



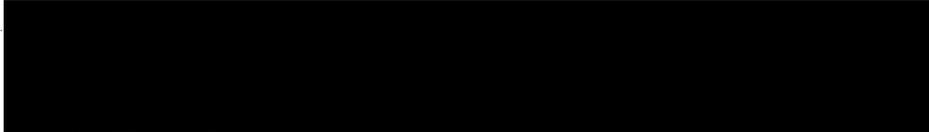
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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
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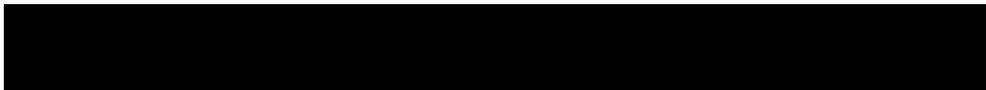


File: EAC-01-067-53682

Office: Vermont Service Center

Date: APR 30 2002

IN RE: Petitioner:  
Beneficiary:



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)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is an advocacy and mediation service with 36 employees and a gross annual income of \$1,095,436. It seeks to employ the beneficiary as a case manager (social service) for a period of two years. The director determined the petitioner had not established that the beneficiary qualifies to perform services in the specialty occupation.

On appeal, counsel submits a brief and additional documentation.

Pursuant to section 214(i)(2) of the Act, 8 U.S.C. 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The director determined that the petitioner had failed to establish that the beneficiary's foreign education, training, and work experience are equivalent to a bachelor's degree in social work or a related field. On appeal, counsel argues that the beneficiary's education, work experience in the Philippines, and his additional training in the United States are equivalent to a bachelor's degree in social work.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, the alien must meet one of the following criteria:

1. Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
2. Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
3. Hold an unrestricted State license, registration, or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or

4. Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The proffered position is that of a social worker. A review of the Department of Labor's Occupational Outlook Handbook, 2002-2003 edition, finds that the usual requirement for employment as a social worker is a baccalaureate degree in social work. However, majors in psychology, sociology, and related fields may be sufficient to qualify for some entry-level jobs, especially in small community agencies.

The record shows that the beneficiary holds a bachelor's degree in business management and a master's degree in industrial science from the University of the Philippines. A credentials evaluation service found the beneficiary's degrees to be equivalent to a Master of Science degree in Industrial Relations and Business Management from an accredited institution of higher learning in the United States.

On appeal, counsel submits four certificates showing that the beneficiary has also completed the following seminars in the United States: Mediation - 40 hours; Women Re-entering Society From Prison: Coping With Addiction and Psychiatric Disorders - 7 hours; Serving Special Needs Population - 2 hours; and Child Abuse Identification and Reporting - 7 hours. The four training seminars combined represent 56 hours of instruction. While these training seminars appear to relate to a position as a social worker, 56 hours of training are not sufficient to compensate for the beneficiary's lack of a bachelor's degree in social work, psychology, or sociology.

On appeal, counsel states that the beneficiary also has four years of related experience in the Philippines. In support of his statement, counsel submits two "certificates of employment." According to the certificates, the beneficiary worked as a social service officer for the Labor, Equalization, Education, Accessibility and Advancement of the Deaf (LEAD) Inc., a non-government organization involved in the development of deaf people in the Philippines from June 1, 1994 to July 31, 1996.

The beneficiary subsequently worked as a technical assistant for the "Breaking Barriers for Children" (BBC), a rehabilitation project for children, from July 2, 1996 to July 30, 1998.

On appeal, counsel submits an evaluation from Donna S. Pope, Instructor, Social Work at Mercy College. Ms. Pope finds the

beneficiary's foreign education, training, and work experience to be equivalent to a Master of Science degree in Industrial Relations and Business Management with an additional major in Social Work from a regionally accredited institution of higher education in the United States.

This Service uses an independent evaluation of a person's foreign credentials in terms of education in the United States as an advisory opinion only. Where an evaluation is not in accord with previous equivalencies or is in any way questionable, it may be rejected or given less weight. See Matter of SEA, Inc., 19 I&N Dec. 817 (Comm. 1988). In this case, neither counsel nor the petitioner has submitted any evidence to show that Ms. Pope is an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited university which has a program for granting such credit based on an individual's training and/or work experience as is required by 8 C.F.R. 214.2(h)(4)(iii)(D)(1). Accordingly, the evaluation performed by [REDACTED] is accorded little weight.

The record contains no evidence to show that the beneficiary's training and or work experience included the theoretical and practical application of specialized knowledge required by the specialty occupation or that his experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation.

The beneficiary is not a member of any organizations whose usual prerequisite for entry is a baccalaureate degree in a specialized area. The record contains no evidence that the beneficiary holds a state license, registration, or certification which authorizes him to practice a specialty occupation in a foreign country. The record does not contain any published material by or about the alien in professional publications, trade journals, or major newspapers. No evidence has been submitted to document any achievements which a recognized authority has determined to be significant contributions to the field of the specialty occupation. In view of the foregoing, it is concluded that the petitioner has not demonstrated that the beneficiary has the equivalent of a baccalaureate degree in social work or a related field.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden. Accordingly, the decision of the director will not be disturbed.

**ORDER:** The appeal is dismissed.