The Visalaw.com Health Care Newsletter
November 2009

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. Associate Editor: Esther Fridman

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 licensing charts by state, go to http://www.visalaw.com/IMG/charts.html.

****

---

1. Openers

Dear Readers:

This past month, Congress passed legislation extending the Conrad 30 J-1 waiver program for physicians for an additional three years. The program was set to expire on September 30th. The impact this extension will have on efforts to pass S.628, a bill that would permanently extend the Conrad program as well as make a number of improvements, is not yet clear, but efforts to pass the bill will continue.

The news for nurses is not as good. There is still no bill addressing the lack of both non-immigrant and immigrant visas for nurses despite a national shortage that is going to take decades to address. Efforts are still ongoing to get a bill passed that will recapture unused green card numbers from past years, but it is not clear yet how and when a bill will move.

In the mean time, we're in the happy situation since October 1st of having plenty of H-1B visas still available, the first time we've been in that place in nearly a decade. The reason for the news is not so good, of course, and that is the dramatic impact the economy is having on the demand for H-1B workers. It is good news, however, for for-profit employers who employ physicians and high level nurses who often have no way to hire an H-1B candidate after the normal April 1st deadline has passed.

*****

We remind readers that we do not charge employers and recruiters of health care employees for consultations and that policy extends to individual physicians as well. Please feel free to call our office at 901-682-6455 to arrange for an appointment with me or one of my colleagues.

Kind regards,

Greg Siskind

---

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 just received a favorable recommendation from DOS regarding waiver of J1 home residence requirement. Can I apply for H1B already? Or do I need to wait for the actual waiver? What if the H1B quota exceeds and I still did not receive the final waiver from USCIS?

A - USCIS takes the position that you can file for a change to an H-1B upon receiving the DOS recommendation. However, if you leave the country, the consulates will not issue a visa until the actual waiver is received. So be sure to make your travel plans accordingly. By the way, USCIS has not included this in the regulations, but it has been longstanding practice.

*****

Q - I was on J-2 visa for three years and now am on H-4 for the past two years. Is it possible for me to apply for a green card on my independent basis (i.e. conversion to H-1B and then green card) before the three year completion of the J-1 waiver of my spouse?

A - If your spouse is an MD satisfying a three year service requirement, you are not eligible to complete green card processing before your spouse does based on the government's current interpretation of the statute.

_____

3. Health Care News Bytes

On October 28, 2009, HR 2892 was signed into law (Public Law 111-83) by President Obama, which among other purposes extended the Conrad State 30 J Visa Waiver Program until September 20, 2012.

*****

According to the Association of American Medical Colleges (AAMC) enrollment of first-year students in U.S. medical schools increased by 2% for the 2009/2010 academic year. Half of this enrollment increase is due to the opening of four new medical schools: FIU Herbert Wertheim College of Medicine, the Commonwealth Medical College, Texas Tech University Health Sciences Center Paul L. Foster School of Medicine, and the University of Central Florida College of Medicine. The increase is also due to the fact that existing medical schools have increased their class sizes.

*****

In July 2009, USCIS announced that the first doctor was naturalized as a U.S. citizen under the Defense Department's Military Accessions Vital to the National Interest (MAVNI) pilot program. The program allows 1,000 non-citizens, who do not have permanent resident status but have been legally present in the U.S. for at least two years, to join the Army if they have the needed medical or foreign language and cultural expertise. The pilot program provides successful applicants with a way to accelerate naturalization.

The physician, whose name was withheld by USCIS, was commissioned as a Captain in the Army Medical Corps on July 3, and will serve in the Army for the next six years.

*****

A June 2009 USCIS memorandum updated the Adjudicator's Field Manual with regard to certain I-140 petitions filed for physicians. The memorandum outlines how a foreign medical degree can qualify as the equivalent of a U.S. medical degree, determining whether a foreign physician has met the minimum requirements of the position, and that the physician has passed either parts I and II of the NBME or USMLE.

The complete memo can be viewed at http://www.uscis.gov/files/nativedocuments/AFM_alien_physicians_i140_afm_update_ad09_10.doc.pdf.

*****

On May 20, 2009, Representative Robert Wexler (D-FL) introduced H.R. 2536, which proposes to set aside 20,000 employment-based visas in each of the next three years for foreign-educated registered nurses and physical therapists. The bill would also provide funds to help U.S. nursing schools increase the number of U.S. nurses, and establish a three-year pilot program aimed at retaining U.S. nurses in the workforce. On June 12, 2009, the bill was referred to the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

*****

According to the Bureau of Labor Statistics, employment at U.S. hospitals rose 0.3% in May to 4,715,200 workers. This is an increase of 300 more workers than in April and 88,000 more workers than a year ago.

*****

Senator Russell Feingold (D-WI) introduced the Community-Based Health Care Retraining Act (S.1173) to promote training unemployed workers for jobs as health care professionals. The bill would allow communities that have experienced a significant decline in employment rates to apply for Department of Labor grants under a demonstration project for establishing or expanding training efforts.

*****

Joyce Jones, the Health and Human Services administrator who oversees J-1 researcher waivers has left her position at HHS. Nicole Greene will be handling researcher waiver cases on an interim basis.

*****

Since the World Health Organization (WHO) pandemic influenza alert is at phase 6, ECFMG has announced that USMLE examinees planning to test in the near future, who have concerns about their ability to test safely due to outbreaks of the swine flu, may reschedule USMLE computer-based testing appointments or Clinical Skills appointments. In most instances, examinees should be able to use the standard procedures to make changes, without additional fees, by following procedures described in the USMLE *Bulletin of Information*.

While the pandemic influenza alert is at WHO phase 6, concerned examinees who would like to receive an eligibility period extension for an upcoming Step examination can do so, without additional fees, by contacting ECFMG by phone at (215) 386-5900 or by e-mail at info@ecfmg.org to explain the circumstances. This waiver of the eligibility period extension fee will be in effect while the WHO influenza alert remains at phase 6.

ECFMG further advises examinees who are experiencing flu-like symptoms, or believe that they may have been recently exposed to an influenza patient, should reschedule their examinations.

*****

ECFMG has announced that information on the Electronic Residency Application Service (ERAS) 2010 application season is now available. If a physician plans to apply for U.S. residency positions that begin in July 2010, he or she should visit the ECFMG ERAS Support Services website at http://www.ecfmg.org/eras/index.html for important information. Most medical specialties participate in ERAS. Physicians applying to programs in participating specialties must apply to these programs using ERAS.

ERAS was developed by the Association of American Medical Colleges (AAMC) to allow medical school students and graduates to apply electronically for first- and second-year (PGY-1 and PGY-2) residency positions in U.S. programs of graduate medical education. ECFMG serves as the designated Dean's office for all international medical students/graduates and participants/graduates of Fifth Pathway Programs who use ERAS. Detailed information on ERAS 2010 is also available on the AAMC website at http://www.aamc.org/eras.

*****

Results from the 2009 Compensation Data Healthcare Survey compiled by Compdata Surveys show that wages for registered nurses increased by 9.2% over the last three years. Past years have had much lower salary increases for RNs. According to Compdata Surveys, nursing salaries will continue to increase in the future.

*****

The State University of New York (SUNY) New Paltz will be closing its 30-year old nursing program due to a $6 million deficit under the state's recently-enacted budget. The school will phase out the program, which will officially end in 2011 when all currently enrolled students will have completed their nursing studies.

According to the school, the nursing program has low enrollment and the school has had great difficulty attracting and retaining qualified nursing faculty.

Critics of the school's decision to close the program say that a majority of healthcare facilities in the area recruit nurses from the New Paltz program, and this decision will result in a decline in patient care as well as exacerbate the nursing shortage.

The university has stated that it will honor all employee contracts for the nursing school, which currently has five full-time faculty members and one new faculty member to start working in the fall. The program also employs two adjunct faculty

members and one secretary. Several program employees will be transferred to different university departments when the program closes in two years.

SUNY New Paltz is the only campus in New York State with plans to close their nursing program. The program will be funded by reserve money until it concludes.

_____

4. The ABC's of Healthcare Immigration – Health Care Worker Certification

All health care workers must obtain a certificate from an approved organization verifying the worker's credentials. The credentialing must verify:

1. The alien's education, training, license, and experience meet all applicable requirements for admission into the U.S., are comparable with that required for a similar American health care worker, and the license is unencumbered.

2. The alien has the level of competence in oral and written English considered by HHS and the Department of Education to be appropriate for health care work of the kind in which the alien will be working.

3. If a majority of states licensing the profession recognize a test predicting an applicant's success on the profession's licensing or certification examination, the alien has passed such a test or examination.

Certification is available for the following health care workers:

- Licensed practical nurses, licensed vocational nurses, or registered nurses
- Occupational therapists
- Physical therapists
- Speech language pathologists and audiologists
- Medical technologists (clinical laboratory scientists)
- Physician assistants
- Medical technicians (clinical laboratory technicians)

Who Must Obtain Health Care Worker Certification?

Any non-U.S. citizen coming to the United States for employment as a health care worker (other than a physician) cannot be admitted unless he or she presents a certificate from either the Commission on Graduates of Foreign Nursing Schools (CGFNS) or a certificate of equal standing from an organization with equivalent credentials. These requirements apply to both immigrant and nonimmigrant applicants. Any non-immigrants coming to receive training in a health care occupation will not be required to obtain certification.

Who Is Subject to the Health Care Worker Certification Requirements?

As of July 26, 2004, both immigrants and nonimmigrants planning to work in one of the health care fields listed above must provide evidence of health care worker certification. Previously, the Health Care Worker certification requirements were waived nonimmigrants, and only immigrants had to demonstrate that they had health care worker certification.

Which Organizations Are Authorized to Issue Health Care Worker Certificates?

Only the following organizations are authorized to issue certificates for the following health care occupations:

- The Commission on Graduates of Foreign Nursing Schools (CGFNS) is authorized to issue certificates to all 7 health care occupations.
- The National Board for Certification in Occupational Therapy is authorized to issue certificates for occupational therapists.
- The Foreign Credentialing Commission on Physical Therapy is authorized to issue certificates for physical therapists.

Which English Language Testing Organizations Are Approved for Purposes of Health Care Worker Certification?

Every foreign health care worker must meet certain English language requirements in order to obtain a certificate unless specifically exempted. The following testing services are approved for testing English language proficiency:

- Educational Testing Service (ETS) - this service conducts the TOEFL, TWE and TSE examinations)
- Test of English in International Communication (TOEIC)
- International English Language Testing System (IELTS)

What are the Acceptable English Language Test Scores?

Each health care occupation has specific scores that are accepted as passing scores for purposes of health care worker certification. The scores for each profession are as follows:

Occupational and physical therapists must achieve the following scores:
Test Of English as a Foreign Language (TOEFL): Paper-Based 560, Computer-Based 220.
Test of Written English (TWE): 4.5.
Test of Spoken English (TSE): 50.
TOEIC and IELTS are not accepted for health care worker certification for occupational therapy or physical therapy.

Registered nurses and other health care workers requiring the attainment of a baccalaureate degree (other than occupational or physical therapy) must attain one of the following combinations of scores:
TOEFL: Paper-Based 540, Computer-Based 207; TWE: 4.0; TSE: 50; or
TOEIC: 725; plus TWE: 4.0 and TSE: 50; or
IELTS: 6.5 overall with a spoken band score of 7.0 (academic module).

Occupations requiring less than a baccalaureate degree must obtain one of the following combinations of scores:
TOEFL: Paper-Based 530, Computer-Based 197; TWE: 4.0; TSE: 50; or
TOEIC: 700; plus TWE 4.0 and TSE: 50; or
IELTS: 6.0 overall with a spoken band score of 7.0 (either academic or general module).

Are foreign health care workers who are trained in the United States or in possession of a valid US state license subject to the health care certification requirement?

Possession of a state license does not exempt a foreign health care worker from compliance with the certification requirement. Similarly, health care workers who have been trained in the United States are not exempt from the certification requirement.

Are there any exemptions from the English language tests for foreign health care workers who have been trained in the United States?

The following foreign health care workers may be automatically considered to have met the English language requirements if they have graduated from certain programs or from programs in certain countries:

- Graduates of health professional programs in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, and the United States.
- Foreign nurses who are presenting the alternate certified statement under section 212(r) of the Act.
- Nurses who graduated from an entry-level program accredited by the National League for Nursing Accreditation Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE);
- Occupational therapists who graduated from a program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) of the American Occupational Therapy Association (AOTA);
- Physical therapists who graduated from a program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association (APTA); and
- Speech language pathologists and audiologists who graduated from a program accredited by the Council on Academic Accreditation in Audiology and Speech Language Pathology (CAA) of the American Speech-Language-Hearing Association (ASHA).

Are there any exemptions from the education evaluation requirements for foreign health care workers who have been trained in the United States?

The following foreign health care workers may be automatically considered to have met the educational comparability requirements:

- Nurses who graduated from an entry-level program accredited by the National League for Nursing Accreditation Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE);
- Occupational therapists who graduated from a program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) of the American Occupational Therapy Association (AOTA);
- Physical therapists who graduated from a program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association (APTA); and
- Speech language pathologists and audiologists who graduated from a program accredited by the Council on Academic Accreditation in Audiology and Speech Language Pathology (CAA) of the American Speech-Language-Hearing Association (ASHA).

When and How are Certifications to be Presented to USCIS?

Certifications are only valid for a five-year period. So it is possible that some health care workers may have to go through the process more than once if they are in the U.S. for an extended period on a non-immigrant visa or they simply wait several years before applying for admission to the United States.

USCIS will only accept a valid health care worker certificate or certified statement as evidence that the worker is admissible. Nonimmigrant health care workers will have to present their certification each time they enter the U.S. Green card holders, however, do not need to show the certificate to be admitted each time.

---

5. House and Senate Bills Propose to Increase U.S. Physician Residency Positions

On May 5, 2009, Representative Joseph Crowley (D-NY) introduced the Resident Physician Shortage Reduction Act of 2009 (HR 2251). This bill proposes to Amends title XVIII (Medicare) of the Social Security Act to require the Secretary of Health and Human Services to: (1) reduce a hospital's otherwise applicable resident limit by the number of positions unused for the five most recent cost reporting periods; and (2) require the distribution of additional resulting residency positions to certain other hospitals.

If passed, the bill would address the current and projected physician workforce shortages by increasing the number of Medicare-funded residency training positions by 15,000.

According to the bill, two-thirds of the 15,000 positions would be given to hospitals that apply for positions for new or expanded residency programs. Preference for the residency positions would go to hospitals that apply for primary care or general surgery, or emphasize community-based training. Preference will also be given to hospitals in states with fewer Medicare-sponsored residency slots than medical students and hospitals in states with low resident-to-population ratios. The remaining one-third of the positions will be allocated proportionately to hospitals operating in excess of their caps that can also prove they are training at least 25% of their residents in primary care or general surgery. The increase in the number of residency positions would occur within two years of the bill's passage.

In addition to increasing slots, the legislation would allow unused positions to be redirected to other teaching hospitals, change the regulations to allow residents to train in non-hospital settings, and in the event of a teaching hospital closure, allow communities to continue training residents supported by Medicare.

This bill is related to one with the same title in the Senate (S. 973), which was introduced by Senator Bill Nelson (D-FL) on May 5, 2009.

---

6. Primary Care Physician Shortage

USA Today reported in August 2009 that fewer and fewer medical students choose to pursue primary care specialties. Primary care fields include Internal Medicine, Family Medicine, General Practice and Pediatrics; these are fields that are considered unglamorous and don't pay as much as other specialties such as Radiology and Neurosurgery.

The primary care physician shortage will only worsen in the future as baby boomers grow older and need more medical care. The shortage will mean it will be harder to find a physician, wait times for doctor's appointments will increase and more sick people will instead choose to go to emergency rooms for treatment. The shortage has already resulted in many patients being unable to see their own physician. Instead, more and more primary care physicians are sending their patients to be treated by a nurse practitioner or physician's assistant, who are allowed by many states to issue certain types of prescriptions.

The major problem is that U.S. medical schools are not producing enough primary care physicians to meet demand in the United States. This is partly due to the schools promotion of medical specialties with more prestige and higher paychecks. For example, in 2009, graduates of U.S. medical schools filled only 42% of the available family medicine residency positions in the United States. The rest of the slots were filled by non-U.S. citizen foreign medical graduates, graduates of colleges of osteopathic medical schools and U.S. citizens educated abroad.

Congress has realized that encouraging more physicians to choose primary care specialties is in the national interest, since patients with access to primary care are more likely to remain healthy, thereby reducing more serious illnesses, which are costly to treat. This encouragement has taken the form of bills that would provide loan forgiveness or other debt relief and salary increases for those who choose to practice in a primary care field.

———————————————————

7. Specialty Physicians Also Needed

An opinion piece published in the *Wall Street Journal* on November 6, 2009 declared that the proposed health reform bills will not be effectual if there are not enough doctors to treat all the newly insured patients. Under the new health reform bills, millions of Americans will finally be able to receive health insurance. However, because of the shortage of physicians in the U.S., the demand for physicians will far outpace the supply of physicians.

The article also says that the physician shortage does not only apply to primary care physicians. There will also be a need for more specialty physicians such as cardiologists, neurologists, pediatric subspecialists, and urologists to name a few. The problem, according to the article, is that not enough attention is focused on the specialty physician shortage. Most organizations advocating for more physicians, be it through more foreign visas issued or more training and education opportunities for U.S. physicians, focus on the looming shortage of primary care doctors.

The article is in support of increasing the number of primary care physicians, but cautions that the increase should not also reduce the number of specialty physicians.

———————————————————

8. Health Care Reform Bill Will Not Allow Open Access to Illegal Immigrants

The Affordable Health Care for America Act of 2009 (HR 3962) seeks to expand health care coverage to the approximately 40 million Americans who are currently uninsured by lowering health care costs making health care in the U.S. more efficient. The bill includes a new government-run insurance plan, a requirement that all Americans have health insurance, a prohibition on denying health care coverage because of pre-existing conditions and a surtax on certain households in order to pay for the plan.

Since HR 3962 was introduced in the House of Representatives in October 2009 by Representative John Dingell (D-MI), opponents of health care reform efforts have accused the President and Democrats in Congress of including millions of illegally present immigrants in proposals to expand health insurance coverage. One of the biggest critics of the bill is Senator Lamar Alexander (R-TN), who claims that there are several loopholes in the bill that will allow illegal immigrants to have open access to the U.S. health care system.

The heaviest criticism of the bill is aimed at Section 342 of the bill, which allows members of the same family who are affordable credit eligible individuals to be treated as a single affordable credit individual eligible for health care benefits. According to Representative Smith this would allow the illegal immigrant members of a family in which there is a legal immigrant family member to be covered under the bill. However, this is not the case. Under the act, illegal immigrants would not be covered by health insurance and there is specific language in the bill that would prevent illegal immigrants from receiving free coverage. The bill specifically states that only those family members who are “affordable credit eligible individuals” will be able to receive health care coverage benefits; “affordable credit eligible individuals” are defined as those who are legally present in the U.S.

The Congressional Research Service (CRS) recently issued a report on this issue. According to the report: “There could be instances where some family members would meet the definition of an eligible individual for purposes of the credit, while other family members would not. For example, in a family consisting of a U.S. citizen married to an unauthorized alien and a U.S. citizen child, the U.S. citizen spouse and child could meet the criteria for being a credit-eligible individual, while the unauthorized alien spouse would not meet the criteria.” However, the CRS report does say that the bill does not specify how eligibility for this section of the act would be determined and it would be up to the Health Choices Commissioner to determine how the credits would be administered in the case of mixed-status families.

The bill was passed in the House on November 7. It must now pass the vote in the Senate before it can be signed into law by President Obama.

———————————————————

9. OT and PT Degree Requirements for H-1B Status Clarified

Recent H-1B applications for occupational and physical therapists were denied by USCIS because even though the applicants had Bachelor’s degrees and were licensed in the field, they lacked the equivalent of a U.S. Master’s degree. It was determined that some USCIS examiners were relying on the latest edition of the U.S.

Department of Labor's Occupational Outlook Handbook (OOH), which states that Master's degrees are the minimum educational requirement for these occupations.

The three agencies designated by USCIS to evaluate the credentials of foreign-trained health care workers, CGFNS, FCCPT and NBCOT, all contacted USCIS to clarify their credentials evaluation policies.

On February 19, the Foreign Credentialing Commission on Physical Therapy (FCCPT) wrote that USCIS was applying U.S. standards of education to foreign standards of education. FCCPT clarified that in making its credentials verification, a foreign-trained applicant must have the equivalent of a first professional degree in physical therapy. This degree is defined by the Commission on Accreditation of Physical Therapy Education (CAPTE), who sets the standards for physical therapy education in the United States, as at least a Master's degree or higher. The letter states: "When the FCCPT issue the Type I Comprehensive Credentials Review Certificate and reports that a candidate has achieved substantial equivalency to a first professional degree in PT in the United States, this means that it is equivalent to at least a master's degree in PT, awarded at a CAPTE-accredited U.S. institution."

On March 19, the National Board for Certification in Occupational Therapy (NBCOT) wrote a similar letter to USCIS regarding occupational therapist educational requirements.

On March 26, CGFNS International wrote to USCIS. This letter outlined the various USCIS regulations regarding degree requirements for health care workers, which explicitly state that the positions require a Bachelor's degree or higher. CGFNS further stressed that many state licensing boards do not specify the type of degree, and only require graduation from an accredited program. The letter states: "There is no requirement, therefore, that a 'master's degree' is an explicit precondition for a U.S. PT to be licensed or for a foreign PT to be admitted to the United States. As such, the DL Occupation Outlook Handbook (OOH) 2009-09 edition is incorrect."

Finally, on May 20, USCIS issued a policy memorandum recognizing that if an H-1B health care worker has a valid state license, "the beneficiary will be considered to meet the qualifications". The memo further states that adjudicators should consult the OOH "as a starting point" in determining whether a position qualified for an H-1B, but "the OOH is not determinative in all cases" and other authoritative sources should be consulted as well.

———————————————————

10. Articles Report on Nurse Staffing Shortages

Several recent articles have reported on severe nurse staffing shortages and ways to remedy the issue.

The American Nurses Association (ANA) released data in July 2009 showing that 7 out of every 10 nurses believed staffing on their units and shifts was insufficient. The report also showed that over 50% of nurses were considering quitting their jobs due to unsafe staffing caused by a lack of nurses. The complete data can be found at http://www.safestaffingsaveslives.org/WhatisANADoing/PollResults.aspx.

A July 2009 article published by the Social Science Research Network (SSRN) described how the nursing shortage in the United States is having seriously negative effects on patient care. According to the article, patient care problems and the shortage of nurses can both be resolved by hiring more foreign nurses to work in the United States.

The article outlines several cases that had negative outcomes because of hospital nursing shortages: a child who suffered permanent brain damage at birth, a heart attack patient who received substandard care, a patient that lay dead in a hospital bed for hours, and a Spanish-speaking boy who was treated for the wrong affliction because medical staff did not understand him. According to the article the main reason behind the nursing shortage, which is expected to increase over the years, is due to inadequate staffing. The article further states that there is a strong relationship between inadequate nursing staffs and negative patient outcomes, including death. Suggested remedies include limiting the number of patients assigned to each nurse, increasing nurse education opportunities and increasing nursing salaries. However, the authors of the article believe that the nursing staffing problem is best addressed by also hiring more foreign nurses.

However, the article explains how U.S. immigration law does not address the need for more foreign nurses. The H-1C program, which is specifically designed to grant visas to foreign nurses, only allows 500 H-1C visas to be issued each year. While lawmakers have proposed increasing or removing the 500 visa limit, the American Nursing Association opposed these measures, claiming that increasing the number of foreign nurses allowed into the United States would ruin the market for U.S.-trained nurses.

According to the article the H-1C visa program must be expanded in order to address the anticipated 2020 shortage of 1 million nurses. The authors believe that expanding nursing educational opportunities, increasing nursing salaries and reducing nurse-patient rations will all help; but these measures need to be taken in addition to, not in place of, expanding the H-1C program. According to statistics even if all the nursing school applicants who are turned away each year (over 30,000) could complete their nursing education, there would still be a shortage of over 600,000 nurses in 2020.

By allowing more foreign nurses to work in the United States, fewer U.S. nurses would retire early due to the burnout caused by being overworked because of nursing staff shortages. Foreign nurses would also improve patient care since they have the same linguistic and cultural backgrounds as foreign-born medical patients; because of this, more immigrants would have better access to medical care because they could be treated by nurses who speak the same language. All in all, patient care and nursing shortages would both be helped by increasing the number of visas for foreign nurses.

The complete article can be found at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1434169.

———————————————————

11. Californians Seek Medical Care Across the Border

Due to the rising costs of health care in the United States, an increasing number of California residents are going across the border to Mexico to find affordable care. This finding was recently published by a group of UCLA researchers in the journal *Medical Care*.

The report estimates 952,000 California adults sought medical, dental or prescription services in Mexico each year. About half of these were Mexican immigrants. Cost and lack of insurance were the primary reasons given by both Mexican and non-Mexican U.S. residents for seeking health care services across the border.

Mexican immigrants commonly go to Mexico for medical and dental services since they have high rates of uninsured patients. U.S. citizens most commonly go to Mexico for cheap prescription drugs.

While cost was the primary factor in seeking health services, cultural and linguistic barriers and immigration factors were also important motivators for seeking medical care south of the border.

As the trend to seek medical care in Mexico rises, private insurance companies have developed insurance plans to cover California workers who use Mexican medical facilities near the U.S.-Mexico border. Some 150,000 workers are covered under these insurance plans.

———————————————————

12. Texas Firm Creates Staffing Agency to Address Nursing Shortage

Due to nursing shortages in Texas, Texas Health Resources, Inc. has formed a temp agency, Texas Health SingleSource Staffing, to help in finding nurses. Texas Health Resources is the largest hospital system in North Texas. The agency will oversee nurse staffing for all hospitals in North Texas.

By having its own in-house agency, Texas Health Resources can better fill its nurse vacancy rate and avoid certain costs, such as paying temporary nurses overtime to cover the shifts of full-time nurses. The agency will also benefit younger nurses who prefer to travel and don't want to be bound to a single hospital.

According to the federal Health Resources and Services Administration, Texas has one of the country's worst nursing shortages, and is expected to have a shortage of 30,242 nurses by the year 2015.

———————————————————

13. Illegal Immigrants Do Not Burden U.S. Health Care System

The major argument behind verifying legal status in the U.S. before providing health care benefits to immigrants is that illegal immigrants are overburdening the U.S. health care system. However, according to recent studies, this does not seem to be the case. In fact, the studies found that using verification systems is burdening the health care system.

A 2007 GAO report found that using verification systems ends up preventing U.S. citizens and legal immigrants from accessing health care in the U.S. The report also

found that the verification process rarely, if ever, found illegal immigrants who were trying to receive free health care. Further, the report stated that the costs of using verification systems were more than the monies saved; for every $100 spent to implement the systems, 14 cents were saved for Medicaid.

A number of studies have been conducted over the years to determine if illegal immigrants come to the U.S. for free medical treatment. A 2000 study published in *Health Affairs* found that most illegal immigrants come to the U.S. for work, not health care. A study conducted by the California Immigrant Policy Center found that illegal immigrants were too scared to attempt to receive any kind of medical care for fear that health care workers would report their illegal immigration status.

Removing verification systems and making the U.S. health care system more open to immigrants would actually benefit health care in the United States. A 2008 report by the Center for Science in the Public Interest found that increased medical coverage for all immigrants would actually benefit U.S. medical care. Legal and illegal immigrants are present in the workplace, schools, places of worship, etc. If they receive basic medical care and immunizations, they are more likely to stay healthy, thereby reducing overall medical costs and preventing illnesses from spreading.

---

14. Underserved U.S. Territory to Hire Foreign Physicians

The U.S. Commonwealth of the Northern Mariana Islands (CNMI) has declared a state of emergency due to its acute shortage of physicians. The state of emergency allows the Commonwealth Health Center, the only hospital in the territory, to hire physicians who are not U.S. citizens.

In the past, the CHC relied on headhunters to find physicians from the mainland United States and Canada. This was both due to the policy of the CNMI Medical Profession Licensing Board and because the CNMI receives U.S. Medicaid and Medicare funding, which requires the hiring of only U.S. trained physicians. However, in recent times, the CHC has found too few U.S. trained physicians to meet the CNMI population's needs, forcing the territory to look for qualified physicians from other countries.

Ironically, while the CNMI was prevented from hiring physicians from the Philippines, among other countries, the CHC regularly sends patients to clinics in nearby Manila for treatment.

U.S. physicians have been discouraged from working in the CNMI due to low salaries, leading to the shortage. However, things may be looking up for this territory due to the U.S. federal takeover of CNMI's immigration system on November 28, 2009. Once the CNMI is under the authority of the U.S. Department of Homeland Security, foreign physicians may be able to work in the country under the J-1 visa waiver program. According to the CNMI's Department of Public Health, physicians from other countries have already begun inquiring about performing their J waiver service obligations in the Commonwealth.

---

15. New Jersey Program Aims to Help Immigrants Receive Better Health Care

For many immigrants, going to a doctor in the United States can be difficult because of cultural and language barriers. Some immigrants have their children, who are fluent in English, describe their own symptoms to a doctor, but still worry that their children may not adequately describe their illnesses to the physician. Other immigrants don't understand the benefits of proper nutrition and immunizations against fighting disease and illness. Even paying medical bills, filling prescriptions and following a doctor's instructions can be hard when the patient does not understand English.

Because immigrants who do not speak English have these problems, Rutgers-Camden Center for Strategic Urban Community Leadership has begun the Health Education Literacy Program (HELP) with the aid of a New Jersey Health Initiative grant award. HELP aims to train immigrant parents how to navigate the U.S. medical system, as well as improve their English-speaking skills, learn how to read a prescription, describe symptoms to a doctor or nurse, administer medicine, and proper nutrition, among other topics.

Camden, New Jersey has a large immigrant population, with nationals from countries such as Mexico, Ecuador, El Salvador, Nicaragua, Haiti and Vietnam.

A curriculum has been developed for immigrant parents and the information will be conveyed to health care workers, parent educators and school teachers who will teach the HELP curriculum. Over 200 parents registered for the first round of HELP courses.

---

16. Chart Of Nurse Licensing Requirements By State

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

---

17. State 30 Physician Waiver Chart

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

---

18. Physician National Interest Waiver Chart

Linked at http://www.visalaw.com/IMG/NIW.html.

---

19. 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 U.S. with our employer clients interested in going through the visa application process. We do not charge physicians or our employer and recruiter clients for these services. If you are interested in our help,

please e-mail us at eschachter@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 or call Greg Siskind at 901-682-6455.

For a listing of physicians seeking positions requiring visa sponsorship, go to **www.visalaw.com/quickbase.html**. 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.