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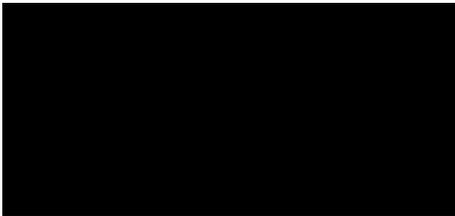
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FILE: WAC 04 049 51269 Office: CALIFORNIA SERVICE CENTER Date: AUG 02 2005

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:



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 director of the service center denied the nonimmigrant visa petition and 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 pediatrics therapy clinic that seeks to employ the beneficiary as a public relations specialist. The petitioner, therefore, endeavors to classify the beneficiary 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 because the proffered position is not a specialty occupation. On appeal, counsel submits a brief and previously submitted evidence.

Section 214(i)(1) of 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.

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 proceeding 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) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a public relations specialist. Evidence of the beneficiary's duties includes: the Form I-129; the attachments accompanying the Form I-129; the petitioner's support letter; and the petitioner's response to the director's request for evidence. According to this evidence, the beneficiary would perform duties that entail planning, developing, and implementing public information and public relations programs and developing a strategy to address public information; promoting company services; enhancing patient and community relations; working with company officials to gather and disseminate information about company functions; coordinating employees performing company duties; preparing, editing, and directing production and distribution of informational materials; developing concepts for informational and promotional programs; preparing program materials such as speeches, texts, scripts, brochures, and activities schedules; developing mailing lists; overseeing production of press kits; arranging print and electronic media coverage for special promotions and events; advising company officials regarding public relations programs and responding to the results of the medium used to engage in public relations; serving as a spokesperson for the company; liaising with representatives of the public and establishing contact with community groups to encourage community participation; and developing programs and strategies to enhance public perception of the company. The director determined that the proffered position parallels that of a public relations specialist as that occupation is described in the Department of Labor's (DOL) *Occupational Outlook Handbook* (the *Handbook*). The *Handbook* shows, the director stated, that this occupation does not require a baccalaureate degree in a specific specialty because no defined standards exist for entry into a public relations career, and a baccalaureate degree is not a normal, industry-wide minimum requirement for entry into the occupation. The director found the job announcement unpersuasive in establishing a baccalaureate degree requirement. The evidence, the director stated, does not show that the petitioner normally requires a baccalaureate degree. Citing to *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)), the director stated that in the case at bar the petitioner failed to submit corroborating evidence that would substantiate its claim of requiring employees holding the position of public relations specialist to possess at least a bachelor's degree in public relations or a related field. Referencing *Defensor v. Meissner*, 201 F. 3d 384 (5<sup>th</sup> Cir. 2000), the director stated that when determining whether a position qualifies as a specialty occupation the critical element is not the title of the position or an employer's self-imposed standards; but whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate or higher degree in the specific specialty as the minimum for entry into the occupation as required by the Act. The director found that not all of the proposed duties and stated level of responsibility indicate complexity or authority that is beyond what is normally encountered in the occupational field, and that the evidence of record did not persuasively show that the job offered could not be performed by an experienced person whose educational training falls short of a baccalaureate degree.

On appeal, counsel refers to evidence from the Oklahoma State Employment Agency, JIST Publishing, Inc., the Career and Information Occupational Kingdom, collegeboard.com, St. John's Well Child Center, The Public Relations Society of America (PRSA), The Public Relations Student Society of America (PRSSA), job announcements, and university programs offering baccalaureate degrees in public relations to show that a

public relations specialist is a specialty occupation. After narrating the beneficiary's duties, counsel states that they are complex in nature, involving specialized communication, market research, business skills, analytical insight, business development skills, writing, and editing. Counsel asserts that the petitioner's staff is professional; they all possess a bachelor's degree and work in professional positions. Counsel indicates that the petitioner requires for the proposed position a bachelor's degree in public relations, marketing, business, economics, or a related degree.

Upon review of the record, the petitioner has established none of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

The AAO first considers the criteria at 8 C.F.R. §§ 214.2(h)(4)(iii)(A)(1) and (2): a baccalaureate or higher degree in a specific specialty or its equivalent is the normal minimum requirement for entry into the particular position; a specific degree requirement is common to the industry in parallel positions among similar organizations; or a particular position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty. Factors often considered by CIS when determining these criteria include: whether the *Handbook* reports that the industry requires a degree; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F. Supp. 2d 1151, 1165 (D.Minn. 1999)(quoting *Hird/Blaker Corp. v. Sava*, 712 F. Supp. 1095, 1102 (S.D.N.Y. 1989)).

In determining whether a position qualifies as a specialty occupation, CIS looks beyond the title of the position and determines, from a review of the duties of the position and any supporting evidence, whether the position actually requires the theoretical and practical application of a body of highly specialized knowledge, and the attainment of a baccalaureate degree in a specific specialty as the minimum for entry into the occupation as required by the Act.

The AAO routinely consults the *Handbook* for its information about the duties and educational requirements of particular occupations. The *Handbook* states the following about the qualifications of public relations specialists:

There are no defined standards for entry into a public relations career. A college degree combined with public relations experience, usually gained through an internship, is considered excellent preparation for public relations work; in fact, internships are becoming vital to obtaining employment. The ability to communicate effectively is essential. Many entry-level public relations specialists have a college major in public relations, journalism, advertising, or communication. Some firms seek college graduates who have worked in electronic or print journalism. Other employers seek applicants with demonstrated communication skills and training or experience in a field related to the firm's business—information technology, health, science, engineering, sales, or finance, for example.

Although the *Handbook* indicates “[m]any entry-level public relations specialists have a college major in public relations, journalism, advertising, or communication,” it also reveals “[t]here are no defined standards for entry into a public relations career.” Read in totality, the *Handbook* indicates that many entry-level public relations specialists may possess a bachelor’s degree in certain fields; but employers do not *require* a bachelor’s degree in a specific specialty for a career in public relations. Accordingly, the petitioner cannot establish the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A): that a baccalaureate or higher degree, or its equivalent, in a specific specialty is the normal minimum requirement for entry into the particular position.

Counsel’s observation about baccalaureate degree programs in public relations fails to persuasively establish that the proffered position is a specialty occupation. The hiring practice of an employer is not dictated by the presence of baccalaureate degree programs in a specific field.

On appeal, counsel indicates that the petitioner requires a bachelor’s degree in public relations, marketing, business, economics, or a related degree for the proposed position, and submits job announcements to establish that the proposed position is a specialty occupation.

In the November 18, 2003 letter, the petitioner relays its requirement of a bachelor’s or master’s degree in an appropriate field, such as the one held by the beneficiary, which is a bachelor of arts in humanities with specialization in business administration; and conveys that the petitioner and other firms normally require at least a bachelor’s degree in business administration. The AAO observes that the record contains an educational evaluation indicating that the beneficiary holds the educational equivalent to a bachelor of business administration degree from an accredited university in the United States. The employers in the job announcements do not indicate that they require a bachelor’s degree in business administration. Millennium Pharmaceuticals, Inc. requires a degree in communications, English, biology, or a related field; RehabCare Group, Inc., a clinical degree; Manpower Professional, a bachelor’s degree in communications, public relations, journalism, English, marketing, or a related field; LocumTenens.com, a bachelor’s degree in public relations, advertising, or journalism; Berkeley Premium Nutraceuticals, Inc., a bachelor’s degree in public relations, mass communications, or a related field; Edward Hospital & Health Services, a bachelor’s degree in journalism, public relations, or marketing; Starr Commonwealth, a bachelor’s degree in public relations and/or communications; Pomerene Hospital, a bachelor’s degree in public relations, marketing, or a communications-related discipline; Rush North Shore Medical Center, a bachelor’s degree in journalism, public relations, or a related field; Public Relations Society of America, a bachelor’s degree in communications; Weber Shandwick Worldwide, a bachelor’s degree in journalism, public relations, communications, or a closely related field; Rush North Shore Medical Center, a bachelor’s degree in journalism, public relations, or a related field; Association for Financial Professionals, a bachelor’s degree in journalism, communications, or a related field; IMS Health, a bachelor’s degree in public relations, journalism, or communications; and Los Angeles County Museum of Art, a bachelor’s degree in communications or the liberal arts. The Lawrenceville School, Arby’s, Inc., Empire BlueCross BlueShield, Children’s Hospital of Philadelphia, Virginia Hospital Center, HealthNet, and St. Joseph Hospital of Orange do not require a bachelor’s degree in a specific specialty; nor do the nine employers in Jobs.com. The Methodist Health System requires a bachelor’s degree in a related field and Union Memorial Hospital prefers an advanced degree; neither employer gives any specifics of “a related field” or an “advanced degree.”

Based on an analysis of the job announcements, they are insufficient to establish the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A). The wide variety of degrees accepted by the employers supports the conclusion of the Handbook that a bachelor's degree in any field is an acceptable minimum requirement. In the November 18, 2003 letter the petitioner indicates that it requires a baccalaureate or higher degree in an appropriate field, such as the one held by the beneficiary, which is the equivalent to a baccalaureate degree in business administration, for the proposed position. None of the employers in the job announcements require a bachelor's degree in business administration; thus, the petitioner fails to establish the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The petitioner's acceptance of a bachelor's degree in business administration is not enough to establish that the proposed position qualifies as a specialty occupation. As indicated in *Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm. 1988), for a position to qualify as a specialty occupation:

A petitioner must establish that the position realistically requires knowledge, both theoretical and applied, which is almost exclusively obtained through studies at an institution of higher learning. The depth of knowledge and length of studies required are best typified by a degree granted by such institution at the baccalaureate level. It must be demonstrated that the position requires a precise and specific course of study which relates directly and closely to the position in question. Since there must be a close corollary between the required specialized studies and the position, the requirement of a degree of generalized title, such as business administration or liberal arts, without further specification, does not establish eligibility. . . .

Here, the petitioner accepts a baccalaureate degree of generalized title, business administration, without indicating further specification. As indicated in *Matter of Michael Hertz Assocs.*, this educational requirement satisfies none of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A): (1) a baccalaureate or higher degree or its equivalent in a specific specialty is the normal minimum requirement for entry into the particular position; (2) a specific degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, that the position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty; (3) the petitioner establish that it normally requires a degree or its equivalent for the position; or (4) the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

The evidence from PRSA and PRSSA is also insufficient to establish that a public relations specialist is a specialty occupation. In the submitted documents, neither the PRSA nor the PRSSA discuss the normal minimum requirements for entry into the occupation of public relations specialist. As such, this evidence has little probative value in establishing the first criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A).

To establish the second criterion at 8 C.F.R. § 214.2(h)(4)(iii)(A) - that a specific degree requirement is common to the industry in parallel positions among similar organizations - counsel refers to evidence from Oklahoma State Employment Agency, JIST Publishing, Inc., the Career and Information Occupational

Kingdom, collegeboard.com, and the *Occupational Information Network (O\*Net)* and a letter from St. John's Well Child Center. This evidence is not persuasive. Earlier in this decision we have discussed why the educational requirements indicated in the job announcements do not relate to the petitioner's requirement of a bachelor's degree in business administration. In addition to this, many of the employers in the job announcements are dissimilar from the petitioner in size, scope, or nature. Berkeley Premium Nutraceuticals, Inc. provides nutraceutical products, Millennium Pharmaceuticals, Inc. is a biopharmaceutical company, and Manpower Professional represents a healthcare/pharmaceutical practice. The petitioner, a pediatrics therapy clinic with 60 employees, is not a hospital; thus, it differs in nature from Edward Hospital and Health Services, Virginia Hospital Center, Children's Hospital of Philadelphia, Pomerene Hospital, and St. Joseph Hospital. The nature, size, and scope of HealthNet of Oregon and Starr Commonwealth are not indicated in the job announcements. Thus, because the job announcements are from employers that are dissimilar from the petitioner, they do not persuasively establish that a specific degree requirement is common to the industry in parallel positions among similar organizations.

The document entitled "Fastest Growing Occupations" from the Oklahoma State Employment Agency, and the evidence from JIST Publishing, Inc. do not indicate that a bachelor's degree *in a specific specialty* is required for a public relations specialist. The evidence from collegeboard.com discusses college programs and the PRSA; but it does not indicate that employers require a bachelor's degree in business administration for a public relations specialist. The *O\*Net* provides only general information regarding the tasks and work activities associated with a particular occupation, as well as the education, training, and experience required to perform the duties of that occupation. The *Handbook* provides a more comprehensive description of the nature of a particular occupation and the education, training, and experience normally required to enter into and advance within the occupation. For this reason, counsel's reference to and assertions about the *O\*Net* are not persuasive. The AAO assumes that Career OINK is the acronym for the Career and Information Occupational Kingdom. The evidence from Career OINK simply discusses the various sources from which its information is obtained. The evidence in the record is insufficient to establish that a specific degree requirement is common to the industry in parallel positions among similar organizations.

The St. John's Well Child Center letter indicates that the company requires a baccalaureate degree in public relations or a related field for a public relations specialist. Although relevant, a letter representing a single employer is insufficient to establish an industry-wide hiring requirement.

No evidence shows that the proffered position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty. Again, the *Handbook* reveals that employers do not require a bachelor's degree in a specific specialty for public relations specialists.

Counsel asserts that the petitioner normally requires a degree or its equivalent for the position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(3). No evidence in the record, including the organizational chart, discloses that the petitioner has had a past practice of requiring a specific baccalaureate degree for the proposed position. Although the organizational chart reveals that the petitioner requires a bachelor's degree for other positions such as floor time therapist and behavior intervention therapist, this does not establish a past practice of requiring a baccalaureate degree in a specific specialty for the proposed position, a public relations specialist.

The petitioner fails to establish that the nature of the specific duties is so specialized and complex that the knowledge required to perform them is usually associated with the attainment of a baccalaureate or higher degree. 8 C.F.R. § 214.2(h)(4)(iii)(A)(4). As already discussed in this decision, the *Handbook* reveals that employers do not require a bachelor's degree in a specific specialty for a public relations specialist. Furthermore, no evidence in the record shows that the beneficiary's duties are distinguishable from those of a public relations specialist as that occupation is illustrated in the *Handbook*.

As related in the discussion above, the petitioner has failed to establish that the proffered position is a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

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.