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U.S. Citizenship
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FILE: WAC 04 032 52978 Office: CALIFORNIA SERVICE CENTER Date: **AUG 04 2006**

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:
[Redacted]

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
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition by decision dated February 26, 2004. The matter was then appealed to the Administrative Appeals Office (AAO). By decision dated May 9, 2005, the AAO withdrew the director's decision and found that the proffered position qualified as a specialty occupation. The matter was then remanded to the director to determine whether the beneficiary was qualified to perform the duties of a specialty occupation. The petitioner is a dental practice and seeks to employ the beneficiary (as a medical research assistant) 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). On appeal, the AAO found that the beneficiary would be engaged in the practice of dentistry, and remanded the petition for a determination of whether the beneficiary was licensed to perform services as a dentist. The director's decision will be affirmed. The petition will be denied.

The director denied the petition on remand and certified his decision to the AAO for review. The petitioner did not submit additional evidence to the AAO subsequent to the director's certification.

Upon review, the AAO finds that the petitioner has not overcome the director's decision on certification. 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 director's May 23, 2006 decision is affirmed. The petition is denied.