

TAPAT SA BATAS



ATTY. RHEA V. SAMSON

Ang 245(i)

ang isang dayuhan na nag-aap-ly ng green card na wala nang status ay kailangang mag-consular processing, o kaya ang magpa-interview para sa im-migrant visa sa abroad. Ang problema sa consular process-ing ay ang pagkabit ng 3-year at 10-year bar rule. Kung ang dayuhan ay nawalan na ng sta-tus sa US ng 180 araw, siya ay hindi makakabalik ng 3 taon. Kung ang dayuhan naman ay nawalan ng status sa US ng 1 taon, siya ay hindi makakabalik ng 10 taon. Kung ang dayuhan ay may 245(i), maaari na niyang makumpleto ang green card process dito sa US, at hindi na ma-trigger pa ang 3-year o 10-year bar rule.

Ngunit mahalagang malaman na ang 245(i) ay hindi nagbibigay ng status sa isang dayuhan na nawalan na ng status, kaya't ang dayuhan ay maaari pa ring malagay sa removal o deporta-tion proceedings. Ang 245(i) ay nagpapahintulot lamang sa dayuhan na makumpleto ang green card process sa US at sa ganitong paraan ay hindi na siya mag-consular processing.

Si Attorney Rhea V. Samson ay abogado dito sa California at sa Pilipinas. Siya ay nagturo sa Ateneo De Manila University ng Essentials of Philippine Business Law, Obligations and Contracts, Corporation Law, Partnership Law at Labor Laws and Social Legislation. Siya rin ay nagkatha ng librong, "Working With Labor Laws, A Comprehensive Guide on Conditions of Employment, Employee Benefits Under Special Laws, Termination and Retirement" na inilathala ng Ateneo de Manila University Press at University of Hawaii Press. Itong libro niya ay kasalukuyang textbook sa kursong Labor Laws and Social Legislation ng Ateneo de Manila University.

Nagbibigay si Attorney Samson ng free initial consultation sa kanyang opisina, Samson Law Corporation, 3550 Wilshire Boulevard, Suite 1765, Los Angeles, CA 90010; telephone no: (213)249-1605; fax no: (213)637-5637; email address: samson@samsonlawcorp.com; website: www.samsonlawcorp.com.

(Advertising Supplement)

PROTECTING EMPLOYEE & CONSUMER RIGHTS



ATTY. CONRADO JOE SAYAS

Q: I RECENTLY tried to return to work after 10 months of disability leave. I showed my boss my doctor's certificate saying I should not do a lot of driving but I can do deskwork. Since driving was very important to my work, this means I could not go back to my old duties. I asked if I could be transferred to another position that would accommodate my restrictions. I was told that there are no other positions open and I would have to be terminated. However, our company was hiring and there are lower level positions for which I would qualify. What are my rights?

A: Your employer may have a duty to offer you the vacant lower level positions to comply with its duty to provide reasonable accommodation. California law prohibits discrimination based on disability or medical condition. An employer may not refuse to hire, train, or promote an employee based on disability. An employer may not terminate an employee or discriminate against the employee in compensation or other conditions of employment based on the employee's disability or medical condition.

Protecting disabled employees

Employer's Duty to Provide Reasonable Accommodation

If a disabled employee is unable to perform his or her old duties, the employer must engage in a timely, good faith interactive process in response to the disabled employee's request for reasonable accommodation. The employer must state the interactive process if the employee's disability becomes known or obvious.

The employer knows an employee has a disability when the employee tells the employer about the condition, or when the employer becomes aware of the condition, such as through a third party or by observation. After knowing of the employee's disability, the employer must provide a reasonable accommodation for the disabled employee.

Depending on the employee's specific restrictions and the employer's circumstances, the following are some types of reasonable accommodations that an employer may provide:

- Making facilities accessible to and usable by disabled individuals;
• Job restructuring;
• Offering part-time or modified work schedules;
• Reassigning to a vacant position;
• Acquiring or modifying equipment or devices;
• Adjusting or modifying examinations, training materials or policies;

• Providing qualified readers or interpreters; and
• "Other similar accommodations for individuals with disabilities."

Sometimes allowing the employee a temporary leave of absence may be a reasonable accommodation if, after the leave, the employee likely can resume his or her duties. Additionally, if the employee can no longer perform the former job's duties, offering a vacant position may be a reasonable accommodation, even if the position pays less than the disabled employee's former job.

The employer has the duty to find and offer suitable jobs for the employee. Simply telling the disabled employee to check available job postings in the company is not enough. As in the situation above, the employer must reassign or transfer a disabled employee to a vacant position because the employer is in a better position to know what jobs are vacant or may become vacant. Additionally, the law entitles the disabled employee to "preferential consideration" in reassignment of existing employees. However, the employer is not required to promote or create a new position in order to accommodate a disabled employee.

Employee's Duty to Cooperate in Good Faith

Throughout the interactive process, the employee has the

responsibility to cooperate in good faith with the employer, including providing information that the employer may require to explore accommodations. Typically, the employee must be able to provide the employer with a list of restrictions that must be met to accommodate the employee. The employer may take the employee's demands into consideration in determining whether a suitable opening exists.

Each employee's situation in every workplace is different from another. The specifics of each claim must be discussed with an experienced employment attorney to protect the rights of disabled employees.

C. Joe Sayas, Jr., Esq. is an experienced trial attorney who has successfully obtained significant results, including several million dollar recoveries for consumers against insurance companies and big business. He is a member of the Million Dollar-Advocates Forum—a prestigious group of trial lawyers whose membership is limited to those who have demonstrated exceptional skill, experience and excellence in advocacy. He has been featured in the cover of Los Angeles Daily Journal's Verdicts and Settlements for his professional accomplishments and recipient of numerous awards from community and media organizations. His litigation practice concentrates in the following areas: serious personal injuries, wrongful death, insurance claims, unfair business practices, wage and hour (overtime) litigation. You can visit his website at www.joesayaslaw.com or contact his office by telephone at (818) 291-0088.

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Going beyond hospitals' halls

Why not all nursing professions are clinical

JUNO CONNECTION



CHARMAINE TEODORO

NURSES fall into the trap that their profession is limited to the four corners (or wings) of a facility. It is of course not unusual for them to think this way since from the beginning, everyone from the educational sector, society, and even our culture portray a nurse as someone who directly cares for patients. They imagine nurses as individuals who assist doctors, administer dosage, serve food, and act as primary care givers to patients. Although this view of nurses is accurate, it does not paint the whole picture in terms of the career paths a nurse can take. In fact, a nurse can work in an accounting department, law firm or even a media organization. Nurses' experience in the field of healthcare, an in-demand and highly discussed sector, can be leveraged to other types of jobs that do not involve dealing with patients directly.

What is non-clinical nursing?

Non-clinical roles for nurses are positions that do not involve direct patient care. They are healthcare occupations that focus on the operational and strategic aspects of a facility. These positions can be administrative, managerial, financial or technical, to name a few. Non-clinical nurses are usually those who opt to do these things due to lack of interest in serving on the floor, or those who may be more inclined to do office-related posts but still want to be in the healthcare industry.

Job options for non-clinical nurses

Research - Nurses with advanced degrees can be hired as researchers by consulting firms, government organizations, and research institutions to study healthcare delivery solutions. They can contribute their clinical experience and deep understanding of healthcare systems and methods in a way that will make an impact on the industry or facility. With their experience, nurses are a valuable knowledge asset when it comes to providing inputs for decision making purposes of high-level healthcare executives or advocacy of large-scale policy recommendations.

Health and nursing media - Since nursing is the largest of all health industry workforces, with millions of them spread

out in different states, facilities, and regions, a cornucopia of health-related media are made for them. In a larger scale, health-related media have a continuous demand for fitness, diet, and nutrition information. As care providers in an environment where health is valued, nurses are able to convey what is needed to live a healthy life. By honing their communication skills in writing or speech, they can monetize their ability to articulate ways on how to live a healthy lifestyle and how to prevent illnesses and diseases. As experienced nurses, they can impart their knowledge on how to become an effective nurse, or their techniques on how to perform a treatment for a patient.

Blogging - The advent of blogging has allowed aspiring authors and freelance writers alike to build an audience that could potentially lead to income opportunities. Network blogs or those with hundreds of thousands of visitors hire freelance bloggers to fill their space for quality content. Like working for health and nursing media, blogging for income requires training and expertise on both the writing and technical aspect of the practice. Also, since blogging is a highly competitive industry, it is important for an aspiring professional blogger to find the right niche for their topics and posts.

Consulting - Legal nurse consultants are skilled in providing expertise on clinical matters and analyzing medical liability or clinical cases. They are providers of medical experts' testimonies. These nurses perform an influential role in the litigation process by acting as a bridge between medicine and the judiciary. Legal nurse consultants have the clinical experience as well as the specialized training to research and analyze medically related issues relevant to a legal case or claim, and interpret it in a way that will provide substantial opinion on the handling of the matter.

Patient advocacy - Nurses' experience in dealing with patients' healthcare issues makes them competent in framing the issues between the system and the people it serves. They know what's best for the patients and have also been exposed on the operational and administrative functions of care provision. This knowledge, therefore, makes them competent candidates for patient advocacy. Since they deal with them regularly and intimately, they know firsthand the challenges and opportunities that providing care presents.

Management/Administra-

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