

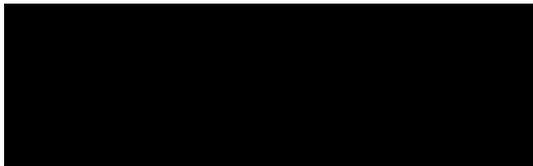
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U.S. Citizenship
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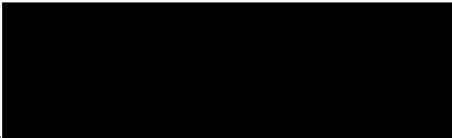
MAR 18 2005

FILE: WAC 02 285 51598 Office: CALIFORNIA SERVICE CENTER Date:

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 materials 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. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed. The petition will be denied.

The petitioner is a pharmacy. It seeks to employ the beneficiary as a pharmacist technician and 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the ground that the proffered position does not qualify as a specialty occupation.

On appeal counsel states that the petitioner was seeking to hire the beneficiary as a pharmacist technician, even though she has a pharmacy degree from a Philippine university, because she was not yet licensed as a pharmacist in the State of California. Counsel asserts that the director's decision was unreasonable and in error in view of the pharmacy industry's shortage of pharmacists and technicians. On the appeal form, filed August 11, 2003, counsel indicated that a brief and/or evidence would be submitted to the AAO within 30 days. No such brief or evidence was filed in the next 30 days, however, or at any time up to the date of the instant decision. The record is complete.

As specified in 8 C.F.R. § 103.3(a)(1)(v), "[a]n 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." Counsel's statement on the appeal form does not identify any erroneous conclusion of law or statement of fact in the decision. Accordingly, the appeal must be summarily dismissed.

The petitioner bears the burden of proof in these proceedings. *See* 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.