



A Union of Professionals

Position Statement on Recruitment and Rights of Foreign Nurses

Research has clearly linked adequate nurse staffing with positive patient outcomes and reduced medical errors. Unfortunately, there is a serious shortage of registered nurses in the United States who are willing to work in acute care settings. The American Hospital Association reports a national vacancy rate of at least 11% and all indications are that things will get worse. The United States is only one of many countries experiencing a perceived shortage of nurses. A recent survey of developed countries found that 77% are experiencing a shortage of nurses and nearly all are looking abroad to fill the gap.ⁱ

The problem in the U.S. is not limited to hospitals and it is not limited to nurses. Hospitals have double-digit vacancy rates for pharmacists, X-ray technicians, laboratory technologists, and housekeeping and maintenance staff. Long-term care facilities and home health agencies are experiencing difficulties recruiting nurses, therapists and aides. However, the most pressing problem for all healthcare employers, especially hospitals, remains the inability to recruit and hire more nurses.

Looking for a short-term fix, many U.S. employers have turned to foreign nurses to fill the ever-widening staffing gap. More than 23,000 non-U.S. citizens took the national registered nurse exam in 2002 – one indication of the number of foreign nurses recruited to begin practicing in the United States every year. Most of these nurses came from the Philippines, India, Canada, Nigeria, Korea, the United Kingdom and the Commonwealth of States (formerly the U.S.S.R.).ⁱⁱ

The recruitment of foreign nurses by the United States and other developed countries has grown to such proportions that it is affecting the sustainability of entire health systems in some developing countries, depriving them of knowledge, skills and expertise – often at the expense of governments that have paid for the education of these nurses.

Undeveloped and developing countries are experiencing shortages of their own. For example, 29 of the 46 African countries are classified as the least developed on the globe.ⁱⁱⁱ HIV/AIDS is pandemic and civil conflict and wars affect many countries, interrupting health services and adding to an already overwhelmed healthcare system. Overcrowding and poor living conditions are some of the challenges to providing basic services that promote health. Nutrition is poor and rates of communicable diseases are the highest on earth. Yet, nurses are being lured from their homes to promises of better working conditions and increased salaries. One African country, Ghana, lost 500 nurses in 2001 – more than double the number of its new nurse graduates.^{iv}

Southeast Asia has 40 percent of the world's maternal deaths, 41 percent of the world's deaths due to infectious diseases, 38 percent of the world's tuberculosis cases and 25 percent of the world's HIV cases.^v The foremost

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challenge in the region is a continuing shortage and misdistribution of nurses. Sri Lanka has a 50 percent shortage of nurses;^{vi} India's current nurse-patient ratios are one nurse for 30-100 patients;^{vii} and Vietnam has lost more than half its nursing workforce in just a few years.^{viii}

International movement by healthcare workers is sometimes referred to as "brain drain," particularly when it means that experienced healthcare professionals are moving from developing and transitional countries to developed countries. The damage that large-scale depletion of healthcare workers can do to the economy and social fabric of sending countries is often enormous.

However, in some ways, the outward movement of nurses may benefit their home country's economy. Oftentimes, foreign nurses who are recruited to work in the United States send a portion of their earnings back to family members who remain in the home country. The Philippines, for example, educates more nurses than it needs. The surplus is recruited by developed countries and the nurses continue to support their families at home. These remittances are a large source of revenue in many countries like the Philippines. Estimates by the World Health Organization put the total amount of remittances from healthcare workers at \$70 billion in 1995 – up 62% from 1980.

Nurses who have emigrated from other countries have contributed greatly to the nursing profession in the United States, advocating tirelessly for their patients and their profession. Unfortunately, some employers take advantage of or abuse foreign healthcare professionals who are often afraid to contest or make formal complaints. There are documented cases of nurse smuggling rings that fraudulently obtained visas for nurses, forced the nurses to work and live in deplorable conditions and paid them substandard wages.^{ix}

There is a delicate balance between the human resource needs of developed countries such as the United States, the rights of the individual nurse to better himself/herself economically and contribute to his/her family's financial well-being and a collective concern for the strained and desperately needy health systems of the exporting nations.

AFT Healthcare believes that:

- The U.S. government and healthcare employers that hire foreign nurses from developing countries which are experiencing their own nurse shortage should provide compensation to countries from which nurses are recruited. This could include establishing training programs that would transfer technology, skills and technical and financial assistance to the country concerned.
- U.S. recruiters who seek to sign up nurses from foreign countries should be placed under intense scrutiny by the U.S. government. At the very least, these recruiters should be prohibited from aggressive recruiting that would strip entire hospitals or communities of their skilled nursing workforce. The U.S. government should establish a mechanism to ensure that recruiters abide by the ethical

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recruitment codes and principles adopted by the International Council of Nurses (ICN) so as not to exploit developing countries and their workers. Those ICN principles include:

Effective human resources planning and development: Effective planning and development strategies must be introduced, regularly reviewed and maintained to ensure a balance between supply and demand of nurse human resources. While it is essential that planning and development be undertaken at the local and national level, globalization will increasingly highlight the importance of human resources planning and development at the international level. An essential dimension of human resources development is continuing education. Nurses must be ensured access to programs that will maintain their competence and support their advancement as health professionals while maintaining a high level of knowledge, skill and commitment for the provision of quality care.

Credible nursing regulation: Nursing legislation must authorize the regulatory body to determine nurses' standards of education, competencies and standards of practice. Regulatory bodies must ensure that only individuals meeting these standards are allowed to practice as a nurse.

Access to full employment: The provision of quality care relies on the availability of nurses to meet staffing demand. Nurses in a recruiting region/country and seeking employment should be made aware of job opportunities. If necessary, health stakeholders (especially government and employers) need to explore policies that would facilitate nurses' active participation in the workforce, e.g. family-friendly environments, reinsertion programmes.

Freedom of movement: Nurses have the right to migrate if they comply with the recruiting country's immigration/work policies (e.g. work permit) and meet obligations in their home country (e.g. bonding responsibilities, tax payment). Faced with a growing multicultural patient population, establishing a multicultural provider workforce supports culture-sensitive health care provision.

Freedom from discrimination: Nurses have the right to expect fair treatment, e.g. working conditions, promotion, and continuing education. (*Note: Cases of positive discrimination need to be considered separately.*)

Good faith contracting: Nurses and employers are to be protected from false information, withholding relevant information, misleading claims and exploitation (e.g., accurate job descriptions, benefits/allocations/bonuses specified in writing, authentic educational records). Access to factual employment-related information must be guaranteed, including social or daily life information (e.g., access to accommodation, compassionate leave, sick leave). The

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concept of informed consent must be applied to all parties involved in employment contract negotiation.

Equal pay for work of equal value: There should be no discrimination between occupations/professions with the same level of responsibility, educational qualification, work experience, skill requirement, and hardship (e.g., pay, grading). Similarly there must be no discrimination between persons within the same profession with the same level of responsibility, educational qualification, experience, skill requirement, and hardship.

Access to grievance procedures: When nurses' or employers' contracted or acquired rights or benefits are threatened or violated, suitable machinery must be in place to hear grievances in a timely manner and at reasonable cost.

Safe work environment: Nurses must be protected from occupational injury and health hazards, including violence (e.g., sexual harassment) and made aware of existing workplace hazards. Effective prevention, monitoring, and reporting mechanisms must be in place. Protocols for withdrawal of services in situations of life-threatening danger to the nurse need to be established.

Effective orientation/mentoring/supervision: The provision of quality care in the current highly complex and often stressful health care environment depends on a supportive formal and informal supervisory infrastructure. Nurses have the right to expect proper orientation and on-going constructive supervision within the work environment.

Employment trial periods: Employment contracts must specify a trial period when the signing parties are free to express dissatisfaction and cancel the contract with no penalty. In the case of international migration, the responsibility for covering the cost of repatriation needs to be clearly stated.

Freedom of association: Nurses have the right to affiliate to and be represented by a professional association and/or union in order to safeguard their rights as health professionals and workers. Partnerships between the associations/unions in the recruiting and recruited countries could facilitate the exchange of timely and accurate information. They would also ensure the continuation of a supportive professional environment providing needed assistance.

Regulation of recruitment: Recruitment agencies (public and private) should be regulated and effective monitoring mechanisms introduced (e.g., cost-effectiveness, volume, success rate over time, retention rates, equalities criteria, client satisfaction). Disciplinary measures must be introduced sanctioning agencies whose practice is unethical.^x

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- Nurses and other healthcare professionals who wish to immigrate to the United States in search of a better life for themselves and their family should be allowed to do so, as long as they meet educational and professional requirements for the positions they are seeking.
- Foreign healthcare professionals who are recruited to work in U.S. healthcare facilities should be assured of basic workers' rights, including, but not limited to:
 - Job security and employment in a position that is commensurate with education, qualifications, skills and experience;
 - Freedom from discrimination;
 - Equal pay for work of equal value;
 - Access to grievance procedures;
 - Safe and sanitary work and living environments;
 - Effective and culturally appropriate orientation, mentoring and supervision;
 - Freedom of association and collective bargaining, including the right to strike, if necessary;
 - Civil rights and equal protection under the law; and
 - Professional development and education.
- All current and future legislation focused on immigration policies for nurses must include strict workplace and human rights protections for foreign-educated nurses.

ⁱ “Job discontent fuels aggressive recruitment of nurses.” *Bulletin of the World Health Organization*. 2001:79(12).

ⁱⁱ Friess, Steve. “U.S. looks abroad for nurses.” *USA Today*. August 20, 2002.

ⁱⁱⁱ WHO Regional and Global Trends in Nursing and Midwifery. World Health Organization. November 2000.

^{iv} Coates, Karen J. “Trickle-down effect.” *NurseWeek*. June 11, 2001.

^v WHO Regional and Global Trends in Nursing and Midwifery. World Health Organization. November 2000.

^{vi} Advisory Group on Management of Nursing and Midwifery Workforce. World Health Organization. June 2002

^{vii} Advisory Group on Management of Nursing and Midwifery Workforce. World Health Organization. June 2002.

^{viii} Zurn, Pascal, Mario Dal Poz, Barbara Stilwell, and Orvill Adams. *Imbalances in the health workforce*. World Health Organization. March 2002.

^{ix} Trossman, Susan. “The Global Reach of the Nursing Shortage.” *American Journal of Nursing*. March, 2002. Vol. 102:3.

^x Nurse Retention, Transfer and Migration. International Council of Nurses position statement. 1999.

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