

COMMUNITY

JOURNAL

YOUR IMMIGRATION SOLUTION



ATTY. ROBERT REEVES & JOSEPH I. ELIAS

The RN contract trap

companies) heavily recruit for RNs overseas. Foreign RNs who wish to immigrate are delighted at the opportunity the recruiters offer and are often all too eager to sign up.

While this path may be one of the easiest ways to immigrate, it is not without its pitfalls. Employment-based sponsorship means the RN will be allowed to immigrate if the RN intends to work on a permanent basis for the petitioning employer. This is a critical condition of immigrating that carries consequences if not fulfilled.

During the typical recruitment process, the RNs are promised sponsorship in exchange for working for the employer. Contracts are prepared and representations are made regarding the nature of work, type of work, place of work, working conditions and wages. Many RNs are so eager to immigrate, they do not carefully read these contractual documents, ask serious questions regarding the terms and conditions, or have the contracts reviewed by their own attorney.

In the excitement of the prospect of immigrating to the US many RNs are seduced with the notion that the dream job awaits them in the US. For some this is true, but for many, it has drastic consequences. The RNs gloss over the contracts and assume an attitude of, "I'll deal with it later."

The most common contractual clause that wreaks havoc on an immigrating RN's life is the breach of contract damages clause. Most contracts typically require the RN to work for a specific number of years and failure to do so triggers the damages clause. The damages can range from \$15,00 to \$50,000 dollars!

Many RNs signing these con-

tracts are unfamiliar with the litigious culture in the US. Some come to the US and find the working conditions and salaries they were told they would receive are not the same as represented when first recruited. Some conditions are so unbearable. For example, being placed in graveyard shifts in hospitals far from home. Or, not being placed in any hospital and collecting no salary while the sponsor tries to obtain a new client for the RNs placement. Many of these RNs then leave their employers and this is when additional tragedy strikes.

The employer begins a campaign of harassment and may sue for breach of contract and obtain a judgment against the RN for the penalty amount. The judgment typically comes with a wage garnishment order. This means the RN's new employer is required to pay a portion of the RN's wages to the sponsor to cover the judgment. Because RNs are in a licensed occupation requiring a reporting of where they work, it is very simple for the sponsor to locate the RN and exact the judgment.

But, worse than a breach of contract is the possible immigration consequence. The RN has obtained permanent residency because she stated she intends to work on a permanent basis for her sponsor. By leaving or changing employers shortly after entering the US, she has now opened the door for the Immigration Service to revoke the green card! Some employers immediately notify the Immigration Service when an RN leaves exposing the RN to possible green card revocation and deportation.

For many others, the immigration consequence comes several years later when the

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