



Qualifying for H-1B Cap-Exempt Visa for Non-Profit Nurses

Employer Eligibility:

- Must be a non-profit organization.
- Affiliated with an educational institution or a governmental research organization.

Job Offer:

- Nurse secures a job offer from a qualifying non-profit employer.
- Position should typically require a bachelor's degree or higher in nursing or a related field.
 - The nursing specialty the particular RN is hired for should require at least a bachelor's degree for all RNs in this particular specialty (i.e. - all nurses in the behavioral/psych dept. are required to have a bachelor's degree or higher).

Educational Requirements:

- Nurse must hold a Bachelor's degree or higher in nursing or a relevant field.
- Foreign degrees must be evaluated to ensure U.S. equivalency.

Licensure:

- RN must have passed the NCLEX-RN exam or hold a valid nursing license.

Labor Condition Application (LCA):

- The hospital must file an LCA with the Department of Labor. We can file LCA on their behalf.
- Ensures that the nurse will be paid prevailing wage and employment terms are fair.

H-1B Petition Application:

- Employer files Form I-129, Petition for a Nonimmigrant Worker.
- Provide evidence of nurse's qualifications and job details.

Approval and Visa Application:

- Wait for USCIS to approve the H-1B petition.
- RN receives H-1B visa at a U.S. Embassy or Consulate.

Comparison and Contrast

Cap-Exemption vs. Annual Limits:

- H-1B non-profit visas are cap-exempt, meaning they are not subject to the annual H-1B visa limit. In contrast, the typical RN immigration visa process involves EB-3 Green Card visas, which are subject to annual numerical limits and country caps, leading to potential backlogs.

Temporary vs. Permanent Residency:



- The H-1B visa is a temporary work visa, whereas the EB-3 is a path to permanent residency (green card).

H-1B Advantage:

- The advantage for facilities to have an RN on H-1B visa means that nurse can ONLY work for that facility under H-1B immigration rules. H-1B visa lasts for around 3 years but can last up to 6 or 7 years with extensions. Thus, this RN will be exclusively yours for up to 7 years possibly, whereas an RN with a Green Card already can leave whenever. After extensions are used up or after the initial 3-year period of the visa, the employer facility can choose to sponsor & make the transition of the RN getting a Green Card (EB-3).

Processing Time:

- H-1B cap-exempt visas can often be processed more quickly than EB-3 visas, especially considering the current retrogression impacting the latter. PTH's solution can provide H1B candidates in as little as 120 days.

Nature of Employment:

- H-1B requires a specialty occupation typically at a non-profit organization affiliated with education or research, while EB-3 can be for a wider range of nursing positions.

Licensure:

- Both require nursing licensure, but H-1B candidates must typically have higher educational qualifications.