardiology position)
Pediatrician – PED-0104-02 – Available 07/2004 – J-1
Psychiatrist/Geriatric Psychiatry – PSY-0104-01- Available 07/2004 – J-1

Psychiatrist/General Psychiatry – PSY-0104-02 – Available 07/2004 – J-1
Psychiatrist/Adult Psychiatry – PSY-0204-01 – Available 07/2005 – J-1 (husband-
wife combo)
Pulmonology/Critical Care – PUL-0104-01 – Available 07/2004 – J-1
Pulmonology/Critical Care - PUL-0104-02 – Available 07/2005 – J-1
Pulmonology/Critical Care – PUL-0104-03 – Available 07/2005 – J-1
Pulmonology/Critical Care – PUL-0104-04 – Available 07/2005 – J-1
Surgery/Cardiothoracic Surgery – SUR-0104-01 – J-1
Surgery/Cardiothoracic Surgery – SUR-0104-01 – J-1
Urology – UR-0104-01 – Available immediately – H-1B (no need for underserved
area)