

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Re: Foreign Health Care Meeting (partial, DOB, SSN) (1 page)	00/00/0000	b(6)
002. list	Re: Foreign Health Care Meeting (partial, DOB, SSN) (1 page)	00/00/0000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17174

FOLDER TITLE:

Cabinet Weekly Reports: Immigration Labor/Foreign Health Care Workers [3]

2017-1120-S

ry2218

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

SIGNIN LIST 9/25 FOR HLTH CARE WORKERS

<u>Name</u>	<u>Organization</u>	<u>Ph#</u>	<u>Fax</u>
Rich O'Brien	Economic Bureau State	647-1980	647-6540
MIKE KOPLOSKY	USTR	395-3412	395-9675
BILL KANE	USTM	395-6800	395-3639
John Lynch	Justice-ODAG	514-4203	514-9077
Steve Fischel	Visa Office / State	663-1184	663-3898
Jackie Bednarek	INS	842-9248	842-9276
JOHN W. BROWN	INS	²⁰² 616-7435	²⁰² 514-0198
Debra Bond	OMB	395-7751	395-6974
Jose Curda	DPC	456-7733	456-7028
Leanne Shimabukuro	DPC	"	"
Geri Woro	DOC	482-1545	482-5865
Marcia M. Eugenio	DOL	219-9098	219-507
John Fraser	USDOL	219-8305	219-4753
MARK MAGAÑA	HHS	690-6786	690-6351
Stephen Warnath	PRESIDENT'S CRIME PREVENTION COUNCIL	395-5550	395-5567
Nancy Schwartz	OMB	395-3720	395-5770

Immigration
Labor/
Foreign Health Care
Workers

SIGNIN LIST 9/25 FOR MTH CARE WORKERS

Name	Organization	Ph#	Fax
Rich O'Brien	Economic Bureau State	687-1980	687-6540
MIKE KOPLASKY	USTR	395-3412	395-9675
BILL KANE	USTN	395-6800	395-3634
John Lynch	Justice-ODAG	514-4203	514-9077
Steve Fischel	Vice Office/State	663-1184	663-3898
Jackie Bednarek	INS	842-9248	842-9271
JOHN W. BROWN	INS	20 ^L 616-7435	20 ^L 514-0195
Debra Bond	OMB	395-7751	395-6972
Jose Curda	DPC	456-7733	456-702
Leanne Shimabukuro	DPC	"	"
Geri Word	DOC	482-1545	482-5865
Marcia M. Eugenio	DOL	219-9098	219-501
John Fraser	USDOL	219-8305	219-4753
MARK MAGAÑA	HHS	690-6786	690-6351
Stephen Warnath	PRESIDENT'S CRIME PREVENTION COUNCIL	395-5550	395-5567
Nancy Schwartz	OMB	395-3720	395-5772



600 MARYLAND AVENUE, SW
SUITE 100 WEST
WASHINGTON, DC 20024-2571
202 651-7000 • FAX 202 651-7001
[HTTP://WWW.NURSINGWORLD.ORG](http://www.nursingworld.org)

BEVERLY L. MALONE, PhD, RN, FAAN
PRESIDENT

GERI MARULLO, MSN, RN
EXECUTIVE DIRECTOR

June 3, 1997

Bruce N. Reed
Assistant to the President for
Domestic Policy
Office of Policy Development
Executive Office of the President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Reed:

It has come to the attention of the American Nurses Association that the Domestic Policy Council has been considering Section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C § 1182(a)(5)(C)). ANA worked closely with Senator Specter in support of this amendment.

Enclosed is ANA's letter to an INS staff person discussing our expectation that this provision will apply regardless of means of entry and urging the INS to act quickly during the regulatory phase. There really is no cause for delay.

If you or your staff has any questions, please do not hesitate to contact me at 202-651-7089.

Sincerely,

Cheryl A. Peterson, MSN, RN
Associate Director
Federal Government Relations

enclosure





600 MARYLAND AVENUE, SW
SUITE 100 WEST
WASHINGTON, DC 20024-2571
202 651-7000 • FAX 202 651-7001
[HTTP://WWW.NURSINGWORLD.ORG](http://www.nursingworld.org)

BEVERLY L. MALONE, PHD, RN, FAAN
PRESIDENT

GERI MARULLO, MSN, RN
EXECUTIVE DIRECTOR

May 14, 1997

John Brown
Immigration and Naturalization Service
Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Re: Section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Dear Mr. Brown:

The American Nurses Association (ANA) strongly supported Senator Specter's amendment creating Section 343, the prescreening requirement for all foreign health care workers seeking to enter the United States under a visa or trade agreement. **I would urge that the Immigration and Naturalization Service act promptly to implement Section 343.**

As noted in the House Committee report language it was the intent of Congress that all foreign health care workers should be prescreened regardless of their mode of entry, whether via an immigration visa or a trade agreement. The ANA urges the INS to adhere to this language. As the United States continues to expand and negotiate global and regional trade agreements it is essential that a basic level of protection be maintained to ensure the ongoing safety and quality of patient care provided here in the United States. In addition, recent Canadian and North American Trade agreements clearly based the entry of health care workers from signatory countries on their ability to practice their profession; therefore, Section 343 is consistent with these agreements.

Finally, the ANA considers the Commission on Graduates of Foreign Nursing Schools (CGFNS) fully qualified to develop and implement a prescreening program for all types of health care professionals. CGFNS has sought agency approval of its prescreening program, and this approval must be granted in a timely manner to mitigate potential disruption for those seeking to enter the United States.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at 202-651-7089.

Sincerely,

Cheryl A. Peterson, MSN, RN
Associate Director
Federal Government Relations



Canadian Embassy



Ambassade du Canada

501 Pennsylvania Avenue, N.W.
Washington, D.C. 20001

July 21, 1997

The Honourable Janet Reno
Attorney General of the United States of America
Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Madam Attorney General,

I am writing to express Canada's concern about article 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and its negative impact on the entry of Canadian health care workers into the U.S. under the North American Free Trade Agreement (NAFTA).

Article 343 denies admission to aliens seeking entry for employment as health care workers, unless a certificate from the Commission on Graduates of Foreign Nursing Schools or an equivalent credentialing organization approved by the Attorney General, is presented, verifying the person's training, licensing and experience, as well as a level of competency in English. The provision applies notwithstanding any international agreement or treaty.

We understand that in order to allow sufficient time to develop implementation procedures and select certifying organizations, a waiver of inadmissibility was put into place for aliens already in possession of non immigrant visas or who are visa exempt, including Canadian health care workers applying for admission as professionals under the NAFTA. Unfortunately, the manner in which this waiver is applied by U.S. port of entry officials has created confusion and has affected a significant number of Canadian health care workers and their U.S. employers.

We believe that Article 343 is inconsistent with the principles of facilitation and liberalization of the movement of business persons and with the specific obligations to grant

.../2

- 2 -

temporary entry under Chapter 16 of the NAFTA. Any denial of temporary entry to health care professionals based on competency tests, usually applicable to the right of professional practice, would not conform to the requirements applicable to temporary entry permitted by Chapter 16.

We seek your assistance in addressing our concerns with this new measure. Most pressing is the need for the Immigration and Naturalization Service (INS) to ensure the consistent application of the waiver with their port of entry officials so that no new requirements are imposed on Canadian health care workers. Our ultimate concern is the need to ensure that the United States fully respects its NAFTA obligations concerning the movement of temporary workers.

Best Regards

Yours sincerely,

Raymond Chrétien

Raymond Chrétien
Ambassador

Canadian Embassy



Ambassade du Canada

501 Pennsylvania Avenue, N.W.
Washington, D.C. 20001

July 21, 1997

The Honourable Janet Reno
Attorney General of the United States of America
Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Madam Attorney General,

I am writing to express Canada's concern about article 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and its negative impact on the entry of Canadian health care workers into the U.S. under the North American Free Trade Agreement (NAFTA).

Article 343 denies admission to aliens seeking entry for employment as health care workers, unless a certificate from the Commission on Graduates of Foreign Nursing Schools or an equivalent credentialing organization approved by the Attorney General, is presented, verifying the person's training, licensing and experience, as well as a level of competency in English. The provision applies notwithstanding any international agreement or treaty.

We understand that in order to allow sufficient time to develop implementation procedures and select certifying organizations, a waiver of inadmissibility was put into place for aliens already in possession of non immigrant visas or who are visa exempt, including Canadian health care workers applying for admission as professionals under the NAFTA. Unfortunately, the manner in which this waiver is applied by U.S. port of entry officials has created confusion and has affected a significant number of Canadian health care workers and their U.S. employers.

We believe that Article 343 is inconsistent with the principles of facilitation and liberalization of the movement of business persons and with the specific obligations to grant

.../2

- 2 -

temporary entry under Chapter 16 of the NAFTA. Any denial of temporary entry to health care professionals based on competency tests, usually applicable to the right of professional practice, would not conform to the requirements applicable to temporary entry permitted by Chapter 16.

We seek your assistance in addressing our concerns with this new measure. Most pressing is the need for the Immigration and Naturalization Service (INS) to ensure the consistent application of the waiver with their port of entry officials so that no new requirements are imposed on Canadian health care workers. Our ultimate concern is the need to ensure that the United States fully respects its NAFTA obligations concerning the movement of temporary workers.

Yours sincerely,

Best Regards

Raymond Chrétien

Raymond Chrétien
Ambassador

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 6, 1996

Honorable Doris M. Meissner
Commissioner, Immigration and Naturalization Service
425 Eye Street, NW
Washington, DC 20536

Dear Madam Commissioner:

We are concerned about a report that the Immigration and Naturalization Service may not correctly interpret section 343 of H.R. 3610, the Department of Defense Appropriations Act, 1997. We understand that some within INS may apply this provision only to immigrants and not to nonimmigrant healthcare workers. This provision requires certification of the qualifications of all aliens, both immigrants and non-immigrants, seeking to enter the United States for the purpose of performing labor as a health-care worker, other than a physician.

This requirement was drafted to protect consumers from the possibility of admitting unqualified health care practitioners. There are no exceptions to this requirement, by statute, treaty, administrative practice or otherwise.

It has been reported to us that some uncertainty was caused by the fact that section 343 amends section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)(5) "Labor certification and qualifications for certain immigrants"). We understand that some persons may have suggested that the placement of the new prescreening requirement in section 212(a)(5) would somehow limit prescreening to applicants for immigrant visas only. This suggestion, if it was made, would be incorrect, with respect to both the language of the amended statute and congressional intent.

The placement of the prescreening requirement in section 212(a)(5) was not intended to limit the broad language of the statute. As you will see from the enclosed amended statutory language, the limitation to immigrants in section 212(a)(5)(D) refers only to the existing subparagraphs (A) and (B), not the prescreening requirement, which is new subparagraph (C). (See, for example, page 2, line 19 of the enclosure.) Given the absence of any limitation in its language, subparagraph (C) applies to both immigrants and non-immigrants.

In addition, our conference report language on this section was clear that new section 212(a)(5)(C) would apply to both immigrants and non-immigrants. (See pages 226-227 of

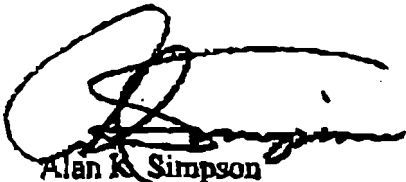
Letter to Commissioner Meissner
November 6, 1996

Report 104-828). This conference report language applies to the identical language in H.R. 3610, as was made clear by statements in the Congressional Record by both the House and Senate floor managers. (H12104-5 of the Congressional Record for September 28, 1996 and S11839 of the Congressional Record for September 30, 1996)

We intend that this new prescreening requirement be effective immediately. We do not want patients put at risk any longer than necessary. The use of sweeping and all-inclusive terms in section 343 was deliberate. The section was not intended to be limited by any administrative procedures, interpretations, or terms of art.

Thank you for your prompt attention to this matter.

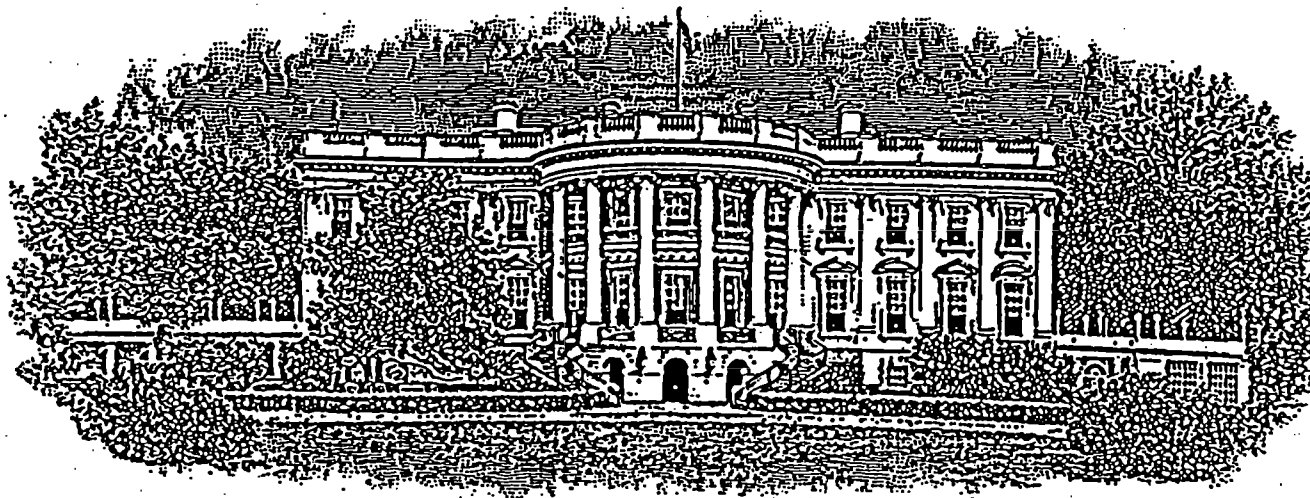
Sincerely,



Alan K. Simpson
Chairman
Subcommittee on Immigration
And Refugee Affairs
Senate Committee on the Judiciary



Lamar Smith
Chairman
Subcommittee on Immigration
and Claims
House Committee on the Judiciary



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: John Franer

FAX NUMBER: 219 4753

TELEPHONE NUMBER: _____

FROM: Leanne Shinnabaker

TELEPHONE NUMBER: _____

PAGES (INCLUDING COVER): _____

COMMENTS: For today's meeting

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 6, 1996

Honorable Doris M. Meissner
Commissioner, Immigration and Naturalization Service
425 Eye Street, NW
Washington, DC 20536

Dear Madam Commissioner:

We are concerned about a report that the Immigration and Naturalization Service may not correctly interpret section 343 of H.R. 3610, the Department of Defense Appropriations Act, 1997. We understand that some within INS may apply this provision only to immigrants and not to nonimmigrant healthcare workers. This provision requires certification of the qualifications of all aliens, both immigrants and non-immigrants, seeking to enter the United States for the purpose of performing labor as a health-care worker, other than a physician.

This requirement was drafted to protect consumers from the possibility of admitting unqualified health care practitioners. There are no exceptions to this requirement, by statute, treaty, administrative practice or otherwise.

It has been reported to us that some uncertainty was caused by the fact that section 343 amends section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)(5)) ("Labor certification and qualifications for certain immigrants"). We understand that some persons may have suggested that the placement of the new prescreening requirement in section 212(a)(5) would somehow limit prescreening to applicants for immigrant visas only. This suggestion, if it was made, would be incorrect, with respect to both the language of the amended statute and congressional intent.

The placement of the prescreening requirement in section 212(a)(5) was not intended to limit the broad language of the statute. As you will see from the enclosed amended statutory language, the limitation to immigrants in section 212(a)(5)(D) refers only to the existing subparagraphs (A) and (B), not the prescreening requirement, which is new subparagraph (C). (See, for example, page 2, line 19 of the enclosure.) Given the absence of any limitation in its language, subparagraph (C) applies to both immigrants and non-immigrants.

In addition, our conference report language on this section was clear that new section 212(a)(5)(C) would apply to both immigrants and non-immigrants. (See pages 226-227 of

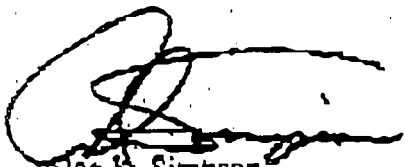
Letter to Commissioner Meisner
November 6, 1996

Report 104-828). This conference report language applies to the identical language in H.R. 3610, as was made clear by statements in the Congressional Record by both the House and Senate floor managers. (H12104-5 of the Congressional Record for September 28, 1996 and S11839 of the Congressional Record for September 30, 1996)

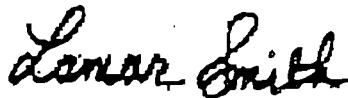
We intend that this new prescreening requirement be effective immediately. We do not want patients put at risk any longer than necessary. The use of sweeping and all-inclusive terms in section 343 was deliberate. The section was not intended to be limited by any administrative procedures, interpretations, or terms of art.

Thank you for your prompt attention to this matter.

Sincerely,



Alan K. Simpson
Chairman
Subcommittee on Immigration
And Refugee Affairs
Senate Committee on the Judiciary



Lamar Smith
Chairman
Subcommittee on Immigration
and Claims
House Committee on the Judiciary

DISTRICT OF MAINE
GOWTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-8116
234 OXFORD STREET
PORTLAND, ME 04101
(207) 774-5019



Congress of the United States
House of Representatives
Washington, DC 20515-1901

RECEIVED
SUBCOMMITTEES:
MILITARY PROCUREMENT
MILITARY RESEARCH AND DEVELOPMENT
COMMITTEES IN GOVERNMENT
REFORM AND OVERSIGHT
SUBCOMMITTEES:
DISTRICT OF COLUMBIA
HUMAN RESOURCES
COMMISSIONER'S OFFICE
DEMOCRATIC STEERING AND POLICY
COMMITTEE

June 30, 1997

Mr. Allen Erenbaum
Acting Director/Cong. Relations
Immigration and Naturalization Service
U.S. Department Of Justice
Room 7030
425 Eye St., N.W.
Washington, D.C. 20536

Dear Mr. Erenbaum:

I am writing on behalf of the Maine Health Care Association, which has contacted my office with concerns about implementation of a provision of the 1996 immigration bill regarding foreign-educated health care workers, which would require that these workers obtain a certificate in order to qualify for certain occupational visas.

Members of the Association are concerned that the law will impact Canadian nurses who work in Maine, and thus have a negative impact on the quality of care in our hospitals. I understand that the State Department has given notification to these workers that it will no longer issue immigrant visas, and that INS has not yet promulgated regulations on how the certification process is to be handled. They are also concerned about the frequency and location of such certification exams, since travel from Maine can often be burdensome and cause disruptions from work.

Specifically, I am inquiring as to (1) the status of INS's establishment of a review and approval process for application for certification by foreign-educated health care workers, (2) what is being done to ensure that these workers, despite their desire to renew their visas under the new law, do not lose their visas because of bureaucratic delays.

I would appreciate it if you could send a response to Paula R. Valente of the Maine Health Care Alliance (317 State Street, Augusta, ME, 04330) as well as to me, care of my legislative assistant Todd Stein, in my Washington office.

Thank you for your assistance on this matter.

Sincerely,

Tom Allen
Member of Congress

THA/ts

CO EXS DOC #28593/28594

United States Senate

WASHINGTON, DC 20510

May 19, 1997

The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I St. N.W., Room 7100
Washington, D.C., 20536

Re: 8 U.S.C. § 1182(a)(5)(C) ("Uncertified foreign health-care workers")

Dear Madame Commissioner:

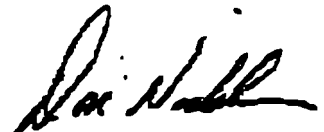
This letter expresses our concerns regarding the operation of certain provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Specifically, Section 343 of that Act (amending Section 1182 of Title 8) unfairly delays or prevents qualified foreign health care workers from providing a greatly needed service in our country. We ask that the Immigration and Naturalization Service work with members of Congress to arrive at a mutually beneficial method of addressing this problem.

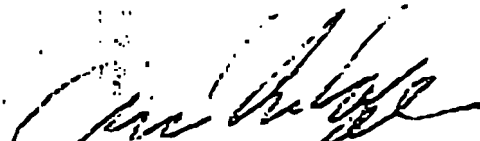
Section 1182 of Title 8 requires that health-care workers wishing to enter the country present a certificate from a private association, the Commission on Graduates of Foreign Nursing Schools (CGFNS), verifying his or her educational background and other abilities. The effective monopoly obtained by CGFNS results in unnecessary delays in processing health care workers who wish to enter the country.

An Oklahoma constituent, who expends significant resources in locating well-trained health care workers in Great Britain, Ireland, Australia, New Zealand, and South Africa, brought this issue to our attention. The provisions of the 1996 Act cause his and other businesses to lose many opportunities to place workers within a reasonable time in places of great need. Furthermore, the law results in a lack of workers to fill positions in many remote parts of the country, where domestic health care workers do not desire to practice.

Thank you for your consideration of our concerns. We look forward to working with you to resolve this issue.

Sincerely,


Don Nickles
Assistant Majority Leader


James M. Inhofe
United States Senator

1/11/11W

JUL 25 '97 12:53PM

P.2

JOHN EDWARD PORTER

16TH DISTRICT OF MICHIGAN

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE

FOREIGN OPERATIONS

LABOR, HEALTH AND HUMAN SERVICES,
AND EDUCATION
CHAIRMAN

MILITARY CONSTRUCTION

COMMISSION ON SECURITY AND
COOPERATION IN EUROPECONGRESSIONAL HUMAN
RIGHTS CAUCUS
CO-CHAIRMAN

Congress of the United States

House of Representatives

Washington, DC 20515-1310

July 25, 1997

HARRIS WATSON OFFICE:
2873 BAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1310
(202) 225-4835HOMES OFFICE:
102 WILMOT ROAD
SUITE 200
DEERFIELD, IL 60015-5100
(847) 940-020212 NORTH COUNTY STREET
601-A COUNTY BUILDING
WAUKEGAN, IL 60083-4338
(847) 843-0101115 ARLINGTON HEIGHTS ROAD
SUITE 104
ARLINGTON HEIGHTS, IL 60004-3762
(847) 392-0262

The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I Street, NW
Washington, DC 20536

Dear Commissioner Meissner:

I am writing to express my concerns regarding the implementation of Section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Unless Congress clarifies its intentions in enacting Section 343, implementation of this provision could seriously impair Americans' access to health care. For example, requiring foreign health care workers already possessing state certificates and licenses to re-certify would create a shortage of health care workers. I strongly urge you to delay implementing Section 343 so that Congress has an opportunity to reconsider this issue.

I also request that the regulations written to implement Section 343 maximize the number of organizations approved as credentialing agencies by the Attorney General, in consultation with the Department of Health and Human Services. The process by which a credentialing organization may seek approval should also be set forth. Without such regulations, a monopoly on the certification process would exist for the only organization named in Section 343, the Commission on Graduates of Foreign Nursing Schools (CGFNS). This organization was singularly named, despite the fact that its experience is limited to the evaluation of nurses. Occupational Therapists have their own certification organization -- the National Board for Certification in Occupational Therapy -- and the National Association for Credential Evaluation Services (NACES) also has specific experience and expertise in many of the professions covered by Section 343. However, these organizations were not named in Section 343.

The construction of fair and appropriate regulations for the implementation of Section 343 is imperative. Without them, we could experience a shortage of workers needed to fill positions in remote parts of the country, where domestic health care workers do not desire to practice. I join several of my colleagues, including Senators Inhofe, Nickles, and Kennedy, in urging you to take additional time (24 months) to work with the affected parties and Congress to sort through these problems prior to issuing any interim or final regulations.

I appreciate your attention to this matter and thank you in advance for working to address these concerns.

Sincerely,

John Edward Porter
Member of Congress

JEP:ajk

cc: The Honorable Donna Shalala, Secretary of Health and Human Services
The Honorable Franklin Raines, Director, Office of Management and Budget

Congress of the United States**House of Representatives****Washington, D.C. 20515****November 6, 1996**

Honorable Doris M. Meissner
Commissioner, Immigration and Naturalization Service
425 Eye Street, NW
Washington, DC 20536

Dear Madam Commissioner:

We are concerned about a report that the Immigration and Naturalization Service may not correctly interpret section 343 of H.R. 3610, the Department of Defense Appropriations Act, 1997. We understand that some within INS may apply this provision only to immigrants and not to nonimmigrant healthcare workers. This provision requires certification of the qualifications of all aliens, both immigrants and non-immigrants, seeking to enter the United States for the purpose of performing labor as a health-care worker, other than a physician.

This requirement was drafted to protect consumers from the possibility of admitting unqualified health care practitioners. There are no exceptions to this requirement, by statute, treaty, administrative practice or otherwise.

It has been reported to us that some uncertainty was caused by the fact that section 343 amends section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. § 1182(a)(5) "Labor certification and qualifications for certain immigrants"). We understand that some persons may have suggested that the placement of the new prescreening requirement in section 212(a)(5) would somehow limit prescreening to applicants for immigrant visas only. This suggestion, if it was made, would be incorrect, with respect to both the language of the amended statute and congressional intent.

The placement of the prescreening requirement in section 212(a)(5) was not intended to limit the broad language of the statute. As you will see from the enclosed amended statutory language, the limitation to immigrants in section 212(a)(5)(D) refers only to the existing subparagraphs (A) and (B), not the prescreening requirement, which is new subparagraph (C). (See, for example, page 2, line 19 of the enclosure.) Given the absence of any limitation in its language, subparagraph (C) applies to both immigrants and non-immigrants.

In addition, our conference report language on this section was clear that new section 212(a)(5)(C) would apply to both immigrants and non-immigrants. (See pages 226-227 of

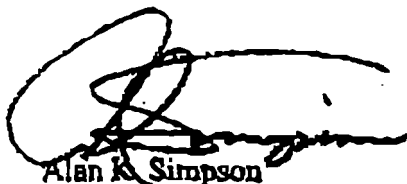
Letter to Commissioner Meissner
November 6, 1996

Report 104-828). This conference report language applies to the identical language in H.R. 3610, as was made clear by statements in the Congressional Record by both the House and Senate floor managers. (H12104-5 of the Congressional Record for September 28, 1996 and S11839 of the Congressional Record for September 30, 1996)

We intend that this new prescreening requirement be effective immediately. We do not want patients put at risk any longer than necessary. The use of sweeping and all-inclusive terms in section 343 was deliberate. The section was not intended to be limited by any administrative procedures, interpretations, or terms of art.

Thank you for your prompt attention to this matter.

Sincerely,



Alan K. Simpson
Chairman
Subcommittee on Immigration
And Refugee Affairs
Senate Committee on the Judiciary



Lamar Smith
Chairman
Subcommittee on Immigration
and Claims
House Committee on the Judiciary

08/27/97 FRI 17:07 FAX

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
JACK DEWINE, OHIO
JOHN ASHCROFT, MISSOURI
SPENCER ABRAHAM, MICHIGAN
JEFF SESSIONS, ALABAMAPATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
MEREDITH WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
RICHARD J. DURBIN, ILLINOIS
ROBERT G. TORRICELLI, NEW JERSEYMAURICE COONEY, Chief Counsel and Staff Director
BRUCE A. COHEN, Minority Chief Counsel**United States Senate**

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 26, 1997

The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I Street, N.W.
Washington, DC 20536

Dear Commissioner Meissner:

As you know, section 343 of the 1996 immigration law establishes certification requirements for the admission of foreign health care workers. In light of the many implementation issues that have arisen since this provision became law, I urge that INS take additional time to work with the affected parties and with Congress to sort through these problems prior to proceeding with final regulations.

When the Senate Judiciary Committee considered this provision last year, I supported the need to ensure that the foreign health care workers who come to work in the United States are qualified. I believe strongly that we need such a requirement in our immigration laws in order to ensure the public health.

Since passage of section 343, however, a number of issues have arisen which should shape implementation of this provision. For example, many foreign nurses already possess full and unrestricted state nursing licenses and speak fluent English. These nurses should not be required to undergo testing in order to be certified for entry into the United States. Additionally, occupational therapists have their own credentialing body - the National Board on Certification of Occupational Therapists. It may be more appropriate for this organization to screen foreign occupational therapists. These are only two examples of the kinds of issues that must be addressed thoughtfully in implementing this new provision.

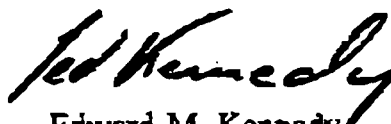
Again, I believe strongly that our immigration laws and procedures should ensure that only qualified foreign health care workers are admitted for employment, and I supported this provision when it was considered by the

08/27/97 FRI 17:08 FAX

Senate Judiciary Committee. But I believe that these additional issues must be taken into account in implementing this important provision.

With best wishes,

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Kennedy". The signature is fluid and cursive, with a large, stylized "K" and "D".

Edward M. Kennedy
Ranking Member
Subcommittee on Immigration

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

1615 L STREET, NW
TELEPHONE (202) 223-7300

WASHINGTON, DC 20036 6604
FACSIMILE (202) 223-7420

WRITER'S DIRECT DIAL NUMBER

202-223-7336

WRITER'S DIRECT E-MAIL ADDRESS

champe@paulweiss.com

WRITER'S DIRECT FACSIMILE

202-223-7420

1405 AVENUE OF THE AMERICANS
NEW YORK, NY 10019 8084
TELEPHONE (212) 879-8000
FACSIMILE (212) 757-4881

40, RUE DU FAUBOURG 44/NT, IMPASSE
75008 PARIS, FRANCE
TELEPHONE (33 1) 43 43 14 14
FACSIMILE F (33 1) 55 43 00 23

RIKINGI SEIMEI BUILDING
9-2 UCHISAWAMACHO 2-CHOME
CHITOGAKU, TOKYO 100, JAPAN
TELEPHONE (81-3) 3397-0101
FACSIMILE (81-3) 3397-0120

SUITE 1910 SCITECH TOWER
22 JIANGSU MENWAI QIAN
BEIJING, 100004
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6512-3628-30
FACSIMILE (86-10) 6512-3631

13TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 3300-0000
FACSIMILE (852) 3300-0000

August 28, 1997

Via Facsimile and U.S. Mail

Paul W. Virtue, Esq.
Acting Executive Associate Commissioner
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, DC 20536

Dear Mr. Virtue:

Thank you for meeting with Barbara Nichols, Valerie Winnick and myself yesterday regarding INS's response to CGFNS's notice of August 18, 1997, that it will commence receiving applications for certification pursuant to section 343 of the 1996 immigration act on August 25, 1997.

The purpose of this letter is to confirm that CGFNS interprets the INS Memorandum of August 27, 1997, in which field officers are instructed not to accept any certifications issued by CGFNS prior to the promulgation of INS regulations implementing section 343, as final agency action pursuant to the Administrative Procedures Act that is subject to judicial review.

As we stated in the meeting, CGFNS does not anticipate issuing any certifications under section 343 before October 1, 1997. Therefore, in order to avoid possible litigation, we agree that it would be productive to discuss this matter in greater detail in the coming weeks.

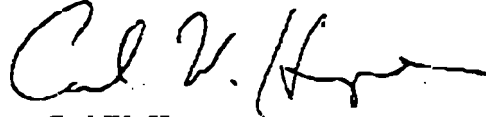
PAUL. WEISS. RIFKIND. WHARTON & GARRISON

Paul W. Virtue, Esq.

2

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl W. Hampe".

Carl W. Hampe

cc: Ms. Jackie Rednarz
Mr. John Brown
Mr. Stephen K. Fischel
Mr. Lyman Van Nostrand
Mr. Stephen G. Tise
Mr. Bernard Ascher

Memorandum



96 ACT #056
HQIRT 50/5.12

Subject IIRIRA Section 343: Reaffirmation of
Immigration and Naturalization (INS) Policy

Date August 27, 1997

To

All Regional Directors
All District Directors (Including Foreign)
All Officers in Charge (Including Foreign)
All Port Directors
All Service Center Directors
All Training Academies (Glynco and Artesia)
All Regional Counsels
All Asylum Directors

From

Office of Programs
(HQPGM)

The purpose of this memorandum is to reaffirm INS policy with respect to section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) which amends section 212(a)(5)(C) of the Immigration and Nationality Act.

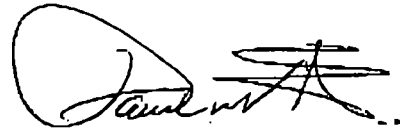
The Commission on Graduates of Foreign Nursing Schools (CGFNS) has informed INS of its intention to begin issuing certifications pursuant to section 343 of IIRIRA on August 25, 1997.

The INS will not accept any certifications issued by CGFNS or any equivalent independent credentialing organization prior to the promulgation of INS regulations implementing section 343 of IIRIRA. Additional INS instructions will be provided at such time as the appropriate certification procedures have been put in place.

Accordingly, instructions contained in INS memorandum 96ACT #041 (HQ 70/23.1-P, HQ 70/21.1.14-P and HQ 50/5.12 dated June 6, 1997) remain in effect. See also 96 ACT #014 dated January 28, 1997 for background about section 343 of IIRIRA.

Page 2
See Distribution

For further information, please contact Adjudications Officer John W. Brown at (202) 514-3240.

A handwritten signature in black ink, appearing to read "Paul W. Virtue", with a large, stylized initial "P" and a horizontal line extending from the end of the signature.

Paul W. Virtue
Acting Executive Associate
Commissioner

FEDERAL ASSOCIATES, LLC

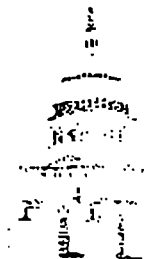
499 SOUTH CAPITOL STREET, SW

SUITE 420

WASHINGTON, D.C. 20003

TELEPHONE (202) 842-3000

FACSIMILE (202) 547-7161

**August 21, 1997**

Mr. Paul W. Virtue
Acting Executive Associate Commissioner
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, D.C. 20536

Dear Mr. Virtue,

I am registered to lobby on behalf of the Association of International Healthcare Recruiters and Employers (AIHRE). AIHRE is an association which serves the American consumer and healthcare industry by working to assure ethical recruitment and employment of well qualified internationally educated healthcare workers. This industry has businesses in nearly every state and several foreign countries. You will receive communiques directly from AIHRE's President and from individual members.

Accordingly, I am taking the liberty to comment on a letter you received dated August 18, 1997 addressed to you and signed by Carl Hampe, Esquire, lobbyist for the Commission on Graduates of Foreign Nursing Schools (CGFNS) regarding Section 343, 8 U.S.C. 1182 (a) (5) ("Uncertified foreign health-care workers").

Please excuse the bluntness of this communique. But, many familiar with the history of Section 343 are in disbelief at the arrogance of the CGFNS' position as outlined in their August 18, 1997 letter. Section 343 is a classic example of special interest legislation created without input from the industry and consumers it directly impacts. Indeed, when one Senator offers a legislative fix favorable to one constituent without debate or a hearing record of any kind, controversy and confusion are sure to follow. That is exactly what has happened with Section 343!

This provision must be scrutinized and interpreted by Immigration & Naturalization Service (INS) for appropriate rulemaking in consultation with the other federal agencies responsible for its implementation. It is a very serious matter to claim, as the CGFNS has claimed, that they will begin to "screen and certify foreign healthcare workers ... effective August 25, 1997." when they have no such authority. Indeed, several legal experts believe that implementation of CGFNS's claim would constitute fraud.

It is important to note here that AIHRE wrote Section 343's author, United States Senator Arlen Specter, on March 7, 1997 stating that, "The ambiguity of Section 343 is creating problems for United States employers of healthcare workers, healthcare recruiters and healthcare facilities in regional areas where there is a shortage of healthcare workers. Equally as important is the lack of an effective date. This has caused the Immigration and Nationalization Service to cease adjudicating all healthcare workers adjustment of status applications and the Department of State from issuing immigrant visas to healthcare workers."

AIHRE further stated in their letter that, "We hope it was not your intention to create a monopoly for one credentialing organization (CGFNS) at the expense of other credentialing organizations". The CGFNS should not be allowed to monopolize the screening of all foreign health care workers particularly in areas which they have no experience or expertise. Indeed, occupational therapists have their own certification organization - the National Board for Certification in Occupational Therapy (NBCOT) - which has been in the certification business very successfully for over twenty years. We and others believe it is far more appropriate for the NBCOT to screen occupational therapists. This is just one major example of the many flaws within Section 343.

In fairness to Senator Specter, he did not know the impact his amendment would have and has now instructed his staff to seek remedies fair to all interested parties. For the time being, INS policies and procedures should continue to be what they were prior to passage of Section 343, especially with relation to green cards. We are confident that when Senator Spencer Abraham, Chairman of the Senate Subcommittee on Immigration, holds the oversight hearings he has announced regarding the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the issue will be satisfactorily resolved.

In summary, the CGFNS has no expertise nor experience to proceed in the manner they intend, much less the authority they claim. The membership of AIHRE respectfully requests INS to inform the CGFNS accordingly.

Your immediate attention to this vital matter will be greatly appreciated by hundreds of small businesses throughout the United States. Because of the urgency of this matter I am also taking the liberty of sending a copy of this communique to various government officials responsible for Section 343 including numerous members of the United States Senate and House of Representatives who are working with their respective constituents to resolve the flaws in Section 343.

Respectfully yours,



Albert A. Fox, Jr.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

1615 L STREET, NW
WASHINGTON, DC 20036-3684

WASHINGTON, DC 20036-3684
FACSIMILE (202) 742-7420

WRITER'S DIRECT DIAL NUMBER

202-223-7338

WRITER'S DIRECT E-MAIL ADDRESS

champs@paulweiss.com

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10013-0064
TELEPHONE (212) 678-0000
FACSIMILE (212) 678-0000

65, RUE DU FIDUCIARE SAINT-MONORE
75001 PARIS, FRANCE
TELEPHONE (06 11 88 19 18 14
FACSIMILE (06 11 88 19 18 14

FURUKA DENKI CO. LTD.
2-2-1 HONJO 2-CHOME
CHIBA-CITY, TOKYO 100, JAPAN
TELEPHONE (81-3) 2887-8101
FACSIMILE (81-3) 2887-8120

SUITE 1910 SEITECH TOWER
22 JIANQUOMENTAI DAJE
BEIJING, 100005
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6512-8638-86
FACSIMILE (86-10) 6512-8631

12TH FLOOR, HONG KONG CLUB BUILDING
2A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2836-3386
FACSIMILE (852) 2836-3384

August 18, 1997

Via Facsimile and U.S. Mail

Paul W. Virtue
Acting Executive Associate Commissioner,
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, DC 20536

RE: Section 343 of the IIRIRA of 1996

Dear Mr. Virtue:

As counsel to the Commission on Graduates of Foreign Nursing Schools ("CGFNS"), I am writing to inform you of the intention of CGFNS to initiate its statutory role to screen and certify foreign health care workers under section 212(a)(5)(C) of the Immigration and Nationality Act, effective August 25, 1997.

As you are aware, section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added a new provision to § 212(a)(5) which specifically designated CGFNS to verify (and if appropriate, to certify) that a foreign health care worker: (1) possesses appropriate, comparable and authentic education, training, licensure, and experience; (2) has a level of competence in oral and written English that is appropriate for health care work of the kind in which the alien will be engaged, and (3) if applicable, has passed an appropriate licensing predictor test or licensing examination.

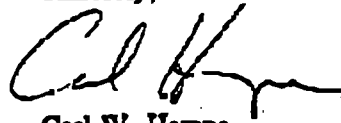
Pursuant to the authority granted to it by section 343, CGFNS will begin accepting certification applications on August 25, 1997, and will make determinations on these applications (and where appropriate, issue certifications) in a timely manner thereafter.

PAUL. WEISS. RIFKIND. WHARTON & GARRISON
Paul W. Virtue

2

Please do not hesitate to contact me if I may provide you with any further information.

Sincerely,



Carl W. Hampe

cc: Ms. Jackie Bednarz
Mr. John Brown
Mr. Stephen K. Fischel
Mr. Lyman Van Nostrand
Mr. Stephen G. Tise
Mr. Bernard Ascher

INS Vows No 'Mass Deportations'

By William Branigin
Washington Post Staff Writer

Seeking to allay growing alarm in immigrant communities, the Immigration and Naturalization Service yesterday pledged not to carry out any "mass deportations" of undocumented foreigners who have been allowed to remain in the United States while they seek permanent legal status.

In a news conference, INS officials made it clear that thousands of people who may be affected by the expiration of a controversial provision in the law will not be forced to leave the country. They also said lists of foreigners in the legalization pipeline will not be used to target anyone and that, given the uncertainty surrounding the provision's fate, the INS is not even advising those who may be affected to leave the country.

"We are not targeting any group, and we don't intend any mass deportations," said Paul Virtue, the INS acting executive associate commissioner for programs. He cautioned, however, that people residing in the United States illegally "always" risk being deported if they get caught in an INS work site enforcement raid or come to the agency's attention by committing a crime.

Effectively hostage to the provision are hundreds of thousands of foreigners who are trying to become legal immigrants, many of them after having lived and worked in the United States illegally for years, putting down deep roots in their communities. Currently, these undocumented immigrants are allowed to remain in the United States while completing their paperwork—provided they pay a \$1,000 fine. But unless the provision is extended by Congress, they will face a difficult choice: either leave the country to wait indefinitely for a U.S. visa abroad, thus abandoning jobs and families in the United States in many cases, or stay and risk becoming a perpetual illegal alien.

In fact, immigration lawyers say, their clients mostly are opting to remain in the United States in hopes of an eventual solution in their favor.

The provision, known as section 245(i), was inserted into immigration law in 1994 and is set to expire Sept. 30. The Senate has passed an administration-supported amendment to extend it as part of an appropriations bill, but there is no such provision in the House version. If none is included when the House takes up the bill this week, it will be up to a House-Senate conference committee to decide whether to extend the provision or let it lapse.

Meanwhile, the INS is urging eligible foreigners to apply for legal permanent resident documents, known as "green cards," under the existing regulation before Sept. 30 and is setting up facilities to handle an expected last-minute rush of applications. A

number of INS district offices will either remain open late next Tuesday or have "drop-off" boxes available to receive submissions before the deadline, officials said.

The aim of the law was to avoid imposing a hardship on foreigners who had jobs and families in the United States and were in line to become legal permanent residents. It also has served as a needed source of revenue for the INS. In fiscal 1995 and 1996, about 345,000 people applied for green cards under section 245(i). Last year, fees from such applications totaled \$147.5 million and this year are expected to reach \$214.5 million.

The scheduled expiration of the provision has especially alarmed immigrant communities because of a new law intended to stiffen penalties on foreigners who overstay their visas. The law bars foreigners from receiving a visa from a U.S. consulate abroad for three years if they remain in the United States illegally for more than 180 days. For those who stay illegally for more than a year, the ban rises to 10 years. Because the law took effect April 1, the grace period ends Sept. 27.

Thus, thousands of people who are trying to legalize their status fear getting caught in a "double whammy" between the imposition of the new law and the expiration of the old one. If Section 245(i) lapsed and they did not leave the country before the new penalties took effect, they might never be able to become legal immigrants.

In seeking to clarify matters yesterday, the INS stressed that everyone who has applied for a green card under 245(i) before Sept. 30 is considered to be in lawful status while the application is pending, and thus not subject to the three-year and 10-year bars. To be eligible to apply for a green card under the existing provision, officials said, illegal immigrants must pay the \$1,000 penalty, must have an approved visa petition pending with the INS and must have an immigrant visa "immediately available in [their] preference category," meaning essentially that their number must have come up on their visa waiting list.

On the other hand, if an illegal alien is the spouse or minor child or a U.S. citizen, or the parent of a citizen who is at least 21 years old, the person automatically has an immigrant visa immediately available and can submit the visa petition and the application for a green card at the same time. Moreover, if an applicant with such family ties originally entered the United States legally but overstayed the visa, he or she would not be affected by the expiration of 245(i), but could apply for a green card any time under another provision of law.

TNER
ounsel Lanny
ckbone of
ite House.



STYLE, Page B1

HOLLYWOOD
entary "When We
he sordid world of

squirms and
Hiller and Diller"
e B1



dition
st member of
and he might
eams. Page E1

May Whistle



D6-7
B3
B4
URCE

JUL 25 '97 12:53PM

JOHN EDWARD PORTER
1ST DISTRICT OF ILLINOIS

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE

FOREIGN OPERATIONS

LABOR, HEALTH AND HUMAN SERVICES
AND EDUCATION
CHAIRMAN

MILITARY CONSTRUCTION

COMMISSION ON SECURITY AND
COOPERATION IN EUROPECONGRESSIONAL HUMAN
RIGHTS CAUCUS
CO-CHAIRMAN

Congress of the United States

House of Representatives

Washington, DC 20515-1310

July 25, 1997

HARRIS WATSON OFFICE
2873 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1210
(202) 225-4835HARRIS OFFICE
102 WILMOT ROAD
SUITE 200
DEERFIELD, IL 60015-5100
(847) 940-020218 NORTH COUNTY STREET
601-A COUNTY BUILDING
WAUKEGAN, IL 60083-4333
(847) 943-0101118 ARLINGTON HEIGHTS ROAD
SUITE 104
ARLINGTON HEIGHTS, IL 60004-6702
(847) 292-0200The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I Street, NW
Washington, DC 20536

Dear Commissioner Meissner:

I am writing to express my concerns regarding the implementation of Section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Unless Congress clarifies its intentions in enacting Section 343, implementation of this provision could seriously impair Americans' access to health care. For example, requiring foreign health care workers already possessing state certificates and licenses to re-certify would create a shortage of health care workers. I strongly urge you to delay implementing Section 343 so that Congress has an opportunity to reconsider this issue.

I also request that the regulations written to implement Section 343 maximize the number of organizations approved as credentialing agencies by the Attorney General, in consultation with the Department of Health and Human Services. The process by which a credentialing organization may seek approval should also be set forth. Without such regulations, a monopoly on the certification process would exist for the only organization named in Section 343, the Commission on Graduates of Foreign Nursing Schools (CGFNS). This organization was singularly named, despite the fact that its experience is limited to the evaluation of nurses. Occupational Therapists have their own certification organization -- the National Board for Certification in Occupational Therapy -- and the National Association for Credential Evaluation Services (NACES) also has specific experience and expertise in many of the professions covered by Section 343. However, these organizations were not named in Section 343.

The construction of fair and appropriate regulations for the implementation of Section 343 is imperative. Without them, we could experience a shortage of workers needed to fill positions in remote parts of the country, where domestic health care workers do not desire to practice. I join several of my colleagues, including Senators Inhofe, Nickles, and Kennedy, in urging you to take additional time (24 months) to work with the affected parties and Congress to sort through these problems prior to issuing any interim or final regulations.

I appreciate your attention to this matter and thank you in advance for working to address these concerns.

Sincerely,


John Edward Porter
Member of Congress

JEP:ajk

cc: The Honorable Donna Shalala, Secretary of Health and Human Services
The Honorable Franklin Raines, Director, Office of Management and Budget

United States Senate

WASHINGTON, DC 20510

May 19, 1997

The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I St. N.W., Room 7100
Washington, D.C., 20536

Re: 8 U.S.C. § 1182(a)(5)(C) ("Uncertified foreign health-care workers")

Dear Madame Commissioner:

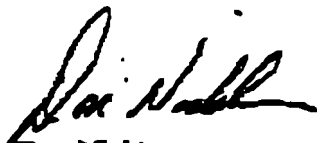
This letter expresses our concerns regarding the operation of certain provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Specifically, Section 343 of that Act (amending Section 1182 of Title 8) unfairly delays or prevents qualified foreign health care workers from providing a greatly needed service in our country. We ask that the Immigration and Naturalization Service work with members of Congress to arrive at a mutually beneficial method of addressing this problem.

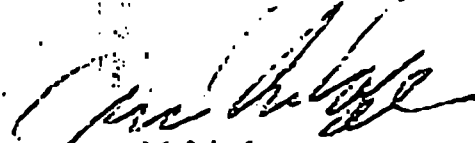
Section 1182 of Title 8 requires that health-care workers wishing to enter the country present a certificate from a private association, the Commission on Graduates of Foreign Nursing Schools (CGFNS), verifying his or her educational background and other abilities. The effective monopoly obtained by CGFNS results in unnecessary delays in processing health care workers who wish to enter the country.

An Oklahoma constituent, who expends significant resources in locating well-trained health care workers in Great Britain, Ireland, Australia, New Zealand, and South Africa, brought this issue to our attention. The provisions of the 1996 Act cause his and other businesses to lose many opportunities to place workers within a reasonable time in places of great need. Furthermore, the law results in a lack of workers to fill positions in many remote parts of the country, where domestic health care workers do not desire to practice.

Thank you for your consideration of our concerns. We look forward to working with you to resolve this issue.

Sincerely,


Don Nickles
Assistant Majority Leader


James M. Inhofe
United States Senator

1997/5/19

DISTRICT OF MAINE
NEWBURY HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-8116
234 OXFORD STREET
PORTLAND, ME 04101
(207) 774-5019



Congress of the United States
House of Representatives
Washington, DC 20515-1901

RECEIVED
SUBCOMMITTEES:
MILITARY PROCUREMENT
MILITARY RESEARCH AND DEVELOPMENT
COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
JUL 10 1997
COMMISSIONER'S OFFICE
DISTRICT OF COLUMBIA
HUMAN RESOURCES
DEMOCRATIC STEERING AND POLICY
COMMITTEE

June 30, 1997

Mr. Allen Erenbaum
Acting Director/Cong. Relations
Immigration and Naturalization Service
U.S. Department Of Justice
Room 7030
425 Eye St., N.W.
Washington, D.C. 20536

Dear Mr. Erenbaum:

I am writing on behalf of the Maine Health Care Association, which has contacted my office with concerns about implementation of a provision of the 1996 immigration bill regarding foreign-educated health care workers, which would require that these workers obtain a certificate in order to qualify for certain occupational visas.

Members of the Association are concerned that the law will impact Canadian nurses who work in Maine, and thus have a negative impact on the quality of care in our hospitals. I understand that the State Department has given notification to these workers that it will no longer issue immigrant visas, and that INS has not yet promulgated regulations on how the certification process is to be handled. They are also concerned about the frequency and location of such certification exams, since travel from Maine can often be burdensome and cause disruptions from work.

Specifically, I am inquiring as to (1) the status of INS's establishment of a review and approval process for application for certification by foreign-educated health care workers, (2) what is being done to ensure that these workers, despite their desire to renew their visas under the new law, do not lose their visas because of bureaucratic delays.

I would appreciate it if you could send a response to Paula R. Valente of the Maine Health Care Alliance (317 State Street, Augusta, ME, 04330) as well as to me, care of my legislative assistant Todd Stein, in my Washington office.

Thank you for your assistance on this matter.

Sincerely,

Tom Allen
Member of Congress

THA/ts

CA EXS DOC #28593/28594

08/27/97 FRI 17:07 FAX

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
MIKE DEWINE, OHIO
JOHN ASHCROFT, MISSOURI
SPENCER ABRAHAM, MICHIGAN
JEE SESSIONS, ALABAMAPATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
RICHARD J. DURBIN, ILLINOIS
ROBERT G. TORRICELLI, NEW JERSEYMAURIE COONEY, Chief Counsel and Staff Director
BRUCE A. COOPER, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 26, 1997

The Honorable Doris Meissner
Commissioner
Immigration and Naturalization Service
425 I Street, N.W.
Washington, DC 20536

Dear Commissioner Meissner:

As you know, section 343 of the 1996 immigration law establishes certification requirements for the admission of foreign health care workers. In light of the many implementation issues that have arisen since this provision became law, I urge that INS take additional time to work with the affected parties and with Congress to sort through these problems prior to proceeding with final regulations.

When the Senate Judiciary Committee considered this provision last year, I supported the need to ensure that the foreign health care workers who come to work in the United States are qualified. I believe strongly that we need such a requirement in our immigration laws in order to ensure the public health.

Since passage of section 343, however, a number of issues have arisen which should shape implementation of this provision. For example, many foreign nurses already possess full and unrestricted state nursing licenses and speak fluent English. These nurses should not be required to undergo testing in order to be certified for entry into the United States. Additionally, occupational therapists have their own credentialing body - the National Board on Certification of Occupational Therapists. It may be more appropriate for this organization to screen foreign occupational therapists. These are only two examples of the kinds of issues that must be addressed thoughtfully in implementing this new provision.

Again, I believe strongly that our immigration laws and procedures should ensure that only qualified foreign health care workers are admitted for employment, and I supported this provision when it was considered by the

08/27/97 FRI 17:08 FAX

Senate Judiciary Committee. But I believe that these additional issues must be taken into account in implementing this important provision.

With best wishes,

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Kennedy", written in a cursive, flowing style.

Edward M. Kennedy
Ranking Member
Subcommittee on Immigration

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

1615 L STREET, NW
WASHINGTON, DC 20036 5604
TELEPHONE (202) 223-7300

WASHINGTON, DC 20036 5604
FACSIMILE (202) 223-7420

WRITER'S DIRECT DIAL NUMBER

202-223-7336

WRITER'S DIRECT E-MAIL ADDRESS

champe@paulweiss.com

WRITER'S DIRECT FACSIMILE

202-223-7420

1603 AVENUE OF THE AMERICAS
NEW YORK, NY 10019 8004
TELEPHONE (212) 879-2000
FACSIMILE (212) 757-1880

40, RUE DU FAUBOURG 44-NT, LAMONTE
75008 PARIS, FRANCE
TELEPHONE (33 1) 42 43 12 14
FACSIMILE (33 1) 53 43 00 23

RIKINGI KENJI BUILDING
2-3 UCHISANWAJCHO 2-CHOME
CHITODA-KU, TOKYO 100, JAPAN
TELEPHONE (81-3) 8397-6101
FACSIMILE (81-3) 3597-6120

SUITE 1810 SCITECH TOWER
22 JIANGUOMENWAI DAI
BEIJING, 100004
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6512-3628-30
FACSIMILE (86-10) 6512-3631

13TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2230-7900
FACSIMILE (852) 2230-7044

August 28, 1997

Via Facsimile and U.S. Mail

Paul W. Virtue, Esq.
Acting Executive Associate Commissioner
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, DC 20536

Dear Mr. Virtue:

Thank you for meeting with Barbara Nichols, Valerie Winnick and myself yesterday regarding INS's response to CGFNS's notice of August 18, 1997, that it will commence receiving applications for certification pursuant to section 343 of the 1996 immigration act on August 25, 1997.

The purpose of this letter is to confirm that CGFNS interprets the INS Memorandum of August 27, 1997, in which field officers are instructed not to accept any certifications issued by CGFNS prior to the promulgation of INS regulations implementing section 343, as final agency action pursuant to the Administrative Procedures Act that is subject to judicial review.

As we stated in the meeting, CGFNS does not anticipate issuing any certifications under section 343 before October 1, 1997. Therefore, in order to avoid possible litigation, we agree that it would be productive to discuss this matter in greater detail in the coming weeks.

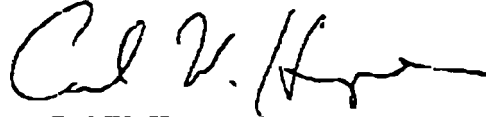
PAUL. WEISS. RIFKIND. WHARTON & CARRISON

Paul W. Virtue, Esq.

2

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl W. Hampe". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl W. Hampe

cc: Ms. Jackie Hednarz
Mr. John Brown
Mr. Stephen K. Fischel
Mr. Lyman Van Nostrand
Mr. Stephen G. Tise
Mr. Bernard Ascher

Memorandum



96 ACT #056
HQIRT 50/5.12

Subject IIRIRA Section 343: Reaffirmation of
Immigration and Naturalization (INS) Policy

Date August 27, 1997

To

All Regional Directors
All District Directors (Including Foreign)
All Officers in Charge (Including Foreign)
All Port Directors
All Service Center Directors
All Training Academies (Glynco and Artesia)
All Regional Counsels
All Asylum Directors

From

Office of Programs
(HQPGM)

The purpose of this memorandum is to reaffirm INS policy with respect to section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) which amends section 212(a)(5)(C) of the Immigration and Nationality Act.

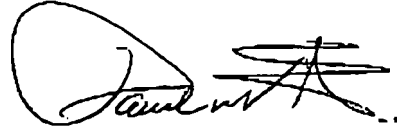
The Commission on Graduates of Foreign Nursing Schools (CGFNS) has informed INS of its intention to begin issuing certifications pursuant to section 343 of IIRIRA on August 25, 1997.

The INS will not accept any certifications issued by CGFNS or any equivalent independent credentialing organization prior to the promulgation of INS regulations implementing section 343 of IIRIRA. Additional INS instructions will be provided at such time as the appropriate certification procedures have been put in place.

Accordingly, instructions contained in INS memorandum 96ACT #041 (HQ 70/23.1-P, HQ 70/21.1.14-P and HQ 50/5.12 dated June 6, 1997) remain in effect. See also 96 ACT #014 dated January 28, 1997 for background about section 343 of IIRIRA.

Page 2
See Distribution

For further information, please contact Adjudications Officer John W. Brown at (202) 514-3240.

A handwritten signature in black ink, appearing to read "Paul W. Virtue", with a stylized flourish at the end.

Paul W. Virtue
Acting Executive Associate
Commissioner

FEDERAL ASSOCIATES, LLC

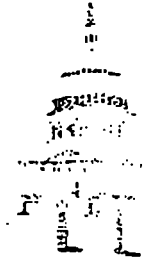
499 SOUTH CAPITOL STREET, SW

SUITE 420

WASHINGTON, D.C. 20003

TELEPHONE (202) 842-3000

FACSIMILE (202) 547-7161

**August 21, 1997**

**Mr. Paul W. Virtue
Acting Executive Associate Commissioner
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, D.C. 20536**

Dear Mr. Virtue,

I am registered to lobby on behalf of the Association of International Healthcare Recruiters and Employers (AIHRE). AIHRE is an association which serves the American consumer and healthcare industry by working to assure ethical recruitment and employment of well qualified internationally educated healthcare workers. This industry has businesses in nearly every state and several foreign countries. You will receive communiques directly from AIHRE's President and from individual members.

Accordingly, I am taking the liberty to comment on a letter you received dated August 18, 1997 addressed to you and signed by Carl Hampe, Esquire, lobbyist for the Commission on Graduates of Foreign Nursing Schools (CGFNS) regarding Section 343, 8 U.S.C. 1182 (a) (5) ("Uncertified foreign health-care workers").

Please excuse the bluntness of this communique. But, many familiar with the history of Section 343 are in disbelief at the arrogance of the CGFNS' position as outlined in their August 18, 1997 letter. Section 343 is a classic example of special interest legislation created without input from the industry and consumers it directly impacts. Indeed, when one Senator offers a legislative fix favorable to one constituent without debate or a hearing record of any kind, controversy and confusion are sure to follow. That is exactly what has happened with Section 343!

This provision must be scrutinized and interpreted by Immigration & Naturalization Service (INS) for appropriate rulemaking in consultation with the other federal agencies responsible for its implementation. It is a very serious matter to claim, as the CGFNS has claimed, that they will begin to "screen and certify foreign healthcare workers ... effective August 25, 1997." when they have no such authority. Indeed, several legal experts believe that implementation of CGFNS's claim would constitute fraud.

It is important to note here that AIHRE wrote Section 343's author, United States Senator Arlen Specter, on March 7, 1997 stating that, "The ambiguity of Section 343 is creating problems for United States employers of healthcare workers, healthcare recruiters and healthcare facilities in regional areas where there is a shortage of healthcare workers. Equally as important is the lack of an effective date. This has caused the Immigration and Nationalization Service to cease adjudicating all healthcare workers adjustment of status applications and the Department of State from issuing immigrant visas to healthcare workers."

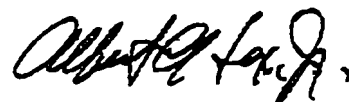
AIHRE further stated in their letter that, "We hope it was not your intention to create a monopoly for one credentialing organization (CGFNS) at the expense of other credentialing organizations". The CGFNS should not be allowed to monopolize the screening of all foreign health care workers particularly in areas which they have no experience or expertise. Indeed, occupational therapists have their own certification organization - the National Board for Certification in Occupational Therapy (NBCOT) - which has been in the certification business very successfully for over twenty years. We and others believe it is far more appropriate for the NBCOT to screen occupational therapists. This is just one major example of the many flaws within Section 343.

In fairness to Senator Specter, he did not know the impact his amendment would have and has now instructed his staff to seek remedies fair to all interested parties. For the time being, INS policies and procedures should continue to be what they were prior to passage of Section 343, especially with relation to green cards. We are confident that when Senator Spencer Abraham, Chairman of the Senate Subcommittee on Immigration, holds the oversight hearings he has announced regarding the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the issue will be satisfactorily resolved.

In summary, the CGFNS has no expertise nor experience to proceed in the manner they intend, much less the authority they claim. The membership of AIHRE respectfully requests INS to inform the CGFNS accordingly.

Your immediate attention to this vital matter will be greatly appreciated by hundreds of small businesses throughout the United States. Because of the urgency of this matter I am also taking the liberty of sending a copy of this communique to various government officials responsible for Section 343 including numerous members of the United States Senate and House of Representatives who are working with their respective constituents to resolve the flaws in Section 343.

Respectfully yours,



Albert A. Fox, Jr.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

**1615 L STREET, NW
WASHINGTON, DC 20036-3684**

**WASHINGTON, DC 20036-3684
FACSIMILE (202) 522-7220**

WRITER'S DIRECT DIAL NUMBER

202-223-7336

WRITER'S DIRECT E-MAIL ADDRESS

champs@paulweiss.com

**1225 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-0004
TELEPHONE (212) 875-0000
FACSIMILE (212) 875-0000**

**85 RUE DU FAUCONNEUR SAINT-MONORE
TOUR PARIS, FRANCE
TELEPHONE (06 11 89 79 14 14
FACSIMILE (06 11 89 45 44 92**

**PUNYU DENRI SUN RING
2-C WENSAI WAIHING 2-CHONG
CHONGKAI, TOKYO 100, JAPAN
TELEPHONE (81-3) 2557-8101
FACSIMILE (81-3) 2557-8120**

**SUITE 1910 SCITECH TOWER
22 JIANQUONENWAI DAIJE
BEIJING, 10000
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6512-8638-44
FACSIMILE (86-10) 6512-8631**

**12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2536-9954
FACSIMILE (852) 2536-9064**

August 18, 1997

Via Facsimile and U.S. Mail

**Paul W. Virtue
Acting Executive Associate Commissioner,
Programs
Immigration & Naturalization Service
425 Eye Street, N.W.
Washington, DC 20536**

RE: Section 343 of the IIRIRA of 1996

Dear Mr. Virtue:

As counsel to the Commission on Graduates of Foreign Nursing Schools ("CGFNS"), I am writing to inform you of the intention of CGFNS to initiate its statutory role to screen and certify foreign health care workers under section 212(a)(5)(C) of the Immigration and Nationality Act, effective August 25, 1997.

As you are aware, section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added a new provision to § 212(a)(5) which specifically designated CGFNS to verify (and if appropriate, to certify) that a foreign health care worker: (1) possesses appropriate, comparable and authentic education, training, licensure, and experience; (2) has a level of competence in oral and written English that is appropriate for health care work of the kind in which the alien will be engaged, and (3) if applicable, has passed an appropriate licensing predictor test or licensing examination.

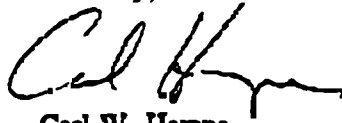
Pursuant to the authority granted to it by section 343, CGFNS will begin accepting certification applications on August 25, 1997, and will make determinations on these applications (and where appropriate, issue certifications) in a timely manner thereafter.

PAUL. WEISS. RIFKIND. WHARTON & CARRISON
Paul W. Virnie

2

Please do not hesitate to contact me if I may provide you with any further information.

Sincerely,



Carl W. Hampe

cc: Ms. Jackie Bednarz
Mr. John Brown
Mr. Stephen K. Fischel
Mr. Lyman Van Nostrand
Mr. Stephen G. Tise
Mr. Bernard Ascher

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Re: Foreign Health Care Meeting (partial, DOB, SSN) (1 page)	00/00/0000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17174

FOLDER TITLE:

Cabinet Weekly Reports: Immigration Labor/Foreign Health Care Workers [3]

2017-1120-S
ry2218

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

180
The Foreign Health Care Meeting will be held in room 211 OEOB

Hosted by Jose Cerda III

Contact: Essence Washington 6-7732

Time: 11:00 a.m

Date: Sept 25th

John Frasier - Labor

DOB (b)(6)

SS (b)(6)

Dana Hyde - DOJ

DOB (b)(6)

SS (b)(6)

[001]

Marcia Eugenio - Labor

DOB (b)(6)

SS (b)(6)

Irene Bueno - HHS

DOB (b)(6)

SS (b)(6)

Jackie Bednarz - INS

DOB (b)(6)

SS (b)(6)

Michael Koplosky - USTR

DOB (b)(6)

SS (b)(6)

Allyson Senie - NAFTA

DOB (b)(6)

SS (b)(6)

Geri Wood - NAFTA

DOB (b)(6)

SS (b)(6)

Richard O'Brien - State

DOB (b)(6)

SS (b)(6)

Edward Odom - State

DOB (b)(6)

SS (b)(6)

John Lynch - DOJ

DOB (b)(6)

SS (b)(6)

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. list	Re: Foreign Health Care Meeting (partial, DOB, SSN) (1 page)	00/00/0000	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17174

FOLDER TITLE:

Cabinet Weekly Reports: Immigration Labor/Foreign Health Care Workers [3]

2017-1120-S

ry2218

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

*

The Foreign Health Care Meeting will be held in room 211 OEOB

Hosted by Jose Cerda III

Contact: Essence Washington 6-7732

Time: 11:00 a.m

Date: Sept 25th

John Frasier - Labor

DOB (b)(6)

SS (b)(6)

Marcia Eugenio - Labor

DOB (b)(6)

SS (b)(6)

Irene Bueno - HHS

DOB (b)(6)

SS (b)(6)

Jackie Bednarz - INS

DOB (b)(6)

SS (b)(6)

Michael Koplosky - USTR

DOB (b)(6)

SS (b)(6)

Allyson Senie - NAFTA

DOB (b)(6)

SS (b)(6)

Geri Wood - NAFTA

DOB (b)(6)

SS (b)(6)

Richard O'Brien - State

DOB (b)(6)

SS (b)(6)

Edward Odom - State

DOB (b)(6)

SS (b)(6)

John Lynch - DOJ

DOB (b)(6)

SS (b)(6)

Dana Hyde - DOJ

DOB (b)(6)

SS (b)(6)

John Brown - INS

DOB (b)(6)

SS (b)(6)

Stephen Fischel - State

DOB (b)(6)

SS (b)(6)

50023

FACSIMILE TRANSMISSION SHEET

TOTAL = PAGES

TO: LEANNE S.
DOMESTIC POLICY COUNCIL
FAX @ 456-7028

FR: JACKIE BEDNARZ ^{JAB}
INS
TEL. 842-9248

RE: BACKGROUND MAT'L. --CERTIFICATION OF
FOREIGN HEALTH CARE WORKERS.

DATE: 24 SEPTEMBER 1997

Leanne-

Attached are several documents which should give you a flavor for the dynamics associated with implementation of this provision, section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The basic sets of issues, in my view:

- > effect of the statutory provision on int'l. trade agreements;
- > effect of statutory provision on competitive playing field for independent credentialling entities in competition with CGFNS; and
- > effect of delay in implementation on quality and availability of healthcare in the United States.

The documents I send include:

- > the one-page backgrounder sent to Steve Warneth in Jan. 1997;
- > copy of the statutory provision and pertinent conference report language;
- > selection of letters to INS from Members of Congress and the Ambassador of Canada;
- > recent correspondence from counsel to CGFNS to INS and outside views.

I look forward to the discussion tomorrow.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

Washington, D.C. 20503

September 24, 1997

Personal

The Honorable Franklin D. Raines
Director, Office of Management
and Budget
Old Executive Office Building
Washington, D.C. 20503

Dear Mr. Raines:

The 1997 National Drug Control Strategy commits the President to developing a Performance Measurement System that introduces much needed accountability and management oversight in the Federal government's effort to combat the drug problem. Performance measurement requires the establishment of long-term goals and measurable objectives to set the course of drug policy and to measure our progress along the way. Further, ONDCP is required by law to do this.

Any reasonable Performance Measurement System requires specificity about outcomes. In our case, these outcomes are reducing drug use, availability, and drug use consequences. Offering non-specific, notional targets as suggested by your staff will not satisfy our critics, will not meet the intent of law, and will not allow for efficient and cost-effective use of resources. Our Performance Measurement System proposes targets that are research-based, realistic, and achievable within the next decade. Obtaining resources for the Strategy and the outcomes it seeks will occur as we work together to formulate the President's five-year drug control budget. Consensus on desirable end states must precede any discussion of funding issues.

Our report on Performance Measurement is due to Congress this month. A draft report is under review within the Administration. It presents a system of targets and measures that identify outcomes for the President's Drug Strategy and performance targets for the fifty-plus federal agency programs. So far, it encompasses over 100 targets that form a system that provides program accountability that has been lacking in the Federal drug control effort. OMB's Deputy Director for Management, Mr. Koskinen, was briefed on Performance Measurement on more than one occasion. He viewed it as a promising example of interagency coordination at a time when the General Accounting Office has been criticizing the Administration for lack of coordination in various program areas. Need your help to complete the review of the report so it can be forwarded to Congress.

Look forward to our continuing partnership in formulating the President's drug program and five-year budget.

Best wishes,

Barry R. McCaffrey
Director

V/R
Performance Measurement System on track. It was created by an interagency process and is achievable. The tactics and required resources are the next step.

Heath nancy

4 pm

today

Consistent
w/ prior

res. minor



10:40:58 AM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc:

Subject: LRM #IMS227 - LABOR Report on HR2759 Health Professional Shortage Area Nursing Relief Act of 1997

Please give me a call about this. Thanks.

----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on 02/02/98 10:46 AM -----

INGRID M. SCHROEDER

02/02/98 10:25:27 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: James J. Jukes/OMB/EOP, Darlene O. Gaymon/OMB/EOP

Subject: LRM #IMS227 - LABOR Report on HR2759 Health Professional Shortage Area Nursing Relief Act of 1997

Total Pages: _____

LRM ID: IMS227

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, February 2, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference

OMB CONTACT: Ingrid M. Schroeder

PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: **LABOR Report on HR2759 Health Professional Shortage Area Nursing Relief Act of 1997**

DEADLINE: 4pm Monday, February 2, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title**

XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Labor advises that HR 2759 is scheduled for subcommittee markup on February 4th. HHS and Labor previously testified in opposition to HR 2759 on November 5, 1997 before the House immigration subcommittee.

DISTRIBUTION LIST

AGENCIES:

52-HHS - Sondra S. Wallace - (202) 690-7760
61-JUSTICE - Andrew Fois - (202) 514-2141
114-STATE - Paul Rademacher - (202) 647-4463
129-VETERANS AFFAIRS - Robert Coy - (202) 273-6666
128-US Trade Representative - Fred Montgomery - (202) 395-3475
76-National Economic Council - Sonyia Matthews - (202) 456-6630
18-Council of Economic Advisers - Liaison Officer - (202) 395-5084

EOP:

Debra J. Bond
Steven M. Mertens
Gordon P. Agress
Richard J. Turman
Evan T. Farley
Joseph G. Pipan
Nancy E. Schwartz
Julie A. Fernandes
Leanne A. Shimabukuro
Jose Cerda III
WARNATH_S
Maria J. Hanratty
Emil E. Parker
Peter G. Jacoby

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

We are writing to again express the Department of Labor's strong opposition to H.R. 2759, the "Health Professional Shortage Area Nursing Relief Act," which is scheduled for markup by your Subcommittee on February 4. This legislation would establish a new temporary foreign nurses

program under the Immigration and Nationality Act (INA). For the reasons set out below, the Department believes such a new temporary foreign nurses program is neither necessary nor advisable. We urge that you not report the bill.

First, there is no national shortage of nurses. As you heard at your November 5, 1997, hearing, the Department of Health and Human Services -- which offers the best information currently available -- indicates that there is no national shortage of registered nurses. This has been the case for some time. In addition, the Immigration Nursing Relief Advisory Committee -- in its 1995 report -- unanimously agreed that there was no national nursing shortage and that the H-1A program should not be continued or extended in its current form.

Second, employers facing specialty or locality shortages in the nursing profession already have several means of access to foreign nurses. To meet any such shortages, current law already allows foreign nurses to enter and work in the U.S. under four separate existing programs. These include as permanent employment-based immigrants, as temporary workers under the temporary entry provisions of the North American Free Trade Agreement, as temporary workers under the H-1B provisions of the INA if the job requires a bachelor's degree (or equivalent), and as temporary workers under the H-2B provisions of the INA if the job itself is "temporary" (less than one year) in duration. Immigration should not be our principal public policy response to temporary labor shortages. And in light of the existing array of programs that already allow access to foreign nurses, there is simply no justification for the establishment of yet another program intended to serve a narrow, special interest.

Third, the Department believes that special legislation of this type is not appropriate. Such a narrowly drawn new program to address a "perceived" local shortage in the nursing profession can only make our immigration law more complex and confusing. Moreover, new temporary nonimmigrant programs almost inevitably become feeder programs for permanent residency.

Finally, there are two other serious concerns about this legislation. One involves the inadequacy of the worker protections it affords. The other is with the costs which would be incurred by this Department to administer the proposed new temporary foreign nurses program.

The bill does not provide adequate protection of U.S. and temporary foreign nurses. For example, there is nothing in the bill that requires the prospective employer to show that it is, in fact, unable to recruit sufficient U.S. nurses under competitive terms and conditions of employment to meet its staffing needs. A provision addressing this important issue existed in the now-expired H-1A nonimmigrant nurses program. Further, there is nothing in the bill that protects temporary foreign nurses from having to pay the employer's legitimate business expenses, such as a "recruitment fee" in their home country, or the payment of such fees to unscrupulous foreign recruiters through deductions from the foreign nurses' U.S. wages. These were common practices under the defunct H-1A program.

We estimate the cost of initiating and implementing this program, including program operations for the first year, to be \$350,000. The cost of administering the program in subsequent years is estimated to be \$150,000 per year. We disagree with establishing a special program that benefits certain employers while passing along the program's administrative costs to the U.S. taxpayer.

In summary, the Department of Labor firmly believes a new temporary foreign nurses program is unnecessary and inadvisable. The need for such a special foreign nurses program has been considered and rejected on several recent occasions in the House and the Department strongly urges that your Subcommittee reject H.R. 2759 as well.

We believe the first step that needs to be taken to address any current local shortage of nurses is to make the unfilled job opportunities more attractive for domestic workers, such as through increased salaries and benefits, improved work schedule flexibility, and enhanced training and educational opportunities. And where these steps fail, the other mechanisms which we have already described as available in existing law can be used to meet staffing needs. There is simply no justification for yet another temporary foreign nurses program.

We appreciate your Subcommittee's consideration of our views.

Sincerely,

Raymond J. Uhalde
Acting Assistant Secretary
Employment and Training Administration

Bernard E. Anderson
Assistant Secretary
Standards Administration

Employment

Message Sent To:

Debra J. Bond/OMB/EOP
Steven M. Mertens/OMB/EOP
Gordon P. Agress/OMB/EOP
Richard J. Turman/OMB/EOP
Evan T. Farley/OMB/EOP
Joseph G. Pipan/OMB/EOP
Nancy E. Schwartz/OMB/EOP
Julie A. Fernandes/OPD/EOP
Leanne A. Shimabukuro/OPD/EOP
Jose Cerda III/OPD/EOP
WARNATH_S @ A1@CD@LNGTWY
Maria J. Hanratty/CEA/EOP
Emil E. Parker/OPD/EOP
Peter G. Jacoby/WHO/EOP
swallace @ os.dhhs.gov @inet
lrm @ os.dhhs.gov @ inet
1 = US@2 = TELEMAIL@5 = JMD@7 = Deborah@6 = CLIFTON@mr@lngtwy
jonesgre @ justice.usdoj.gov@inet
valrm @ mail.va.gov @ inet

**TABLE 39. NONIMMIGRANTS ADMITTED BY CLASS OF ADMISSION
SELECTED FISCAL YEARS 1981-96**

Class of admission ¹	1981	1985	1990	1993 ²	1994	1995	1996
All classes ³	11,756,903	9,539,880	17,574,055	21,566,404	22,118,706	22,640,539	24,842,503
Foreign government officials and families	84,710	90,190	96,689	102,121	105,299	103,606	118,157
Ambassadors, public ministers, career diplomatic or consular officers (A1)	NA	21,168	22,018	23,783	24,237	23,259	25,354
Other foreign government officials or employees (A2)	NA	67,084	72,511	76,393	79,143	78,299	90,765
Attendants, servants, or personal employees of A1 and A2 classes (A3)	NA	1,938	2,160	1,945	1,919	2,048	2,038
Temporary visitors	10,650,592	8,405,409	16,079,666	19,879,443	20,318,933	20,886,867	22,880,270
For business (B1)	1,135,422	1,796,819	2,661,338	2,961,092	3,164,099	3,275,334	3,770,326
Visa Waiver, business	X	X	294,065	640,397	786,739	942,538	1,370,452
For pleasure (B2)	9,515,170	6,608,590	13,418,328	16,918,351	17,154,834	17,611,533	19,109,944
Visa Waiver, pleasure	X	X	4,528,112	8,624,006	8,969,404	9,407,254	11,192,978
Transit aliens	214,218	236,537	306,156	331,208	330,936	320,333	325,538
Aliens in transit (C1)	NA	138,957	153,801	173,149	175,285	168,602	170,219
Aliens in transit to the U.N. (C2)	NA	1,804	1,296	796	875	903	1,368
Foreign government officials and families in transit (C3)	NA	7,010	6,190	7,923	8,359	9,099	11,285
Transit without visa (C4)	NA	88,766	144,869	149,340	146,417	141,729	142,666
Treaty traders and investors and families	80,802	96,489	147,536	144,644	141,030	131,777	138,568
Treaty traders (E1)	NA	65,406	78,658	65,362	60,196	53,557	54,289
Treaty investors (E2)	NA	31,083	68,878	79,282	80,834	78,220	84,279
Students	240,805	257,069	326,264	370,620	394,001	364,220	426,903
Academic students (F1)	NA	251,234	319,467	362,700	386,157	356,585	418,117
Vocational students (M1)	NA	5,835	6,797	7,920	7,844	7,635	8,786
Spouses and children of students	31,056	28,427	28,943	32,652	33,720	31,260	32,485
Academic students (F2)	NA	27,747	28,490	32,103	33,071	30,849	31,978
Vocational students (M2)	NA	680	453	549	649	411	507
Representatives (and families) to international organizations	54,223	57,203	61,449	72,755	74,722	71,982	79,528
Principals of recognized foreign governments (G1)	NA	8,316	8,256	9,032	9,662	9,319	10,563
Other representatives of recognized foreign governments (G2)	NA	6,989	8,110	8,962	9,344	9,497	13,455
Representatives of nonrecognized foreign governments (G3)	NA	271	376	362	352	290	407
International organization officers or employees (G4)	NA	40,397	43,104	52,856	53,768	51,410	53,656
Attendants, servants, or personal employees of representatives (G5)	NA	1,230	1,603	1,543	1,596	1,466	1,447
Temporary workers and trainees ⁴	44,770	74,869	139,587	162,976	185,988	196,760	227,440
Registered nurses (H1A) ⁵	X	X	X	6,506	6,106	6,512	2,046
Specialty occupations (H1B) ⁶	NA	47,322	100,446	92,795	105,899	117,574	144,458
Performing services unavailable in the United States (H2)	NA	24,544	35,973	29,475	28,872	25,587	23,980
Agricultural workers (H2A)	X	X	18,219	14,628	13,185	11,394	9,635
Nonagricultural workers (H2B)	X	X	17,754	14,847	15,687	14,193	14,345
Industrial trainees (H3)	NA	3,003	3,168	3,126	3,075	2,787	2,986
Workers with extraordinary ability/achievement (O1) ⁷	X	X	X	3,105	5,029	5,974	7,177
Workers accompanying and assisting in performance of O1 workers (O2) ⁷	X	X	X	964	1,455	1,813	2,112
Internationally recognized athletes or entertainers (P1) ⁷	X	X	X	17,109	22,500	22,397	25,968

See footnotes at end of table.

**TABLE 39. NONIMMIGRANTS ADMITTED BY CLASS OF ADMISSION
SELECTED FISCAL YEARS 1981-96—Continued**

Class of admission ¹	1981	1985	1990	1993 ²	1994	1995	1996
Artists or entertainers in reciprocal exchange programs (P2) ³	X	X	X	422	613	660	1,727
Artists or entertainers in culturally unique programs (P3) ³	X	X	X	4,036	4,942	5,315	5,938
Workers in international cultural exchange programs (Q1) ³	X	X	X	994	1,546	1,399	2,056
Workers in religious occupations (R1) ³	X	X	X	4,444	5,951	6,742	8,992
Spouses and children of temporary workers and trainees ⁴	10,110	12,632	28,687	39,704	43,207	46,380	53,572
Spouses and children of H1, H2, and H3 workers (H4)	10,110	12,632	28,687	37,833	40,490	43,247	50,106
Spouses and children of O1 and O2 workers (O3) ⁵	X	X	X	322	549	751	877
Spouses and children of P1, P2, and P3 workers (P4) ⁵	X	X	X	498	562	592	667
Spouses and children of R1 workers (R2) ⁵	X	X	X	1,051	1,606	1,790	1,922
Representatives (and families) of foreign information media (I1)	16,708	16,753	20,252	21,032	27,691	24,220	33,596
Exchange visitors (J1)	80,230	110,942	174,247	196,782	216,610	201,095	215,475
Spouses and children of exchange visitors (J2)	27,793	30,271	40,397	42,623	42,561	39,269	41,250
Fiancées of U.S. citizens (K1)	5,456	6,975	6,545	8,541	8,124	7,793	9,011
Children of fiancées of U.S. citizens (K2)	742	832	673	816	764	768	1,012
Intracompany transferees (L1)	38,595	65,349	63,180	82,606	98,189	112,124	140,457
Spouses and children of intracompany transferees (L2)	26,449	41,533	39,375	49,537	56,048	61,621	73,305
NATO officials and families (N1-7)	7,124	8,323	8,333	8,902	9,135	8,579	10,945
Professional workers, U.S.-Canada Free-Trade Agreement (TC) ⁶	X	X	5,293	16,610	5,031	X	X
Spouses and children of U.S.-Canada Free-Trade Agreement workers (TB) ⁶	X	X	594	2,386	498	X	X
Professional workers, North American Free-Trade Agreement (TN) ⁶	X	X	X	X	19,806	23,904	26,987
Spouses and children of North American Free-Trade Agreement workers (TD) ⁶	X	X	X	X	5,535	7,202	7,694
Unknown	142,520	77	189	446	878	779	310

¹ See Glossary for detailed descriptions of classes of admission.

² Data for fiscal year 1993 differ from data published in previous *Yearbooks* due to corrections in the underreporting of student entries and more minor adjustments to entries for other classes of nonimmigrant admission. See Nonimmigrant section of text.

³ Excludes classes of admission processed in the Nonimmigrant Information System in the following years: for all countries—1985 - 64,487 parolees (R1-3), 3,239 withdrawals (R4) and stowaways (R5), and 68,044 refugees (RF); 1990 - 90,265 parolees (R1-3), 19,984 withdrawals (R4) and stowaways (R5), and 110,197 refugees (RF); 1993 - 123,628 parolees, 26,435 withdrawals (WD) and stowaways (ST), and 113,152 refugees (RE); 1994 - 111,403 parolees, 22,461 withdrawals (WD) and stowaways (ST), and 114,471 refugees (RE); 1995 - 113,542 parolees, 21,567 withdrawals (WD) and stowaways (ST), and 95,576 refugees (RE); 1996 - 133,504 parolees, 17,653 withdrawals (WD) and stowaways (ST), and 66,966 refugees (RE).

⁴ Excludes admissions under the U.S.-Canada Free-Trade Agreement and the North American Free-Trade Agreement (shown separately).

⁵ Admissions began October 1, 1990 (fiscal year 1991).

⁶ Prior to October 1, 1991 (fiscal year 1992), H1B admissions were termed "Distinguished merit or ability."

⁷ Admissions began in April 1992.

⁸ Admissions under the U.S.-Canada Free-Trade Agreement began January 1989 and ended December 31, 1993. Admissions under the North American Free-Trade Agreement began January 1, 1994.

NOTE: "Family," "immediate family," and "spouse and children" are defined as spouse and unmarried minor (or dependent) children.

NA Not available. X Not applicable.