



**Regulation Matters:
a CLEAR conversation**

Episode 69: Ethical International Recruitment of Foreign-Educated Healthcare Workers September 12, 2023

Line Dempsey: Welcome back to our podcast, Regulation Matters: a CLEAR conversation. Once again, I'm your host, Line Dempsey. I'm currently the chief compliance officer with Riccobene Associates Family Dentistry here in North Carolina and Virginia, and I'm also CLEAR's President for the 2022-23 membership year.

As many of you are aware, the Council on Licensure, Enforcement and Regulation, or CLEAR, is an association of individuals, agencies, and organizations that comprise the international community of professional and occupational regulation. This podcast is an opportunity for you to hear about important topics in our regulatory community.

In recent years we've heard a number of regulators discuss the need for more resources around the recruitment of health care workers. Today, we're going to focus on the recruitment of foreign health care workers into the US and an updated "Ethical Recruitment Code" from CGFNS. So joining us is Mukul Bakhshi. He is the chief global affairs officer and director of the Alliance for Ethical International Recruitment Practices for CGFNS International, Inc. We're glad to speak with you today.

Mukul Bakhshi: Thank you so much, Line; glad to be here.

Line: Well, we're certainly glad to have you with us. So I understand that the Alliance for Ethical International Recruitment Practices, which is a division of the CGFNS International, has recently released a fourth edition of the "Health Care Code for Ethical International Recruitment and Employment Practices." So, to kind of start our conversation, can you give us some of the background on the changing landscape of international recruitment as we witness it now, and addressing healthcare workforce shortage that we seem to all be dealing with through this enhanced mobility.

Mukul: Absolutely, so great question there. I would say it starts, you know, a few decades ago, with CGFNS being established. It was originally known as the Commission on Graduates of Foreign Nursing Schools. And its role was to say, you know, as nurses were coming from abroad and were not able to pass the board exams, what could be done? And so the American Nurses Association and the National

League for Nursing created CGFNS to develop a qualifying exam for nurses. Since that time CGFNS has adopted a visa screen program on behalf of the US government for nurses and other healthcare professionals that are looking to get an occupational visa to work in the United States. And most states' boards of nursing require a report from us for licensure purposes. So really, the way I summarize CGFNS is enabling foreign-educated health professionals to bring and use their experience across borders, and kind of serving regulators like state boards and others and helping them have the tools to make the right decisions.

The Alliance Division that you mentioned is kind of the flip side of that. While CGFNS has to make sure that people are qualified, we want to make sure, as they're being brought over, they're treated fairly and ethically. And so, the Alliance was created in 2008 as an independent organization. Essentially in the mid 2000s, there were lots of foreign-educated nurses coming into the US. And, as you might expect it, the wide gamut of experiences. A lot of people had very positive experiences; a significant minority had kind of problems with fees for leaving their jobs and exploitation and control of personal lives in some cases. And so, the Alliance was created to launch with the first edition of this code, which was comprised of unions, employers, regulators, all coming together and saying, 'We might have different positions on recruitment, but can we find common ground?' And that's what the first code was. And in 2014 the Alliance became a division of CGFNS. So, that's kind of the context on the organizations.

Absolutely, you're right - this is kind of unprecedented times in terms of shortages, right? We've had shortages for a long time, particularly in nursing, but other health care fields as well. And in the last couple of years, it's become much more acute.

In other countries a lot of the systems are really built on having a significant number of foreign-educated workers coming in and working. And so that is certainly an issue. And that has risen kind of the ethical recruitment questions out there, like making sure that people are treated fairly at the micro level, and that their recruitment practices are fair. And then at the macro kind of global level, making sure that, as you're recruiting people from countries that are often having developing healthcare infrastructure that we're not exacerbating brain drain problems and things of that sort.

So you know, we've had the sourcing shortage. The demographic factors were very clear before, and the pandemic has just exacerbated that with kind of issues of retention, etc. And so, the most important part, as I mentioned, is kind of this balancing act of, as we recruit internationally, making sure that we're balancing an individual's right to make the best career decisions for themselves and their families with kind of the macro issues around healthcare institutions and infrastructure.

Line: Well, that's fantastic. So, we're looking at now number 4, right? This is the fourth edition or update. What was some of the work and considerations that went into this update?

Mukul: Yeah, absolutely. I think, as with anything, you have to go back and look to see how has it worked in practice? Has the landscape shifted? And so that's kind of what happened here. We have a

5-year review. The last edition was in 2017. Obviously a lot has happened since 2017, with the pandemic particularly, around nursing shortage issues, recruitment, retention, orientation. Those have all been big issues. So really, what we did was we brought the Alliance Advisory Board, which is comprised of Union representatives, American Nurses Association, employers, etc., and said, 'How do we kind of go through this code line by line and really update it based on both our experience of what works and what doesn't and what's going on in the world?'

And so, I think one of the key things was around this kind of issue around global shortages. Before there were shortages in pockets and things of that sort, but there wasn't this kind of storage everywhere, in every context, around healthcare workers. And then another part was really understanding the need for transparency and making sure that healthcare workers are making informed decisions when choosing a recruiter or signing a contract. And so, we really try to make the code much more accessible.

I'm a lawyer, so kind of you work with a lot of lawyers trying to write things. And so, you end up getting things that aren't as accessible. So, we really try to emphasize how to make the healthcare workers' rights and responsibilities as clear as possible, especially since, for a lot of people, English is not their first language. We added a glossary as well as tidying up provisions in response to some of the questions and issues that we saw over the last couple of years.

Line: Were there any specific standards that you updated for this particular edition?

Mukul: Yeah, absolutely. In addition to that overarching editing and making things more accessible, there were very robust discussions among the different stakeholder groups on a few questions. One was right to know. One of the key issues for nurses come from abroad to America is, where are they going to work? Most contracts that people sign are really to work often anywhere in the United States. And so, we made it much more clear that a foreign-educated healthcare professional must be aware of what location they'll be working in or they have to be very clear that they're consenting to not knowing before they come to the US. Because often it can be difficult to know, but we want to make sure that people are really aware of what are the trade-offs there.

The second is the right to move freely without coercion, our section F of our code. We've had a requirement that breach fees or damages when you leave a contract early need to be prorated. So, like a cell phone early termination fee, the fee shouldn't be the same the last month of the contract as the first month. And so, it's a requirement for us that the fee be prorated over time. That was something we required for a couple of years, but now it's actually in the code itself as opposed to our administrative regulations.

And the third is respect for sending countries, which is one of the questions about the macro global level that I mentioned - and things that the World Health Organization and other countries are really concerned about - and we had a lot of conversations about that. That was something really difficult to come to a solution on. But we try to kind of temper our expectations and be really fair and realistic of

what the Alliance can monitor. You know the Alliance is kind of a voluntary code to certify healthcare recruiters. Our role is going to be different than kind of countries that can look at things at the macro level. So those are the three areas I think we really updated effectively.

Line: That's fantastic. So for our listeners, are there specific resources that maybe you could share or point regulators to about mobility and international recruitment of healthcare workers. Because I know there's a lot of people, as you said, are in the same boat, right? We're needing more workers. What avenues of resources are available for them?

Mukul: That's a great question. I would say at the basic level, I think regulators are really challenged because they have hundreds of different issues always at them, and the foreign-educated issue is often not the most prominent on their plate. They're dealing with all the other issues that regulators deal with every day. And so I would say, use this as a resource. You know, we have our code on our website, www.cgfnsalliance.org. There are all kinds of resources there to kind of describe what good recruitment looks like, and what it doesn't.

We have our [CGFNS Annual Migration Report](#) that we released for the first time last November, which provides kind of high-level data on all of these questions around, what are the trends? There's been a major increase in the number of people who've been coming to the US over the last five years in particular. What does that mean for regulators? I think that's a good resource.

And finally, I'd say, you know, there are kind of national regulation organizations. I know CLEAR has a lot of resources for regulators; the National Council of State Boards of Nursing for nursing organizations has a lot there, too. So I would say, if you're interested in getting more informed, absolutely, just reach out and do a little bit of research. It is interesting. I think there's two parts. The Alliance is really often about the fair treatment, but I think ethical recruitment also means from a regulatory perspective, making sure that we have qualified nurses delivering high-level patient care. And so, I know CGFNS has a lot of resources to help regulators in terms of making the right decisions in terms of licensure as well.

Line: That's great. Well, let me ask you this, finishing up with this: what can regulatory organizations do to reduce barriers to international mobility? What are some policies and practices that you'd maybe like to highlight for those regulators?

Mukul: I think regulars always want to think about right touch regulation. You want to have regulation that really meets the needs of ensuring quality patient care for people in your jurisdiction while also making sure there's reasonable - but not barriers, not kind of obstacles - kind of requirements to make sure that the care that's delivered. I would say in the rest of the world there's been this kind of major shift away against regulations, so that people are often reducing what I would think are legitimate and necessary requirements because there's such a demand to get people to the bedside. That's thankfully been less of a concern in the United States.

I think things to think about are making sure that requirements aren't duplicative. You know, the Federal Government has certain requirements for immigration processes. Some of those requirements can help feed into state processes as well. Things like license validations can be very time-consuming. And so, making sure there's a reasonable period in which those license validations are valid can be really helpful. If you have a 6- or 9-month window, a report could often take longer to issue, and you might be in this kind of catch-22 to where there's not enough time to actually get things done. So, thinking from a perspective of an applicant about what is reasonable is really important, but also making sure that you're maintaining requirements, particularly around qualifications and around English proficiency, both of which are really important. I think maintaining those standards is also very important when there's a lot of pressure from employers or politicians.

Line: Well, excellent! Well, it's certainly been great to hear how your organization is working to ensure that recruitment practices are fair and respect basic rights. That's just excellent. So thank you, Mukul, for speaking with us today.

Mukul: Yeah, thanks for having me, Line. It's really wonderful the work that organizations throughout the CLEAR network are doing and very happy to talk with you now and with any of your members who are interested in following up in the future.

Line: Absolutely. It has been a pleasure, and we'd also like to continue this conversation beyond the podcast. Here's some questions for listeners to think about. Are you seeing worker shortages in the healthcare system in your jurisdiction? (And I think we all are.) But are you seeing an increase in licensure applications from foreign-educated health professionals? And are you, as a regulatory organization, aware of whether recruitment agencies and employers in your jurisdictions are in compliance with the Alliance code? We greatly appreciate and thank our members for your feedback. We've recently launched a new regulatory network platform, and questions like these will be posted there for member feedback and discussion. If you haven't already joined the CLEAR Regulatory Network, we invite and encourage you to join and take part in our online discussions.

I also want to thank our listeners for tuning in for this episode. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. If you're new to the CLEAR podcast, please subscribe to us. You can find us on Podbean or any of your favorite podcast services. And if you've enjoyed this podcast episode, please leave a rating or comment in the app. Those reviews help us to improve our ranking and make it easier for new listeners to find us.

Feel free also to visit our website at <http://www.clearhq.org> for additional resources as well as a calendar of our upcoming programs and events. Finally, I'd like to thank our CLEAR staff, specifically Stephanie Thompson. She is our content coordinator and editor for this program. Once again, I'm Line Dempsey, and I hope to be speaking to you again very soon.

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