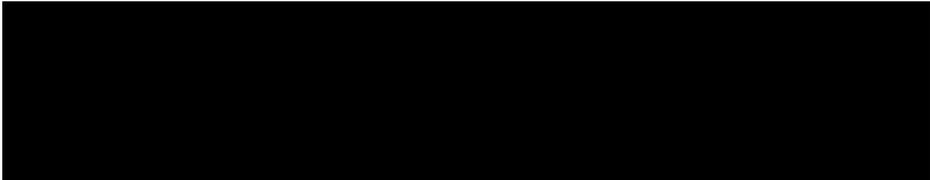




U.S. Citizenship
and Immigration
Services



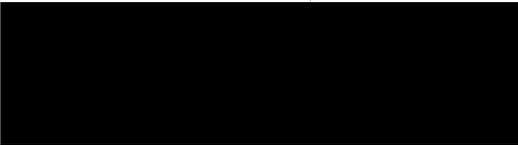
FILE: SRC 03 187 51644 Office: TEXAS SERVICE CENTER Date:

AUG 14 2004

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

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(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 initially approved the nonimmigrant visa petition. Based upon information that the position for which the petition was approved is not one that requires the minimum of a bachelor's degree or its equivalent, the director determined that the beneficiary was not eligible for the benefit sought. The director, therefore, properly served the petitioner with a notice of her intent to revoke the approval of the petition. The director ultimately revoked the approval of the petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a hospital. In order to employ the beneficiary as a radiologic technician, the petitioner endeavors to classify him as a nonimmigrant worker in a specialty occupation 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). The director revoked the approval of the petition on the basis that the proffered position does not meet the definition of a specialty occupation.

On January 28, 2004, counsel submitted a timely Form I-290B without a brief or evidence, and counsel checked the box at part 2 of the form that indicates that he would be submitting a brief and/or additional evidence within 30 days. Likewise, counsel's letter that accompanied the Form I-290B stated that "our appeal brief" would be sent within 30 days. As of this date, however, the AAO has not received any additional evidence into the record. Therefore, the record is complete.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

The counsel's comments about the reasons for the appeal are limited to this statement at part 3 of the Form I-290B:

The Service erred in revoking the approved H-1B Form I-129 petition; that [sic] the proffered position does not require a bachelor's degree.

This statement fails to specify how the director made any erroneous conclusion of law or statement of fact in revoking approval of the petition. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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. The petition is denied.