



health

Department
Health
REPUBLIC OF SOUTH AFRICA

EMPLOYMENT OF FOREIGN HEALTH PROFESSIONALS IN THE SOUTH AFRICAN HEALTH SECTOR

AIM

1. The aim of the policy is to promote high standards of practice in the recruitment and employment of health professionals who are not South African Citizens or Permanent Residents (they will be referred to as Foreign Health Professionals for the purpose of this policy) in the health sector in South Africa. The policy aims at precluding the active recruitment of health professionals from developing countries unless there are specific government-to-government agreements to allow and support such recruitment. The policy apply to all provincial departments of health, agencies involved in recruiting health professionals to be employed in South Africa as well as private health care providers (referred to as health worker employers in the policy).

PRINCIPLES

2. The policy recognises various international recruitment codes of practice issued by the World Health Organisation (WHO), bilateral and multi lateral agreements and recruitment protocols that exist, particularly in the context of the Southern African Development Community (SADC) and the African Union (AU). These codes of practice and protocols are aimed at precluding the uncontrolled recruitment of health professionals that could prejudice the healthcare systems of developing countries.
3. The employment of Foreign Health Professionals is subject to the conditions contained in South African employment legislation (including, for the public sector, those conditions contained in the Public Service Act, 1994, as amended and the Public Service Regulations, 2001), as well as the provisions of the Immigration Act, 2002 as amended in 2004 (Immigration Act) and the Refugees Act, 1998 (Refugees Act) where applicable. No Foreign Health Professional shall be allowed to initially take up employment in a professional capacity or continue with such employment without a valid Work Permit or Refugee's Permit or Treaty Permit and with the appropriate registration with the relevant Health Professional Council in South Africa.
4. All active recruitment of Foreign Health Professionals from developing countries shall be through specific government-to-government agreements only. A list of developing countries is published by The Group of 77 at the United Nations.

5. Except for Foreign Health Professionals recruited through a government-to-government agreement, a Corporate Permit obtained in terms of section 21 of the Immigration Act or unpaid or volunteer services, the employment of Foreign Health Professionals shall only be allowed after they have been successful in competing for an advertised post and there is record that no South African Citizen or Permanent Resident was available and found suitable to fill the particular post. The National Minister of Health may prescribe how posts should be advertised to ensure consistent practices in the health sector.
6. A Corporate Permit issued in terms of section 21 of the Immigration Act, shall not be used to recruit Foreign Health Professionals from a developing country or country where health services could be prejudiced due to the shortage in health professionals.
7. Only fixed term employment contracts shall be issued to Foreign Health Professionals. An employment contract shall not exceed a term of three years from the date of employment and may not be extended unless otherwise determined by a specific government-to-government agreement. A Foreign Health Professional, who is not employed under a government-to-government agreement, shall not be allowed to enter into a new employment contract during the currency of the initial contract. Should a health employer wish to renew an employment contract during or after the initial contract of three years, the conditions contained in paragraph 5 above shall be applicable.
8. Foreign Health Professionals shall meet all requirements to practice their profession as determined by the appropriate health professional council, who will also verify professional qualifications obtained outside South Africa. Health professional councils may determine or require additional studies, internship or any other measure to ensure that a Foreign Health Professional meets the standard for acceptable clinical practice.
9. Foreign Health Professionals shall demonstrate an adequate level of English language proficiency to ensure proper communication with patients and other health professionals involved in patient care before any job offers may be issued to them. Language proficiency should be certified either by means of an external language examination or during a personal interview by the organisation that seeks the employment.
10. Foreign Health Professionals shall enjoy the service benefits and comply with all the conditions of service applicable to their South African counterparts.
11. Foreign Health Professionals shall have access and support for their professional development to enhance their clinical skills similar to their South African counterparts. Clinical orientation, where required, shall be provided to ensure full integration into the health service delivery plan.

12. The National Minister of Health after consultation with the National Health Council is primarily responsible for entering into government-to-government agreements to facilitate the recruitment of Foreign Health Professionals to ensure the harmonisation of such recruitment and employment practices across all health sectors. The Minister may delegate responsibilities in this regard to officials in the National Department of Health.
13. Foreign Health Professionals who are bona fide residents (including Formal Refugees) in South African may only be considered for employment if they produce authorisation by the National Department of Health in the format as determined by the National Minister of Health. Such authorisation may be accepted as a provisional indication that the Foreign Health Professional would meet the professional registration requirements at the time of their application for employment with a health worker employer. Any authorisation to seek employment will be regarded as null and void should a Foreign Health Professional fail to comply with the requirements for professional registration, regardless of the reasons for such failure to comply with the requirements.
14. At no stage, the recruitment and employment of Foreign Health Professionals shall compromise employment opportunities available to South African Citizens and Permanent Residents. Health care employers shall present a recruitment and employment plan containing quotas for the employment of Foreign Health Professionals for consideration by the National Minister of Health and reporting to the National Health Council. The National Minister of Health may issue further directives to health employers regarding quotas for the employment of Foreign Health Professionals.
15. The employment of Foreign Health Professionals recruited by the public health sector shall be limited to health facilities in designated underserved or rural areas in South Africa, unless otherwise approved by the Head of a Provincial Department of Health and subject to endorsement by the National Department of Health. A Head of a Provincial Department of Health may not delegate the responsibilities in this regard.
16. Health worker employers shall keep record of every Foreign Health Professional in their employment and such record shall be accessible to officials from the National Department of Health and the Department of Home Affairs should it be required.
17. Foreign Health Professionals do not pay any fee to the Department of Health or any other health employer or an official of such a health employer for acquiring any letter, certificate or any other document in support of their employment. Professional registration fees are payable to the appropriate health professional council only.

LEGAL RIGHTS

18. There are a number of different categories of Foreign Health Professionals who may be allowed to seek employment South Africa. In terms of section 9 of the Immigration Act

a foreigner who is not a holder of a permanent residence permit may only enter South Africa if issued with a valid temporary residence permit as set out in the Immigration Act.

19. Foreign nationals seeking to work as health professionals in South Africa are categorized as follows:

- a) *Permanent residents.* Permanent residents are legally entitled to be considered for full-time permanent employment. Applicants who have secured permanent residence and who obtained their basic qualification in the Republic of South Africa must apply to do community service where applicable as defined in the relevant legislation, provided that they have satisfied the registration requirements of a statutory Health Professional Council in South Africa.
- b) *Spouses of citizens or permanent residents.*
- c) *Temporary residents.*
- d) *Spouses of temporary residents.*
- e) *Foreign nationals residing outside South Africa.*
- f) *Formal refugees.*
- g) *Corporate permit holders in terms of section 21 of the Immigration Act.*
- h) *Foreign health professionals in possession of Treaty Permits issued in terms of section 14 of the Immigration Act.*
- i) *Foreign graduates in health sciences who studied in South Africa who are allowed by their home countries to perform remunerated internships in South Africa (where agreements on Ministerial level exist).*

20. All Foreign Health Professionals planning to depart to South African should take note of the following:

- a) Section 43 of the Immigration Act, states that “ *A foreigner shall (a) abide by the terms and conditions of his/her status, including any terms and conditions attached to the relevant permit by the Director-General upon its issuance, extension or renewal and that the status shall expire upon the violation of these conditions*”
- b) Foreign Health Professionals who travel to South Africa or reside in the country on temporary residence permits should note that they are not allowed to contravene the conditions of their temporary residence permits. Persons in possession of visitor’s permits may not be allowed to write any pre- professional examinations or seek employment if their visitor’s permits do not provide for this.

21. A Foreign Health Professional who, after complying with the requirements of section 26 (a) of the Immigration Act, applies to the Department of Home Affairs to obtain Permanent Residence shall include in the application a letter issued by the National Department of Health in support of the application for Permanent Residence as well as an offer for permanent employment from a health worker employer endorsed by the

National Department of Health as required in the Immigration Regulations (Regulation 23 of the Immigration Regulations)

22. Foreign Health Professionals who have qualified abroad, irrespective of where they obtained their qualification, and who have secured permanent residence, can apply for registration in the category 'Public Service', provided that they have satisfied the registration requirements of a statutory Health Professional Council in South Africa. Upon submission of written evidence that permanent residency has been granted, foreign health professionals in this category can apply to the National Department of Health for a letter of endorsement to facilitate their registration process and to allow them to seek employment.

SPOUSES OF CITIZENS OR PERMANENT RESIDENTS

23. Foreign Health Professionals in this category who are married to or have formal spousal relationships as contemplated in the Marriage Act, 1961 or the Civil Union Act, 2006 with South African citizens or permanent residents of South Africa may be authorised to seek employment as health professionals in the South Africa Public Health Sector. Such foreign nationals have to apply to the Department of Home Affairs for permanent residence within 90 (ninety) days of compliance with the provisions of the Immigration Act, to obtain permanent residence (currently five years). Work permits may be issued to such a foreign national on condition that the applicant shall at all times also meet the requirements to obtain a temporary residence permit in terms of section 11(6) the Immigration Act. Applicants shall submit certified notarised copies of their marriage certificates or a registration certificate issued in terms of section 12(3) of the Civil Union Act in support of an application to work in South Africa.
24. Foreign spouses of citizens and permanent residents have a right to work in South Africa in order to fulfil their duty of support to their South African spouses. This right, however, does not constitute the right to be employed in a specific sector of the economy or the right to a specific post or position. The right to work implies at least a right of temporary residence and the opportunity to earn an income pending the processing of an application for permanent residence. The Department of Health supports the Department of Home Affairs in its consideration of applications for permanent residence in terms of section 25(3) and 26(b) of the Immigration Act prior to approving such applications. The Department of Home Affairs has indicated that such Foreign Health Professionals should in any event, if employed in the health sector, obtain work permits and their employment should be regulated according to the Immigration Act.
25. The provisions in paragraph 5 above are also applicable to Foreign Health Professionals who are spouses of SA citizens or permanent residents, whether or not they have obtained permanent residence status.

TEMPORARY RESIDENTS

26. Temporary residents are only entitled to be in South Africa for the initial period and purpose as endorsed in their temporary residence permits. Thus a person who is in South Africa on a temporary residence permit in order to complete a course of study in health care offered by a South African institution is not entitled to seek or to be offered employment or to work in South Africa and must depart from the country when the permit period expires. Paragraph 19 of this policy also refers in more detail to this matter.
27. In the context of the employment of Foreign Health Professionals by the Department of Health, such persons may enter the country in order to perform a specific contract or academic intervention with the definite understanding that he/she may not abuse the opportunity to seek employment. Applicants who received support towards such opportunities must leave the country upon expiry of the agreement. As a general rule, foreign nationals have no right to live or work in South Africa except if it is specifically provided for in the temporary residence permit.

SPOUSES OF TEMPORARY RESIDENTS

28. Foreign Health Professionals who are spouses of temporary residents may be granted Immigration Permits to accompany the temporary resident during his or her stay in South Africa. If such a spouse wishes to work as a health professional in South Africa, he/she will have to first apply in his/her own right to the National Department of Health for support towards examination by a statutory Health Professional Council in South Africa, if required by the relevant Health Professional Council. Should the applicant pass the required examinations or be exempted from the examination a letter may be issued by the NDOH to the applicant as authorisation to seek employment. The provisions of paragraph 5 above are also applicable to spouses of temporary residents.
29. Should the Foreign Health Professional secure employment, the duration of the work permit shall not exceed that of the other spouse's permit.

FOREIGN NATIONALS FROM COUNTRIES RESIDING OUTSIDE SOUTH AFRICA

30. A Foreign Health Professional who is not a citizen of a developing country and who meets the educational and other requirements in order to register with the relevant health professional council in South Africa, and who are seeking employment in the South African health sector, shall obtain the required letter to seek employment, as contemplated in paragraph 12 of the policy. The final placement of such an applicant shall be entirely at the discretion of the National Department of Health in collaboration with the Head of the relevant Provincial Department of Health.

31. A Foreign Health Professional who is a citizen of a developing country and who resides outside South Africa may not be offered employment in the South African Health sector unless there are government-to-government agreements to facilitate the process of such employment. In the absence of such a government-to-government agreement, health worker employers shall first obtain approval from the National Minister of Health, to engage in recruitment and employment of health professionals from a developing country. The National Minister of Health will in consultation with the Minister of Home Affairs consider such requests. Full motivation for such recruitment and employment shall be submitted. This provision is also applicable to health worker employers who wish to obtain a Corporate Permit in terms of section 21 of the Immigration Act.

REFUGEES

32. Applicants, who were issued an 'Asylum Seeker temporary permit' in terms of section 22 of the Refugees Act by the Department of Home Affairs, are not eligible to be employed in South Africa or to enrolled for the examination processes by a South African Health Professional Council. Letters to allow asylum seekers to seek employment will only be issued after the applicants have secured formal recognition of his/her refugee status in the RSA in terms of the Refugees Act. A formal refugee will, as a bona fide temporary resident in South Africa, have to be a successful candidate for an advertised post before employment will be endorsed by the National Department of Health.

33. Health Professional Councils may not accept applications for examination or evaluation or registration prior to documentary evidence that the applicants in the category "Asylum Seeker" have secured formal recognition of their refugee status in the RSA in terms of the Refugees Act. Applicants have to submit a letter of endorsement from the National Department of Health in support of their applications.

34. Applicants who present documentary evidence that they have secured formal recognition of his/her refugee status in the RSA in terms of the Refugees Act can apply to the National Department of Health for support towards enrolment and to be accepted for examination by a statutory Health Professional Council in South Africa.

FOREIGN GRADUATES IN HEALTH SCIENCES WHO STUDIED IN SOUTH AFRICA WHO ARE ALLOWED BY THEIR HOME COUNTRIES TO PERFORM REMUNERATED INTERNSHIPS IN SOUTH AFRICA (WHERE AGREEMENTS ON MINISTERIAL LEVEL EXIST)

35. Foreign graduates who are citizens of developing countries, who are allowed by their home countries to perform their internship in South Africa, will be allowed upon application to the National Department of Health, to be issued only with a work permit to complete their remunerated internship in South Africa. They will not be allowed to register to practice professionally and take up employment in South Africa after

completion of their internship, subject to other provisions in the policy that may make them eligible for possible employment.

ROLE OF THE DIRECTORATE: WORKFORCE MANAGEMENT IN THE NATIONAL DEPARTMENT OF HEALTH

36. With the implementation of the Immigration Act in 2002 as well as subsequent amendments to the said Act in 2004, it was necessary to align the role of the National Department of Health and health worker employers to ensure that the health sector as a collective comply with the Immigration Act. In view of the fact that the Immigration Act imposed stringent requirements in order to obtain work permits for citizens of foreign countries, the Department approached the Minister of Home Affairs requesting a number of waivers from the requirements of the Immigration Act, mainly to enhance the recruitment of medical doctors at the time. The Minister of Home Affairs decided to grant a waiver of the following prescribed requirements in terms of section 31 (b) of the amended Immigration Act:
- a) The requirement to submit proof of qualifications evaluated by the South African Qualifications Authority, in respect of work permit applications.
 - b) Proof of publication of an advertisement in the national media, in respect of work and permanent residence permits, and
 - c) Certification by the Department of Labour, in respect of work permits.
37. This was approved on the basis that all health professionals as a legal and professional requirement have to apply for registration with the appropriate professional boards/council. This also serves as a mechanism to ensure that they meet the requirements for registration in terms of their professional qualifications and requisite clinical competencies. In view of this, the Directorate Foreign Workforce Management was established as a national clearing house for the issuing of employment contracts and subsequent support for the registration of foreigners to practice in South Africa. It also has the authority to inform the Minister of Home Affairs regarding the duration of work or study permits for health professionals and treaty permits in the case of health personnel recruited through government to government agreements.
38. All Foreign Health Professionals seeking employment in South Africa will have to register with the Directorate Foreign Workforce Management in order to determine their eligibility to take up employment in terms of the foreign recruitment policy. No health worker employer may entertain any application for employment from a Foreign Health Professional, unless such a person produces a letter, and on the conditions as determined by the National Department of Health, endorsing the application.

RECRUITMENT PROCESS (EXCLUDING GOVERNMENT TO GOVERNMENT AGREEMENTS AS WELL AS HOLDERS OF CORPORATE PERMIT ISSUED IN TERMS OF SECTION 21 OF THE IMMIGRATION ACT)

39. **Phase 1:** A Foreign Health Professional irrespective whether he/she is a bona fide resident (temporary resident) in South Africa or who resides in another country, shall apply to the National Department of Health for support towards seeking employment (First Endorsement Letter). The National Department of Health shall issue such an endorsement letter only after it has established whether the applicant meets all the recruitment policy requirements contained in this policy. The First Endorsement Letter, where issued to a Foreign Health professional shall also include support for such Foreign Health Professional to write any qualifying pre registration examination as required by a Health Professional Council. Should an applicant not meet with the said policy requirements, he/she shall be informed that the application is not supported.
40. **Phase 2:** A Foreign Health Professional shall apply for an advertised post in the South African Public Health Sector by presenting the First Endorsement Letter (see Phase 1) as well as submitting the application forms required in the advertisement. A health employer may not entertain an application without the First Endorsement Letter.
41. **Phase 3** A health employer shall consider the application of a Foreign Health Professional for an advertised post based on the requirement contained in the advertisement as well as other employment requirements (including this policy) and inform the National Department of Health accordingly should an application be successful. Such notification should be accompanied by a copy of the letter of appointment. The National Department shall issue a Second Endorsement Letter in support of the employment of the successful candidate. The Second Endorsement Letter should be used by the relevant Foreign Health Professional to apply for the appropriate professional registration with the relevant Health Professional Council as well as the Department of Home Affairs in order to obtain a valid work permit subject to the conditions as contained in the Second Endorsement Letter.
42. **Phase 4** A Foreign Health Professional shall pay the required fees in order to obtain registration with the relevant Health Professional Council and may not be allowed to assume duties without the required registration as well as a valid work permit issued by the Department of Home Affairs. A health employer shall provide the National Department of Health with a copy of the professional registration as well as a copy of the work permit of a successful candidate within one month of the Foreign Health Professional assuming duties.

HEALTH PROFESSIONAL COUNCILS

43. All Health Professional Councils have agreed not to register any foreign health professional to practice in South African without an endorsement letter from the

National Department of Health. The National Department of Health shall provide the relevant Health Professional Council with official certified copies of all endorsement letters issued to Foreign Health Professionals in order for councils to verify the authenticity of the original documents submitted by Foreign Health Professionals.

44. Similarly all correspondence related to professional registration or examinations entered into with a Foreign Health Professional by a Health Professional Council shall be copied to the Sub directorate: Foreign Workforce Management in the National Department of Health.

HEALTH WORKER EMPLOYERS

45. All Health Employers who wish to recruit Foreign Health Professionals will no longer be allowed to fill posts without advertisement in the national media (newspapers, journals etc). This excludes the recruitment of Foreign Health Professionals through government-to government agreements who are employed on Treaty Permits issued in terms of section 14 of the Immigration Act and those recruited through a corporate permit in terms of section 21 of the Immigration Act.
46. No health worker employer (private or public) may issue any job offer to a Foreign Health Professional without a letter of authorisation issued by the National Department of Health for the Foreign Health Professional to seek employment.

THE POLICY IS EFFECTIVE FROM 8 FEBRUARY 2010 AND IS ISSUED BY THE MINISTER OF HEALTH ON RECOMMENDATION OF THE NATIONAL HEALTH COUNCIL