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Sent Via Email and Express Mail

Paola Rodriguez Hale, DHS
Adjudication Officer, Business and Trade Services,
Service Center Operations,
U.S. Citizenship and Immigration Services, Department of Homeland Security
425 I Street, NW Room 321
Washington, DC 20536

Dear Ms. Hale,

CGFNS International (hereafter "CGFNS") has been asked for its views on the educational requirements for applicants for a CGFNS VisaScreen® certificate as a Physical Therapist (hereafter "PT")

Regulatory Context. CGFNS's view is based on the standards it is required to fulfill as a credentialing organization pursuant to 8 CFR 212.15, including: (1) its assessment of whether an alien's education, training, licenses and experience are comparable with that required for an American health care worker of the same type, and (2) whether a particular alien's education, training, license and experience meet all applicable statutory and regulatory requirements for admission into the United States. 8 CFR 212.15 (f) (1).

The regulations clarify that the advice under 8 CFR 212.15 (f) (1) (iii) (regarding statutory and regulatory eligibility for a visa) is not binding on the Department of Homeland Security, so the following information is provided in that spirit.

A. Analysis of Degree Requirements and Statutory/Regulatory Eligibility

The crucial factors in this determination are (1) what sort of visa or immigration status the applicant is applying for, and (2) in what state he or she will be employed.

1. *Applicants for Permanent Residence.* Foreign PTs seeking permanent resident alien status must satisfy the applicable Department of Labor (DOL) regulatory requirements at 20 CFR Part 656. These regulations include the definition of "physical therapist," which states in part that these individuals are "persons who will be employed as physical therapists, and who possess all the qualifications necessary to take the physical therapist licensing examination in the state in which they propose to practice physical therapy." 8 CFR 656.5 (a) (1). According to these regulations, it is the education requirement of the state of intended employment that controls whether the



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degree requirement is a master's degree or bachelor's degree. The USCIS regulations at 8 CFR 204.5 do not provide further guidance to resolve this question specific to PTs.

2. *Applicants for H-1B Status.* Foreign PTs seeking H-1B visa status must satisfy the USCIS rules at 8 CFR 214.2 (h). Among these requirements is the requirement that PT beneficiaries of H-1B petitions "hold a U.S. baccalaureate or higher degree required by the specialty occupation..." or a foreign degree equivalent, and hold an unrestricted State license to fully practice the specialty occupation or have progressive work experience comparable to a U.S. baccalaureate or higher degree. 8 CFR 214.2 (h) (iii) (C). The USCIS regulations do not define the professional degree required for PTs as long as it is at least a bachelor's degree or higher. Because of the state licensing requirement, the education standards for the state of intended employment continue to strike us as controlling if the foreign PT indeed already has such a license.

The DOL rules at 20 CFR part 700 do not provide further guidance to resolve the education question specific to PTs.

3. *Applicants for TN Status.* Applicants for TN status must satisfy the standards at 8 CFR 214.6. Subsection (c) of such section contains the Appendix from the NAFTA agreement that specifies the education and licensing requirements necessary to qualify for this nonimmigrant status. The requirements in this portion of the USCIS regulations for "Physiotherapist/Physical Therapist" are a Baccalaureate or Licenciatura Degree, or state/provincial license. "These regulations provide clear guidance as the regulatory standards for applicants for admission in this visa status.

B. Analysis of Comparability to U.S. Degree Requirements.

With respect to the DOL regulations regarding foreign PT applicants for permanent residence and H-1B status, the state licensing requirements are clearly critical to the agency's rules. These state licensing requirements are also consistent with the assessment that CGFNS must make to determine whether a foreign-educated PTs "education, training, license and experience" are comparable to that of a U.S. physical therapist, as required by the CIS rule at 8 CFR 212.15 (f) (1) (i). Our review of state licensing statutes for physical therapists shows that most states do not have explicit degree requirements, but instead require a physical therapist to graduate from an accredited program of physical therapy education. See, e.g. Section 148A.4 of the Iowa Physical Therapy Practice Act, and Section 453.203 of the Texas Physical Therapy Practice Act. The U.S. accrediting entity for the physical therapy profession is the Commission on Accreditation in Physical Therapy Education (CAPTE), and CAPTE simply describes the requirement as "post-baccalaureate." There is no requirement, therefore,



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that a "master's degree" is an explicit precondition for a U.S. PT to be licensed or for a foreign PT to be admitted to the United States. As such, the DL Occupation Outlook Handbook (OOH) 2009-09 edition is incorrect.

The accurate way to phrase the educational requirement is that a combination of course-work in an overall education program approved by the CAPTE constitutes the "comparable" education to which a foreign PT's education must be evaluated, and CGFNS is responsible for performing this analysis and determining whether a certificate should be issued to any particular alien.

C. Conclusion

We review these regulations against the Commission's knowledge of the profession in general and its over 30 years experience reviewing foreign educational credentials.

We trust that our views on the standards applied by CGFNS when determining whether to issue a certificate for admission into the United States as a foreign physical therapist have been helpful and we thank you for your attention to this matter.

Sincerely Yours,

A handwritten signature in cursive script that reads "Barbara L. Nichols".

Barbara L. Nichols, MS, DHL, RN, FAAN
CEO CGFNS International

A handwritten signature in cursive script that reads "Lee Nelson".

Leonie B. Nelson, DPT, MA
Chair of CGFNS International Physical Therapy Professional Standards Committee

Cc: Mr. Lyman G. VanNostrand, HHS
Ann C. Cooper, DHS
Michael Timothy Dougherty, DHS