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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

**PUBLIC COPY**

ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



APR 01 2003

File: WAC 02 061 55372

Office: CALIFORNIA SERVICE CENTER

Date:

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)

ON BEHALF OF PETITIONER:



**Identifying info deleted to  
prevent unwarranted  
invasion of personal privacy**

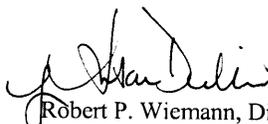
INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded for further consideration and action.

The petitioner is a convalescent hospital with 100 employees and a gross annual income in excess of \$5.6 million. It seeks to employ the beneficiary as a quality assurance coordinator for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation.

On appeal, counsel submits a brief and additional documentation.

The term "specialty occupation" is defined at Section 214(i)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1184(i)(1), as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h) (4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The director denied the petition because the petitioner had not shown that a baccalaureate or higher degree in a specific specialty is normally required for the proffered position.

On appeal, counsel argues that the proffered position is a specialty occupation because a baccalaureate or higher degree in a specific specialty or its equivalent is normally the minimum requirement for entry into the position. Counsel contends that this degree requirement is common to the industry in parallel positions among similar organizations. Counsel finally asserts that the proposed duties are so specialized and complex that the knowledge required to perform them is usually associated with the attainment of at least a baccalaureate degree in a specific specialty.

When determining whether a particular job qualifies as a specialty occupation, the Bureau considers the specific duties of the offered position combined with the nature of the petitioning entity's business operations. In the initial I-129 petition, the petitioner described the duties of the beneficiary in the offered position as follows:

[The beneficiary] will be responsible in [sic] interpreting and implementing quality assurance standards in the convalescent hospital facilities' (and/or HMO) policies and procedures. She will write quality assurance policies and procedures. She will interview the hospital medical personnel and patients to evaluate effectiveness of the staff's performance. The job also includes reviewing and evaluating patient's medical records, evaluate notes of the medical staff such as nurses, therapist, home health providers and social workers for completeness and conformance to hospital policies by applying quality assurance criteria. She will work with nursing supervisors in formulating a patient's treatment plan according to the attending physician's directions.

Furthermore, she will select specific topics for review, such as problem procedures, drugs, high volume cases, high-risk cases, high-risk cases and other factors; compile the statistical data and write reports summarizing quality assurance findings. She will apply utilization review criteria and review patient records and personnel engaged in quality assurance review of medical records. She will review work product of resident nurses (LVN, CAN) and other medical personnel. Lastly, she will conduct in-service lectures to the staff with regards to improving and implementing quality

assurance programs to improve services rendered to the patients.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
3. The employer normally requires a degree or its equivalent for the position; or
4. The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

The proffered position appears to be that of a health services manager. A review of the Department of Labor's *Occupational Outlook Handbook*, (*Handbook*), 2002-2003 edition, at pages 75-76 finds that a master's degree in health services administration, long-term care administration, health sciences, public health, public administration, or business administration is the standard credential for most generalist positions in this field. Additionally, the *Handbook* specifically notes that health services managers require training or experience in both health and management. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered position is a specialty occupation within the meaning of the regulations.

Nevertheless, the petition may not be approved at this time. The director has not determined whether the beneficiary qualifies to perform services in the specialty occupation. Accordingly, the

matter will be remanded to make such a determination and to review all relevant issues. The director may request any additional evidence she deems necessary. The petitioner may also provide additional documentation within a reasonable period to be determined by the director. Upon receipt of all evidence and representations, the director will enter a new decision.

**ORDER:** The decision of the director is withdrawn. The matter is remanded for further consideration and action consistent with the above discussion and entry of a new decision which, if adverse to the petitioner, is to be certified to the AAO for review.