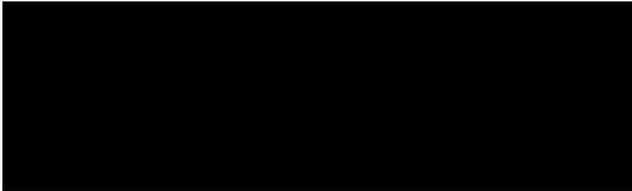


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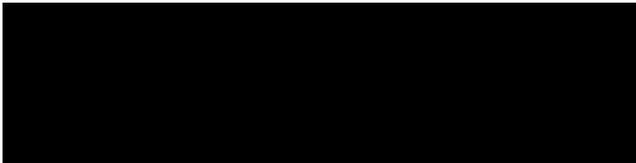
FILE: EAC 03 009 53179 Office: VERMONT SERVICE CENTER Date: NOV 29 2005

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a nursing home that seeks to employ the beneficiary as a care plan coordinator. 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 proffered position did not meet the definition of a specialty occupation.

Counsel submitted a timely Form I-290B on March 9, 2004 and indicated that a brief and/or additional evidence would be submitted to the AAO within 30 days. Counsel submitted a brief. Therefore, the record is complete.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B and in the brief, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. In the brief, counsel restates the duties of the proffered position and states "it can be gleaned in the above described duties of the proffered position that the nature of the work, is so complex and specialized that the same can be satisfactorily carried out only by a person who has attained a Bachelor's Degree." Counsel also addresses the issue of the beneficiary's qualifications and states that a nursing license is not required. This issue is immaterial to the outcome of the appeal, as the petitioner has failed to specify the deficiencies in the director's decision concerning whether the position qualifies as a specialty occupation. As neither the petitioner nor counsel presents additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.