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U.S. Citizenship  
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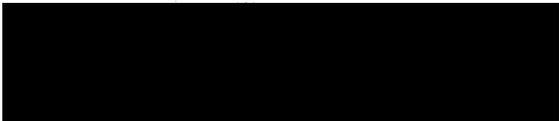
FILE: WAC 02 204 53600 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



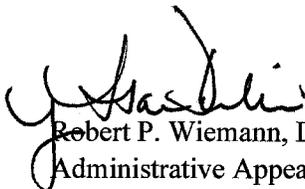
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



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 sustained. The petition will be approved.

The petitioner is a healthcare management and convalescent hospital. It seeks to employ the beneficiary as a medical and health services manager, 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).

The director denied the petition on the basis that the offered position was not a specialty occupation. On appeal, counsel submits a brief.

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

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.

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:

[A]n 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.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceedings before the AAO contains: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B with counsel's brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a medical and health services manager. Evidence of the beneficiary's duties was included with the I-129 petition and in response to the director's request for evidence. The beneficiary's duties were detailed as follows: administer fiscal operations such as planning budgets, authorizing expenditures, and coordinating financial reporting; direct and coordinate activities of medical, nursing, technical, clerical, service, and maintenance personnel; develop or expand medical programs or health services for research, rehabilitation, and health promotion; develop organizational policies and procedures and establish evaluative or operational criteria for the facility; implement and administer programs and services and establish work schedules and assignments for staff according to workload, space, and availability of resources; assist in recruitment, hiring and performance appraisals; review and periodically inspect facilities for emergency readiness and compliance with access, safety, and sanitation regulations; and recommend structure or equipment modifications.

The director found that the offered position did not qualify as a specialty occupation and failed to meet any of the criteria of 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, counsel indicates that the offered position satisfies the requirements of 8 C.F.R. § 214.2(h)(4)(iii)(A). In support of that assertion counsel submits a brief.

The AAO routinely consults the U.S. Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are essentially those of medical and health services managers. The term "medical and health services managers" encompasses all individuals who plan, direct, coordinate, and supervise the delivery of healthcare. This position includes both generalists and specialists. Specialists are in charge of specific clinical departments or services, while generalists manage or assist in the management of an entire facility or system. The position offered to the beneficiary is that of a generalist as she would manage an entire healthcare facility. The *Handbook* notes 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. The position is, therefore, a specialty occupation as a baccalaureate or higher degree, or its equivalent, in a specific specialty is normally the minimum requirement for entry into the offered position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The director did not address the beneficiary's qualifications to perform the duties of a specialty occupation as the petition was denied on other grounds. The record of proceeding is, however, sufficient for the AAO to make that determination.

Pursuant to 8 C.F.R. § 214.2 (h)(4)(iii)(C), in order to qualify to perform services in a specialty occupation, the beneficiary 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 record of proceeding contains an evaluation of the beneficiary's foreign education. That evaluation was issued by a reliable credentials evaluation service which specializes in evaluating foreign educational credentials. 8 C.F.R. § 214.2(h)(4)(iii)(D)(3). The evaluation indicates that the beneficiary possesses the equivalent of a Doctor of Medicine degree from an accredited institution of higher learning in the United States. The degree earned is in a health science field and qualifies the beneficiary to perform the duties of the offered specialty.

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 sustained that burden. Accordingly, the decision of the director will be withdrawn and the appeal will be sustained.

**ORDER:** The decision of the director is withdrawn and the appeal is sustained. The petition is approved.