

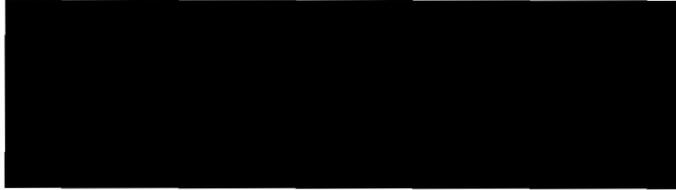
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U.S. Citizenship  
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Services

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FILE: EAC 03 166 52680 Office: VERMONT SERVICE CENTER Date: **NOV 04 2008**

IN RE: Petitioner:  
Beneficiary:



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, 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 dismissed.

The petitioner is a nonprofit hospital and medical center that seeks to employ the beneficiary as a physician resident in a postgraduate training program in pathology. 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, finding that the petitioner did not establish that the beneficiary was coming to the United States primarily to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency, or, in the alternative, that the beneficiary had passed the appropriate medical licensing examinations.

On appeal, counsel contends that the director erred in denying the petition, and that the beneficiary qualifies for H-1B status.

A review of the records of the Citizenship and Immigration Services indicates that this beneficiary is also the beneficiary of an approved immigrant petition and has adjusted status to that of a permanent resident as of October 26, 2005. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, this appeal is dismissed.

**ORDER:** The appeal is dismissed as moot.