



U.S. Citizenship
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Services

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FILE: EAC 05 155 51776 Office: VERMONT SERVICE CENTER Date: JAN 02 2008

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.

for Michael T. Kelly
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a rehabilitation therapy medical outpatient center that seeks to employ the beneficiary as a physical therapist. 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 on the basis that the record of proceeding did not establish that the beneficiary has a license to practice as a physical therapist in the state of Maryland or that he is eligible to practice as a physical therapist in the state of Maryland immediately upon entry into the United States.

On February 3, 2006, [REDACTED] filed a Form I-290B Notice of Appeal to the Administrative Appeals Unit (AAO) on behalf of the petitioner, along with a Form G-28 Notice of Entry of Appearance as Attorney or Representative signed by [REDACTED] and the petitioner. On the Form G-28, [REDACTED] indicated that she was authorized and qualified to represent the petitioner before U.S. Citizenship and Immigration Services (USCIS) as the “director of JobAlive Ltd., which provides qualified applicants for various employers in the United States.” On November 14, 2007, the AAO forwarded a notification of ineligibility to practice before USCIS stating that “the Form G-28 does not establish your eligibility to appear either as an attorney, or as an accredited representative of an organization recognized and accredited by the Board of Immigration Appeals as defined in 8 C.F.R. §§ 103.2 and 292.1(a)(4).” As of this date, the AAO has not received any evidence indicating that [REDACTED] is authorized to appear before USCIS on this matter.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A) stipulates the following:

(A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service accepted will not be refunded.

As Ms. Potes is not entitled to file the appeal, the appeal must be rejected as improperly filed. Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.