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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 MASS, 3/F
425 I Street N.W.
Washington, D.C. 20536



File: POO 214F 002D Office: PORTLAND, OREGON

Date: OCT 16 2003

IN RE: Petitioner:



Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Section 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(F)(i)

ON BEHALF OF PETITIONER:

PUBLIC COPY

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 CFR § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 CFR § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was denied on July 3, 2003, by the Interim District Director, Portland, Oregon. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner in this matter, Birthingway College of Midwifery, filed Form I-17 seeking approval for attendance by nonimmigrant alien students in F-1 classification pursuant to section 101(a)(15)(F)(i) of the Immigration and Nationality Act (the Act).

The director denied the petition on the grounds that the petitioner failed to establish that its course curriculum would allow a nonimmigrant student to pursue a full course of study as required by 8 C.F.R. § 214.2(f)(6)(B). The director further found that the petitioner failed to establish that its clinical practicum comports with the requirements for practical training for F-1 students set forth at 8 C.F.R. § 214.2(f)(10).

On appeal, the petitioner states that its definition of full-time attendance is based upon the United States Department of Education requirements for schools using non-standard terms. The petitioner states that if CIS cannot make an exception for its nonimmigrant students, it can require its nonimmigrant students to carry at least 12 credit hours per term and continue to allow its other students to carry seven to nine credits per term as a full course of study.

As an F-1 student must be coming to the United States to pursue a full course of study, the first issue to be discussed is whether the petitioner's program of study meets the minimum hours required by regulation. A *full course of study* is defined in the regulations at 8 C.F.R. § 214.2 (f)(6) and states, in pertinent part:

(B) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term . . . where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes . . .

The record contains the petitioner's course catalog that indicates that the classroom program consists of 1040 class hours (69 credit hours) over a three-year period. In addition, students are required to complete 1140 class hours (38 credit hours) of clinical practicum. According to the evidence submitted, a first year student carries nine credits in the spring and fall terms and only seven credits in the winter term.

In review, the petitioner cannot overcome this objection of the director by requiring only non-immigrant students to carry 12 credit hours per term. The regulation requires a school official

to certify that a full course of study is twelve credit hours per term. The regulation does not make a distinction between nonimmigrant and resident or citizen students. Further, the petitioner cannot amend the petition to conform to CIS requirements. 8 C.F.R. § 103.2 (12) requires that the evidence must establish eligibility at the time a petition is filed.

The second issue raised by the district director is whether the petitioner established that its clinical practicum comports with the requirements for practical training for F-1 students set forth at 8 C.F.R. § 214.2(f)(10).

8 C.F.R. § 214.2(f) states that:

(10) *Practical training.* Practical training is available to F-1 students who have been lawfully enrolled on a full-time basis in a Service-approved college, university, conservatory, or seminary for at least nine months.

(i) *[C]urricular practical training . . .* is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school.

The petitioner's clinical practicum meets the above definition of curricular practical training.

According to the evidence submitted, the petitioner's midwifery program requires first year students to complete a clinical practicum during their initial winter term.¹ The director determined that the petitioner's clinical practicum conflicted with the regulations because it required students to complete the practicum before they completed nine months of study. The AAO concurs.

On appeal, the petitioner asserts that students may participate in its clinical practicum at any time during their enrollment, but that it is willing to require nonimmigrant students to defer participation in its clinical practicum under after they completed nine months of enrollment.

Again, the petitioner may not amend the petition to conform to CIS requirements. The petitioner must establish eligibility as of the date of filing the petition.

The burden of proof in these proceedings rests solely with the

¹ The petitioner's school year begins with the spring term, followed by the fall and winter terms.

petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.