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U.S. Citizenship
and Immigration
Services

La

[Redacted]

FILE:

[Redacted]

Office: TEXAS SERVICE CENTER

Date: JUN 12 2004

IN RE:

Petitioner:

Beneficiary:

[Redacted]

PETITION: Application to Register Permanent Residence or Adjust Status Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Application to Register Permanent Residence or Adjust Status (Form I-485) was found not to be readily approvable by the Director, Texas Service Center. Therefore, the director properly served the applicant with notice of her intent to deny the application, and her reasons therefore, and ultimately denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and citizen of the Philippines, born on October 6, 1957. He was paroled into the United States on July 3, 2003 at Omaha, Nebraska, to pursue his application for adjustment of status. He was admitted until July 2, 2004.

On August 8, 2003, the applicant filed Form I-485. His application is based upon an approved Immigrant Petition for Alien Worker (Form I-140) as a professional under section 203(b)(3)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(ii). The Application for Alien Employment Certification (Form ETA 750), that accompanied this petition, indicates the beneficiary's eligibility for blanket labor certification pursuant to 20 C.F.R. § 656.10(a), Schedule A, Group 1, based upon his occupation as a registered nurse.

An alien applying for adjustment of status to perform labor in a health care occupation as described in 8 C.F.R. § 212.15(c) must present evidence at the time of visa issuance or adjustment of status that he or she has a valid certificate issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS) for the occupation of nurse. 8 C.F.R. § 212.15(n)(3).

The director requested that the applicant provide a copy of the visa screen certificate dated no earlier than October 14, 1998 from the CGFNS. Since the certificate was not provided, the applicant was sent a Notice of Intent to Deny dated October 9, 2002. Again, the applicant did not provide the requested evidence, and the application was denied. The applicant subsequently filed an appeal.

The regulation at 8 C.F.R. § 245.2(a)(5) states, in pertinent part:

(ii) *Under section 245 of the Act.* [N]o appeal lies from the denial of an application by the director, but the applicant, if not an arriving alien, retains the right to renew his or her application in proceedings under 8 C.F.R. part 240.

The regulation cited above precludes the AAO from considering any appeal that is filed pursuant to the denial of an application for adjustment of status. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.