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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 171 54314 Office: VERMONT SERVICE CENTER Date: JUN 07 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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a pharmaceutical company that seeks to employ the beneficiary as a product sourcing manager. The petitioner 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 stating that the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information stating that the offered position does qualify as a specialty occupation.

The issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

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), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

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.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a 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 are 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) the 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) the Form I-290B with counsel’s brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary’s services as a product sourcing manager. Evidence of the beneficiary’s duties includes the Form I-129 petition with attachment and the petitioner’s response to the director’s request for evidence. According to this evidence the beneficiary would:

- Execute the company sourcing program under the supervision of the president and in close coordination with the head of the business development department;
- Conduct research on U.S. based pharmaceutical R & D and manufacturing companies;
- Contact prospective client companies with contract manufacturing and/or marketing inquiries for their products;
- Initiate negotiations and work for the elaboration of contract manufacturing and/or marketing agreements with U.S. pharmaceutical companies;
- Pinpoint legal expertise of the mother company in fast-paced registration and approvals by the Bulgarian Drug Agency and Ministry of Health;
- Promote synergy effects of integrated manufacturing distribution, retail and marketing on the Balkans;
- Provide legal advice to foreign clients on the Bulgarian/European pharmaceutical sector regulations;
- Monitor contract execution in close coordination with management of the manufacturing facility, Tchaickapharma, Inc.;
- Maintain liaison with prospective and contracted clients;

- Analyze market performance of sourced products;
- Seek potential investors and discuss specific partnership opportunities for expansion of company manufacturing facilities and other related projects;
- Ensure company policies are in accordance with evolving foreign regulations, legal requirements and industry trends;
- Identify emerging trends in the pharmaceutical generic market and make recommendations to management with a view of expanding the existing generic portfolio of Tchaickapharma, Inc.;
- Prepare periodic reports to top management as necessary or requested and maintain effective communication with company headquarters; and
- Review and analyze relevant industry general and specialized literature and make recommendations to management and initiate marketing promotion techniques.

The petitioner requires a minimum of a bachelor's degree in law, finance, business or a related field for entry into the proffered position.

Upon review of the record, the petitioner has established that the proffered position qualifies as a specialty occupation. The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are varied and contain duties normally performed by administrative service managers and advertising, marketing, promotions, public relations and sales managers. While the *Handbook* does not require a bachelor's degree in a specific specialty for entry into positions as advertising, marketing, promotions, public relations or sales managers, it does for some administrative service managers. The *Handbook* notes that administrative services managers perform a broad range of duties in virtually every sector of the economy. They manage the many services that allow organizations to operate efficiently, such as secretarial and reception, administration, payroll, conference planning and travel, information and data processing, mail, materials, scheduling and distribution, printing and reproduction, records management, telecommunications management, security, parking, and personal property procurement, supply, and disposal. In small organizations, a single administrative services manager may oversee all support services. In larger ones, however, first-line administrative services managers often report to mid-level managers who, in turn, report to top-level managers. As the size of the firm increases, administrative services managers are more likely to specialize in support activities. For example, some work primarily as office managers, contract administrators, or unclaimed property officers. Administrative services managers who work as contract administrators oversee the preparation, analysis, negotiation, and review of contracts related to the purchase or sale of equipment, materials, supplies, products, or services.

In this instance, the record reflects that the beneficiary will work as a contract administrator for a pharmaceutical company that is owned by the Commercial League. The petitioner reports a gross annual

income worldwide of \$50,000,000. The *Handbook* states that managers of highly complex services, such as contract administration, generally need at least a bachelor's degree in business, human resources, or finance. The proffered position does, therefore, qualify as a specialty occupation since a baccalaureate or higher degree in a specific specialty is normally required for entry into the position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The director did not determine whether the beneficiary was qualified to perform the duties of the proffered position as the petition was denied on another ground. The record is, however, sufficient for the AAO to make that determination. The beneficiary's foreign education is equivalent to a bachelor's degree in international law from an accredited university in the United States. This course of study is closely related to the requirements of the offered position as the position involves the negotiation and execution of contracts as well as an understanding of foreign laws as they relate to the manufacture and sale of pharmaceuticals. The beneficiary is, therefore, qualified to perform the duties of the offered position. 8 C.F.R. § 214.2(h)(4)(iii)(C)(2).

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 sustained that burden and the appeal shall accordingly be sustained.

ORDER: The appeal is sustained. The petition is approved.