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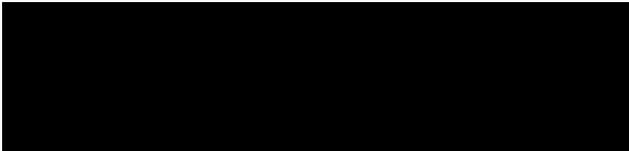
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FILE: SRC 03 062 51137 Office: TEXAS SERVICE CENTER Date: **MAR 22 2005**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a full service medical geriatric care center. It seeks to employ the beneficiary as a biofeedback therapist, and endeavors to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The director determined that the proffered position was not a specialty occupation. Accordingly, the petition was denied.

On appeal, counsel submitted a statement from the petitioner and indicated on the Form I-290B that a brief would be filed within 30 days supporting the appeal. To date, no brief has been filed and the record is deemed complete. In the petitioner's statement submitted with the filing of the appeal, the petitioner states that the beneficiary was previously working in the same position with H-1B status. The petitioner further described the laboratory in which the beneficiary worked, indicating that it would take six months to train a new therapist for the position. The petitioner expressed a continuing need for the beneficiary's services and asked that her H-1B visa be renewed. The petitioner did not, however, address the basis of the director's denial, that the position did not qualify as a specialty occupation. The petitioner did not specifically identify any erroneous conclusion of law or statement of fact upon which the appeal is based. The appellant must do more than simply ask for an appeal. It must clearly demonstrate the basis for the appeal. This, the appellant has failed to do. As such, the appeal must be dismissed.

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.