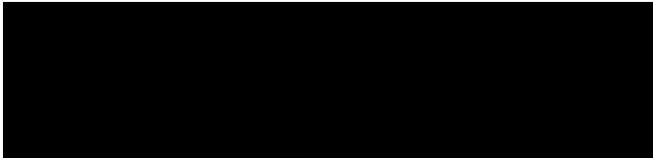


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U.S. Department of Homeland Security  
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 MASS. 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536



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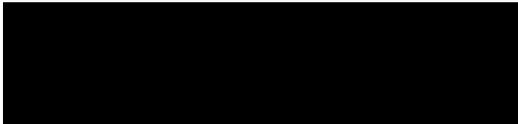
File: WAC 02 099 54703 Office: CALIFORNIA SERVICE CENTER Date:

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 data deleted to  
prevent identity and contact  
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 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 Citizenship and Immigration Services (CIS) 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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the matter remanded to the director to determine whether the beneficiary is qualified to perform the duties of the proffered position.

The petitioner is a skilled nursing facility with 300 employees and a gross annual income of \$15,000,000. It seeks to employ the beneficiary as a medical record administrator. The director determined that the proffered position did not qualify as a specialty occupation.

On appeal, counsel submits a brief. Counsel states, in part, that the proffered position qualifies as a specialty occupation and that a baccalaureate degree is a minimum requirement for entry into the position.

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), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

The issue to be discussed in this proceeding is whether the position offered to the beneficiary qualifies as a specialty occupation.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184 (i)(1), defines the term "specialty occupation" 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 field 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.

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.

When determining whether a particular job qualifies as a specialty occupation, the AAO considers the specific duties of the offered position, combined with the nature of the petitioning entity's business operations. The duties of the proffered position were detailed as follows, with the filing of the I-129 petition:

[The] petitioner requests the services of [the] Alien Beneficiary as [a] Medical Record Administrator. She will plan, develop, and administer health information system [sic] for the health care facility consistent with standards of accrediting and regulatory agencies and requirements for documenting, storing, and retrieving information, and for processing medical-legal documents, insurance data, and correspondence requests, in conformance with federal, state, and local statutes. She will be responsible for supervising, directly or through subordinates, in preparing and analyzing medical documents. She will participate in development and design of computer software for computerized health information system. She will coordinate medical care evaluation with medical staff and develop criteria and methods for such evaluation. She will be responsible for developing in-service educational materials and conduct instructional programs for health care personnel. She will analyze patient data for reimbursement, facility planning, quality of patient care, risk management,

utilization management, and research.

Subsequent to the filing of the I-129 petition, the director requested additional evidence from the petitioner. Specifically, the director requested evidence that: a baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the offered position; a degree requirement is common to the industry in parallel positions among similar organizations, or, alternatively, that the position is so complex or unique that it can be performed only by individuals with a degree; the employer normally requires a degree or its equivalent for the position; or 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.

In response to the director's request, the petitioner provided the following job description:

**JOB DESCRIPTION (Detailed Duties).**

The position being offered is a Medical Record Administrator. Its job rationale is to administer the implementation and operation of the facility's health information system for the health care facility consistent with standards of accrediting and regulatory agencies and requirements of health care system. Accordingly, the essential job functions are as follows, viz:

- Develops and implements policies and procedures for documenting, storing and retrieving information, and for processing medical-legal documents, insurance data and correspondence requests, in conformity with federal, state and local statutes;
- Responsible for supervising, directly or through subordinates, in preparing and analyzing medical documents;
- Participates in the development and design of computer software for computerized health information system;
- Coordinates medical care evaluation with medical staff and develop criteria and methods for such evaluation;
- Responsible for developing in-service educational materials and conducts instructional program for

health care personnel;

- Analyzes patient data for reimbursement, facility planning, quality of patient care, risk management, utilization management and research;
- Ensures documentation on the evaluation of request for extension of assigned length of stay prior to or by the date assigned at the admission and assigns a new review date;
- Conducts medical care evaluation studies and supervises medical records technicians in the conduct of such studies, which involves abstracting patient medical records for criteria of care established and approved by the utilization review committee;
- Assists in maintaining hospital conformity to laws, rules and regulations of Federal, State and professional regulatory groups for accreditation and certification as a provider for third party payments;
- Makes recommendations regarding the revision of forms and clarification of criteria based on experience in implementation of health information system;
- Coordinates with support personnel in medical records department, admissions services and the credit office, as well as professionals including physicians, nurses, dietitians, social workers and therapists, in order to assure information necessary to carry out the health information system of the facility.

**Job Knowledge:**

- Knowledge of health information system review and data analysis techniques. Work collaboratively with the medical staff to coordinate the work of medical record staff to facilitate the meeting program objectives;
- Knowledge of the health information system of the Federal, State, and institutional regulations and procedures applicable to medical record and information system review;

- Knowledge of medical records and terminology, coding and classification of diseases, diagnosis and laboratory reports and their interpretation; ability to work effectively with medical professionals and support personnel; and ability to make comparative judgments between documentation and established criteria.

**Customer Relations:**

- Consistently interacts with medical record staff and administrative staff in a professional, understanding and caring manner. Follow-ups and seeks resolution to complaints; Handles confidential data professionally according to facility policy and procedures.

**Department Interactions:**

- Assists with the management of the facility-wide health information program;
- Obtains patient care information from multiple sources such as generic screen referrals Post Anesthesia Care Unit, Incident Reports/Patient Complaints, Procedural Indications Review, diagnostic tests such as x-rays, and the case mix data base system;
- Reviews sources of information to assess quality of care and report quality concerns to the Medical Record Director and refer for physician and appropriate committee review;
- Maintains updated knowledge of Joint Commission for the Accreditation of Healthcare Organizations (JCAHO) standards, hospital-facility policies and procedures, and medical staff by-laws; advises hospital-facility committees and personnel of these standards;
- Prepares medical record reports on an established basis for hospital-facility managers, medical staff, department chairs, and the Medical Record Director;
- Monitors trends using collected data and determine, in conjunction with the Medical Record Director, if further study and assessment is indicated;

- Determine severity of quality of care issues or events affecting patient care; Recommends and designs health information system studies.

**Management Responsibilities:**

- Meets with Medical Record Director on a regular basis;
- Recommends policy and procedure changes to improve care and patient outcome utilizing knowledge base;
- Plans and schedules staffing needs on a long-term and short-term demand basis according to hospital-facility policy and adjusts these appropriately according to established workload mechanisms in a cost effective manner;
- Demonstrates awareness of, and adherence to, safety and legal requirements established at the hospital-facility and department level;
- Demonstrates ability to work under pressure at all times;
- Ability to communicate effectively with a wide variety of people;
- Sensitivity to and ability to work well with diverse groups and individuals;
- Serves as a role model in fostering good public relations for the department, hospital-facility and medical staff;
- Assumes responsibility for own personal continuing education and developmental needs; attends meetings, workshops and seminars to enrich personal knowledge, growth and skill;
- Demonstrates ability to manage multiple complex projects and acquire necessary resources to do so while exercising good independent judgment toward meeting agency and division objectives;
- Establishes and maintains working relationships, collectively and collaboratively with other

hospital-facility departments;

- Provides professional leadership and role model through planning, organizing, coordinating and continually monitoring and evaluating the health information functions.

**Fiscal Management:**

- Develops an annual operating budget and long-term capital expenditure plan for the medical record department in conformance with standards set by the Chief Financial Officer, and in collaboration with their respective Administrative Director and/or CEO or designee;
- Assumes responsibilities for and adheres to approved budget allotments for each service under his/her direction. Maintains appropriate levels of staff in accordance with hospital-facility policy;
- Ensures that time keeping records are accurate; Audits and approves time keeping records every pay period in a timely manner;
- Continuously investigates potential cost saving measures and reports them to his/her supervisor.

**Education and Staff Development:**

- Ensures that all staff members are provided initial department and general orientation to the hospital-facility in accordance with the facility's Education Plan;
- Assesses the competence of all departmental staff upon hire, within 90 days of hire, and at least annually thereafter. Ensures staff competency through orientation/training based on performance outcomes, testing, demonstration of skills, and feedback from employees, physicians, patients, and management;
- Provides ongoing in-service educating and training to improve staff competence;
- Provides leadership, direction and mentoring to

members of the organization encouraging goal achievement and self-development.

**Performance Improvement:**

- Participates in and ensures staff participation in programs designed to measure, assess, and improve the health information system and/or services provided by department. Communicates findings and problem solves with staff for positive patient and/or staff outcomes;
- Provides training to staff in the basis approaches to and methods of performance and improvement;
- Collects data to: Monitor the stability of existing processes; Identify opportunities for improvement; [and] Identify changes that will lead to and/or sustain improvement;
- Solicits staff views regarding performance improvement opportunities;
- Provides required performance improvement reports, meeting established format and timeframes. Provides department reports to the Governing Board in a timely manner.

**MINIMUM REQUIREMENT IN EDUCATION AND WORK EXPERIENCE:**

The hospital-facility's minimum educational requirement for the position of Medical Record Administrator has always been graduation from a recognized college or university with degrees in Biology, Public Health, Nursing or in any health-related field. She will interact with other professionals and a college degree is essential. Also, the hospital requires at least three (3) years of work experience in the field of Nursing, Medicine, or Health-Related field.

. . . .

Besides, there shall be no direct patient care involved considering that the proffered position will perform purely administrative and/or management functions. It is the hospital-facility's goal to provide quality patient care to its patients and having a Medical Record Administrator to oversee, organize, manage and direct the Facility's activities is crucial and imperative to the maintenance of quality health

care services it provides to its clients.

The director's decision of October 30, 2002, denied the I-129 petition. Specifically, the director found that the duties of the proffered position reflected those of a Medical Records Technician as listed in the United States Department of Labor's *Occupational Outlook Handbook*, 2002-03 edition, (*Handbook*), at 288, and that the position did not qualify as a specialty occupation.

Counsel counters on appeal that the proffered position is that of a medical records administrator, not a technician as decided by the director. Counsel further states that the duties of the offered position are so complex that the performance of those duties requires a minimum of a bachelor's degree.

The duties of the proffered position are closely related to those performed by medical and health service managers. The *Handbook* notes that large medical facilities normally have several assistant administrators to aid senior management and to handle daily operations. Assistant administrators may direct activities in clinical areas such as nursing, surgery, therapy, medical records or health information. *Id.* at 75. Such is the case herein. The beneficiary's duties consist of those normally performed by senior management officials, not technicians. For example, the beneficiary is required to: develop and implement policy and procedure, as well as recommend facility policy and procedure changes; interact regularly with professional hospital staff from various departments, as well as senior facility management; and prepare departmental operating budgets and long-term capital expenditure plans. These functions are highly specialized and not normally performed by technical staff or those not having baccalaureate level education.

The *Handbook* further notes that a masters' degree in health services administration, long-term care administration, health sciences, public health, public administration, or business administration is a standard requirement for generalist positions in medical and health service management. A bachelor's degree, however, is adequate for some entry-level positions in smaller facilities and at the departmental level within healthcare organizations. *Id.* at 75. The proffered position does, therefore, meet the first criterion of 8 C.F.R. § 214.2(h)(4)(iii)(A) and the position qualifies as a specialty occupation.

The director did not address the beneficiary's qualifications to perform the duties associated with a specialty occupation. As such, the director's decision will be withdrawn and this matter shall be remanded to the director who shall determine whether the beneficiary is qualified to perform the duties of the proffered position. The director may obtain such evidence as he deems necessary in rendering that opinion.

**ORDER:** The director's October 30, 2002, decision is withdrawn. The matter is remanded to the director for entry of a new decision consistent with the directives of this opinion.