

credentialing of health care occupations or health care services.

(ii) The DHS will notify the organization of the decision on its application in writing and, if the request is denied, of the reasons for the denial. Approval of authorization to issue certificates to foreign health care workers or certified statements to nurses will be made in 5-year increments, subject to the review process described at paragraph (l) of this section.

(iii) If the application is denied, the decision may be appealed pursuant to 8 CFR 103.3 to the Associate Commissioner for Examinations.

(k) *Standards for credentialing organizations.* The DHS will evaluate organizations, including CGFNS, seeking to obtain approval from the DHS to issue certificates for health care workers, or certified statements for nurses. Any organization meeting the standards set forth in paragraph (k)(1) of this section can be eligible for authorization to issue certificates. While CGFNS has been specifically listed in the statute as an entity authorized to issue certificates, it is not exempt from governmental oversight. All organizations will be reviewed, including CGFNS, to guarantee that they continue to meet the standards required of all certifying organizations, under the following:

(1) *Structure of the organization.* (i) The organization shall be incorporated as a legal entity.

(ii)(A) The organization shall be independent of any organization that functions as a representative of the occupation or profession in question or serves as or is related to a recruitment/placement organization.

(B) The DHS shall not approve an organization that is unable to render impartial advice regarding an individual's qualifications regarding training, experience, and licensure.

(C) The organization must also be independent in all decision making matters pertaining to evaluations and/or examinations that it develops including, but not limited to: policies and procedures; eligibility requirements and application processing; standards for granting certificates and their renewal; examination content, development, and administration; examination cut-off scores, excluding those pertaining to English language requirements; grievance and disciplinary processes; governing body and committee meeting rules; publications about qualifying for a certificate and its renewal; setting fees for application and all other services provided as part of the screening process; funding, spending, and budget authority related to the operation of the

certification organization; ability to enter into contracts and grant arrangements; ability to demonstrate adequate staffing and management resources to conduct the program(s) including the authority to approve selection of, evaluate, and initiate dismissal of the chief staff member.

(D) An organization whose fees are based on whether an applicant receives a visa may not be approved.

(iii) The organization shall include the following representation in the portion of its organization responsible for overseeing certification and, where applicable, examinations:

(A) Individuals from the same health care discipline as the alien health care worker being evaluated who are eligible to practice in the United States; and

(B) At least one voting public member to represent the interests of consumers and protect the interests of the public at large. The public member shall not be a member of the discipline or derive significant income from the discipline, its related organizations, or the organization issuing the certificate.

(iv) The organization must have a balanced representation such that the individuals from the same health care discipline, the voting public members, and any other appointed individuals have an equal say in matters relating to credentialing and/or examinations.

(v) The organization must select representatives of the discipline using one of the following recommended methods, or demonstrate that it has a selection process that meets the intent of these methods:

(A) Be selected directly by members of the discipline eligible to practice in the United States;

(B) Be selected by members of a membership organization representing the discipline or by duly elected representatives of a membership organization; or

(C) Be selected by a membership organization representing the discipline from a list of acceptable candidates supplied by the credentialing body.

(vi) The organization shall use formal procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors. Not-for-profit corporations which have difficulty meeting this requirement may provide in their applications evidence that the organization is independent, and free of material conflicts of interest regarding whether an alien receives a visa.

(vii) The organization shall be separate from the accreditation and educational functions of the discipline, except for those entities recognized by the Department of Education as having

satisfied the requirement of independence.

(viii) The organization shall publish and make available a document which clearly defines the responsibilities of the organization and outlines any other activities, arrangements, or agreements of the organization that are not directly related to the certification of health care workers.

(2) *Resources of the organization.* (i) The organization shall demonstrate that its staff possess the knowledge and skills necessary to accurately assess the education, work experience, licensure of health care workers, and the equivalence of foreign educational institutions, comparable to those of United States-trained health care workers and institutions.

(ii) The organization shall demonstrate the availability of financial and material resources to effectively and thoroughly conduct regular and ongoing evaluations on an international basis.

(iii) If the health care field is one for which a majority of the states require a predictor test, the organization shall demonstrate the ability to conduct examinations in those countries with educational and evaluation systems comparable to the majority of states.

(iv) The organization shall have the resources to publish and make available general descriptive materials on the procedures used to evaluate and validate credentials, including eligibility requirements, determination procedures, examination schedules, locations, fees, reporting of results, and disciplinary and grievance procedures.

(3) *Candidate evaluation and testing mechanisms.* (i) The organization shall publish and make available a comprehensive outline of the information, knowledge, or functions covered by the evaluation/examination process, including information regarding testing for English language competency.

(ii) The organization shall use reliable evaluation/examination mechanisms to evaluate individual credentials and competence that is objective, fair to all candidates, job related, and based on knowledge and skills needed in the discipline.

(iii) The organization shall conduct ongoing studies to substantiate the reliability and validity of the evaluation/examination mechanisms.

(iv) The organization shall implement a formal policy of periodic review of the evaluation/examination mechanism to ensure ongoing relevance of the mechanism with respect to knowledge and skills needed in the discipline.

(v) The organization shall use policies and procedures to ensure that all