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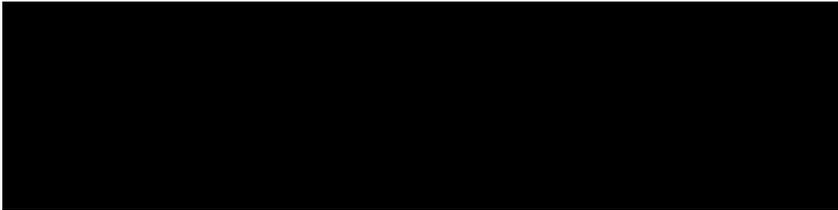
U.S. Department of Homeland Security
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Washington, DC 20536

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U.S. Citizenship
and Immigration
Services

D2



FILE: WAC 02 155 51055 Office: CALIFORNIA SERVICE CENTER Date: FEB 3 2004

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

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:

SELF-REPRESENTED

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 affirmed her decision in a subsequent motion to reconsider. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a hospital that seeks to employ the beneficiary as a staff nurse. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b). The director denied the petition because the proffered position is not a specialty occupation.

The petitioner submitted a timely Form I-290B on October 9, 2002 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. On January 17, 2003, the petitioner submitted an educational evaluation for the beneficiary. As of this date, the AAO has not received any other additional evidence into the record.

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).

On the Form I-290B or its attachment, the petitioner fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. The educational evaluation submitted has no relevance to the director's determination that the proffered position is not a specialty occupation. As the petitioner fails to present 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 these proceedings 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.