



November 10, 2021

The Honorable Antony Blinken
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Blinken,

As you know, the COVID-19 pandemic has deeply challenged the entire health care continuum, but long-term and post-acute care providers have been hardest hit. We have received feedback from many of our providers – who care for millions of Americans who are frail, elderly, or disabled – that they are deeply concerned about their inability to find a workforce to care for residents and patients in their facilities. Indeed, the long-term and post-acute care sectors are now facing a workforce crisis. We write today to request the Department of State (DOS) take specific actions to resolve this workforce crisis so that our nation’s elderly and individuals with disabilities receive the quality care they deserve.

As you are well aware, the healthcare industry had a significant nursing shortage even before the Covid-19 pandemic. The nursing shortage is now at its most critical stage as stress and burn-out has led some to leave the nursing field. An August 25, 2021, *Wall Street Journal* article¹ described just how bad the labor crisis is for the long term care (LTC) industry. The article specifically noted that nursing homes and residential care facilities employed three million people in July 2021, down by 380,000 workers from February 2020, according to the Bureau of Labor Statistics. That’s over a 12% drop in less than 18 months.

Because nurses are leaving the field and there’s not enough nurses entering the field, the shortage is not only critical now but will remain critical beyond Covid-19 unless immediate and significant actions are taken. In short, this is not just a temporary problem that will solve itself when Covid-19 numbers drop and things return to “normal”.

The LTC industry has taken measures to try to solve this crisis with an “all of the above” strategy, doing all they can to recruit and retain workers. Some examples include, but are not limited to,

¹ WSJ: [Nursing Homes Keep Losing Workers](#) (8/25/21).

sign-on bonuses, wage increases, bonuses when someone fills a shift, calling staff who have left to entice them to come back, referral bonuses paid to staff for each employee they recruit, gift cards, free meals to staff, tuition reimbursement, PTO, flexible scheduling, additional training and education opportunities and using agency staff to supplement.

In addition to the extensive efforts to recruit and retain *domestic* nurses, the LTC industry has incorporated international nurse recruitment into the overall strategy. However, immigrant visa processing is incredibly backlogged due to COVID-19 and reduced staffing at U.S. embassies and consulates, and many of the healthcare professionals with offers from U.S. LTC facilities with approved immigrant petitions have been waiting for many months, in some cases more than a year, for a visa interview appointment.

Just as the industry is taking an “all of the above” strategy, we urge the Department of State to swiftly do the same in taking a variety of measures to expedite the interview process so international nurses can enter the U.S. and help LTC providers provide quality care for the most vulnerable Americans. While the Department of Labor has long-recognized nursing as a shortage occupation and the Department of Homeland Security, U.S. Citizenship and Immigration Services division, allows premium processing for most immigrant petitions at their Service Centers, the bottleneck for nurse petitions occurs at the Department of State stage. Thus, below are a few strategies we ask the Department to implement in addition to any other creative solutions the DOS may have:

- Prioritize immigrant visas for nurses: We were pleased to see the Department’s recent announcement that “U.S. embassies and consulates were instructed that they may prioritize as emergencies on a case-by-case basis the immigrant visa cases of certain healthcare professionals who will work at a facility engaged in pandemic response.”² However, we have heard from providers that unfortunately the policy has not had the intended impact. Consulates are still refusing “expedite” requests even after the DOS announcement. This may be in part due to the discretionary nature of the policy: embassies and consulates are viewing the policy as giving them “permission” to prioritize (“may” prioritize) but not “urging” them to prioritize. Also, because the policy is a “case-by-case basis” consideration rather than a policy for ALL nurse immigrant petitions, there has been much inconsistency from the consulates even when data was provided of a facilities’ nursing crisis and efforts with Covid-19. Thus, we ask that the Department ensure U.S. embassies and consulates truly prioritize immigrant visas for nurses.

This is critical now, more than ever, because of the critical need for nurses and the possibility of visa retrogression. Due to the hundreds of thousands of Adjustment of Status filings within the U.S. last year, the allotted immigrant visa numbers are quickly being consumed by those applicants who were already in the U.S. on temporary work visas. As result, registered nurses, not eligible for an H-1b or other nonimmigrant visa, are being disadvantaged and bypassed at a time when visa numbers are available. Thus, nurses could face even longer delays if the DOS does not act now while visa numbers are available.

² Immigrant Visa Prioritization, <https://travel.state.gov/content/travel/en/News/visas-news/immigrant-visa-prioritization.html>, last updated September 13, 2021.

- Allow waiver of the immigrant visa interview: We also request the Department expand its visa interview waiver program to include nurses, a very low-risk applicant group. Such expansion would not be without precedent: the DOS has allowed for interview waivers in the context of certain nonimmigrant visa **renewals** and this year expanded the nonimmigrant waivers not only for renewals but also some “first-time” visa applicants.”³ A similar policy should apply to nurses. Most of the eligibility for nurses has already been established *before* an interview, therefore, making the interview more form than substance. Specifically, before the case reaches the DOS, the U.S. Citizenship and Immigration Services has approved the immigrant petition from the U.S. sponsoring employer ensuring a full-time, permanent job, the employer’s ability to pay the wages, and the nurses qualifications including a nursing degree and passing score on NCLEX nursing exam. Before the case reaches the consulate for an interview, the National Visa Center has already reviewed the nurse’s civil documents including police clearance, etc. Therefore, by the time the nurse appears before the consular officer the applicant has been vetted, as opposed to many nonimmigrant visa categories where applicants bring the documents to the consulate for the first time on the day of their visa appointment.

Instead of appearing at an in-person visa appointment, the DOS can implement a process for the consulate to complete the background check and review the documents visible to the consulate in their shared database. Then only if a consular officer has concerns about apparent or possible ineligibility, an in-person visa interview should be conducted for that nurse, but waiving immigrant visa appointments for nurses should be the default approach until at least the immigrant visa backlog is cleared.

- Expand in-person interviews to allow for “virtual interviews”: Virtual interviews are used widely in other contexts including, but not limited to, immigration removal hearings and hearings across other agencies like the Social Security Administration.⁴ The DOS can allow the applicant to mail in the passport for visa issuance.

The waiver of interviews and/or expansion of in-person interviews to virtual/video conferencing is particularly important for cases pending at the U.S. Embassy in Manila, the Philippines, where most foreign nurses apply for their immigrant visas and where immigrant visa processing has been significantly stalled for the past 2 years. The data below, derived from the DOS, shows the significant drop off in processing.

³On September 14, 2021, DOS extended nonimmigrant visa interview waivers to “first-time F, M, and academic J visa applicants who are citizens or nationals of a country that participates in the Visa Waiver Program (VWP), provided they have no apparent ineligibility or potential

See Important Announcement on F, M, and Academic J Visas, <https://travel.state.gov/content/travel/en/News/visas-news/important-announcement-on-F-M-and-academic-J-Visas.html>, last updated September 14, 2021.

⁴ When the Social Security Administration issued a rule two years ago regarding the manner of hearings, it noted that hearing/interviews conducted virtually by video technology or by telephone are “in widespread use in other types of adjudications” and that advances in video technology allows adjudicators to “hear, see, and interact with the parties to a hearing as effectively through VTC as they would during an in-person appearance.” See 84 FR 69298 and also https://www.ssa.gov/appeals/hearing_video.html.

POST	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Philippines: Manila	33,622	35,239	34,617	30,612	35,429	33,890	29,195	30,879	25,770	8,982

More importantly, the significant drop in immigrant processing at Manila has been most detrimental on nurse cases. At all times, Manila, like most embassies and consulates, dedicate the vast majority of time and resources to family-based, rather than employment-based, immigrant visas. Yet, the data from the DOS, depicted in the chart below, shows the volume of employment-based immigrant visa applicants for Manila almost tripled from Fiscal Year 2020 to Fiscal Year 2021.⁵

DATE FISCAL YEAR	TOTAL EMPLOYMENT BASED IMMIGRANT VISA VOLUME AT NVC	TOTAL EB3 IMMIGRANT VISA VOLUME WORLDWIDE	TOTAL EB3 IMMIGRANT VISA VOLUME TARGETED FOR MANILA
November 2020 FY 2021	215,596	116,755	32,490 (45% of all EB3 applicants worldwide)
November 2019 FY 2020	125,988	43,725	11,956 (27% of all EB3 applicants worldwide)

Our nation’s elderly, frail, and disabled citizens deserve to have the highest-quality care possible. We urge you to join the LTC industry in taking an “all the above” approach to meet the patient needs. As such, we respectfully request you to implement as soon as possible these recommendations to expedite the interviews for qualified international nurses who have approved petitions from the U.S. Citizenship and Immigration Services but stalled at the DOS stage.

Thank you for your attention to this matter.

Sincerely,



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American Health Care Association



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Don Shulman
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⁵ Data extracted from the Annual Report of Immigrant Visa Applicants in Family-sponsored and Employment-based Preferences Registered at the National Visa Center, (annual report for fiscal years 2012 to fiscal year 2021, issued by the Department of State).



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