



How to Petition Caregivers from the Philippines

**Presented by: Carmen T. Villamor
Immigration Attorney**

3701 Wilshire Blvd. Suite 1105
Los Angeles, CA 90010
Telephone: 323 939 8200
carmen@carmenvillamor.com
www.carmenvillamor.com

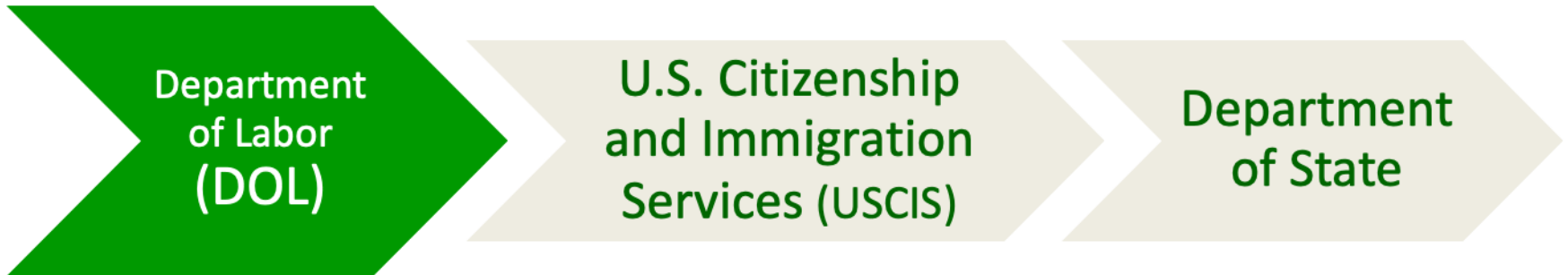


Tender Legal Care[™]

Question: Can my facility bring caregivers to the United States?

- Yes.
- As a **U.S. employer**, you can bring foreign nationals to work for you, provided you comply with **requirements**.

What U.S. agencies are involved in the petition process?



What kind of visa?

- Today, we will talk about the **immigrant visa** process as a way for your company to bring caregivers to the U.S.
- An immigrant visa is also known as a greencard.
- A non-immigrant visa is temporary and it is for a specific purpose. (Alphabet soup)

Immigrant Visa: EB-3 Category

- Professional Workers: at least a bachelors degree
- **Skilled Workers:** at least 2 years of job experience
- **Unskilled Workers:** requiring less than 2 years training or experience

What is a caregiver?

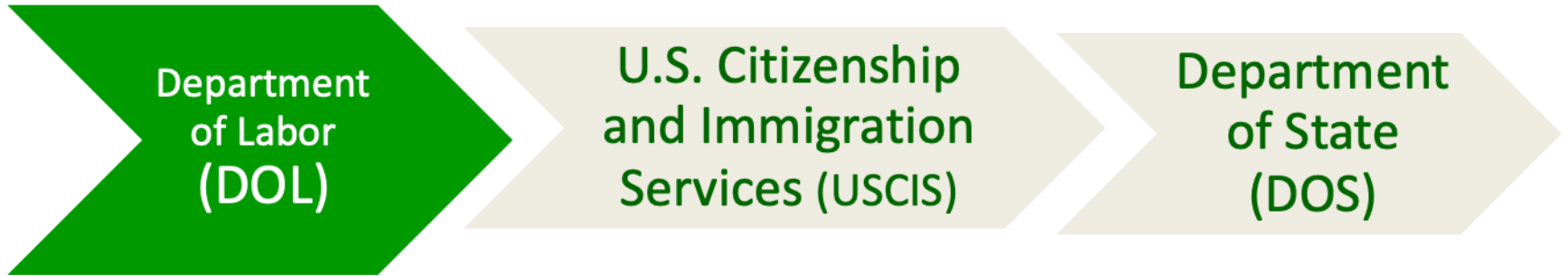
- The caregiver position falls under occupational title of **Nursing Assistant**.
- **Duties according to DOL include:**
Providing basic patient care under direction of nursing staff. Performing duties such as feed, bathe, dress, groom, or move patients, or change linens. May transfer or transport patients. **Includes nursing care attendants, nursing aides, and nursing attendants.**

Can I petition a relative?

- Yes.
- When petitioning relatives by blood, marriage, or adoption, even if distant, a **DOL audit** is most likely.
- DOL will look at **totality of circumstances**: is there a genuine opportunity for American workers to compete for the opening.
- In the audit: show unbiased recruitment process; genuine job opportunity

What are the requirements for the employer/petitioner?

- Must be an **existing on-going business** (EIN)
- Must be an **employer** (EDD number)
- Must have the **ability to pay** the prevailing wage
- Look at the **net income or net current assets**
- Minimum documents required:
 - Complete tax returns
 - Business license
 - Wage reports



- **Labor Certification:** The DOL certifies to the USCIS that there are not sufficient U.S. workers able, willing, qualified and available to accept the job.
- **Test the job market:** 30-day posting with State job bank, 2 Sunday ads.
- What if a qualified applicant applies?



- Important first steps:
 - What are your minimum requirements?
 - File the prevailing wage request.

Sample Prevailing Wage

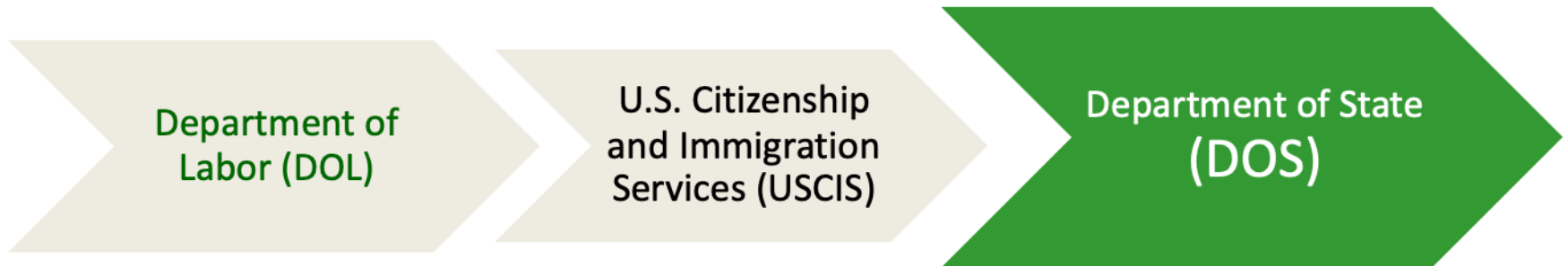
Area Title:	Los Angeles-Long Beach-Anaheim, CA
GeoLevel:	1
OES/SOC Code:	31-1014
OES/SOC Title:	Nursing Assistants
Level 1 Wage:	\$14.95 hour - \$31,096 year
Level 2 Wage:	\$16.62 hour - \$34,570 year
Level 3 Wage:	\$18.28 hour - \$38,022 year
Level 4 Wage:	\$19.95 hour - \$41,496 year
O*Net™ JobZone: 2 -- Education & Training Code: No Level Set	

Sample Prevailing Wage

Area Title:	San Francisco-Oakland-Hayward, CA
GeoLevel:	1
OES/SOC Code:	31-1014
OES/SOC Title:	Nursing Assistants
Level 1 Wage:	\$17.50 hour - \$36,400 year
Level 2 Wage:	\$20.39 hour - \$42,411 year
Level 3 Wage:	\$23.28 hour - \$48,422 year
Level 4 Wage:	\$26.17 hour - \$54,434 year
O*Net™ JobZone: 2 -- Education & Training Code: No Level Set	O*Net™ JobZone: 2 -- Education & Training Code: No Level Set



- USCIS: **Form I-140** immigrant petition
- The employer exists
- The employer the financial **ability to pay the salary**
- The employee is **qualified**.
- This part of the process involves black and white issues = reasonably foreseeable results.



- National Visa Center: Collect and review the documents of the candidate.
- For example: birth and marriage certificates, police reports.
- Consulate: visa interview

Current Estimated Processing Time



DOL: 5 months + 3 months + 6 months

USCIS: 6 to 8 months.

But with premium processing = 2 weeks

Department of State: 6 months

What if the caregiver is already in the United States?

- **Form I-485** Adjustment of Status
 - Important issue: maintenance of status
- Adjustment of status versus consular processing



GreenDoor
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3701 Wilshire Blvd. Suite 1105
Los Angeles, CA, U.S.A. 90010

info@greendoorplacement.com

www.greendoorplacement.com