

## Port-of-Entry Inspections and NAFTA Professional (TN) Visas: Differential Diagnosis for Advance Practice Nurses

Article By:

Leigh N. Ganchan

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Since President Trump first issued his [executive order suspending travel](#) to the United States by certain foreign nationals, a flood of generalized reports regarding changes to U.S. port-of-entry inspection operations emerged. Although key portions of the travel ban have since been blocked by a preliminary injunction, some inspection operation changes have continued to play out at U.S. ports of entry. Most recently, these reports have documented specific accounts of nurses with nonimmigrant NAFTA professional (TN) visa status being denied admission at ports of entry across the U.S.-Canada border.

Using the “registered nurse” occupation under the North American Free Trade Agreement (NAFTA), a Canadian or Mexican nurse with a state/provincial license or licenciatura degree can apply for a TN visa to work in the United States. Reports have noted that in certain instances, TN nurses returning to their jobs in the United States after traveling to Canada were told that—due to policy changes—nurses working as advanced practice nurses and nurse anesthetists no longer qualified for the working visas. The TN nurses were advised to apply for admission under the H-1B specialty occupation category, which is [limited by annual quotas](#) and subject to sizeable U.S. Citizenship and Immigration Services (USCIS) filing fees. Amidst a national shortage of highly trained nurses, healthcare systems in the United States frequently rely on Canadian and Mexican nurses to fill important roles. Requiring advanced practice nurses to use the H-1B category would involve months of delays and place additional pressures on the already strained nursing workforce. To complicate matters, USCIS announced a [six-month suspension of H-1B visa premium processing](#) beginning on April 3, 2017. The suspension means that H-1B cases will no longer be able to obtain expedited 15-day adjudications.

After, after public inquiries regarding the TN nurse denials, U.S. Customs and Border Protection (CBP) confirmed that there had been no official policy change for TN registered nurse adjudications and characterized the issue as a misinterpretation of the regulations. The problem may have been due to the fact that the advanced practice nursing specialties are listed as distinct occupations from the entry for “registered nurse” in the government’s wage survey relied upon by CBP. CBP noted that it had reviewed the requirements of the NAFTA “registered nurse” occupation and concluded that nurse specialists continue to be eligible for admission because they are registered nurses *with advanced training*.

This is not the first time that TN nurses have faced increased scrutiny. CBP raised the issue of substance over title in 2015 when it informally stated that the TN category would not be appropriate for a “nurse supervisor” with HR and administrative duties.

Given the recent departure from the long-standing broad TN interpretation of the registered nurse occupation, it is increasingly important for employers to present thoroughly prepared supporting documents for nurses and all other TN applicants. One of the most common issues CBP reports is improper evidence or otherwise unprepared applicants in relation to the occupational classification they use to apply.

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