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U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

JUL 06 2006

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, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Vermont Service Center on October 17, 2001. A Notice of Intent to Revoke (NOIR) was thereafter issued on March 18, 2002. The petitioner made timely response to the NOIR, and the director issued an approval notice on April 30, 2002. On December 3, 2003, the director issued a second NOIR. Following the petitioner's response to the second NOIR, the director revoked approval of the Form I-129 petition by decision dated February 3, 2003 (the 2003 date is a typographical error, with the correct date being February 3, 2004, as noted on the Form I-290B). 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 multi-specialty medical practice. It seeks to employ the beneficiary as a medical records treatment analyst, and endeavors to classify him 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 revoked the Form I-129 petition following receipt of a memorandum dated December 20, 2001, from the American Consulate General's office in Mumbai, India. That memorandum called into issue the beneficiary's qualifications to perform the duties of the proffered position. The sole basis of the director's revocation was the beneficiary's qualifications to perform the duties of the position. As described by the petitioner, the beneficiary would analyze medical data and prepare reports for use by treating physicians in evaluating disease treatment and management programs. He would coordinate evaluation of medical care records and develop criteria and methods for record evaluation. The beneficiary would also review patient medical records and abstract and code information such as demographic characteristics and history and extent of disease for improving treatment and management programs. The petitioner required a minimum of a bachelor's degree in medicine or a related field for entry into the offered position.

The petitioner's foreign education was evaluated by a credentials evaluation service (Foundation for International Services, Inc.) who determined that the beneficiary's education was equivalent to doctor of medicine degree from an accredited college or university in the United States. That degree is closely related to the duties of the proffered position. The petitioner is, therefore, qualified to perform the duties of the proffered 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.

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