



U.S. Citizenship
and Immigration
Services

(b)(6)

[REDACTED]

Date: **APR 01 2013**

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner:
Beneficiary:

[REDACTED]

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 IN THE FORM I-129 PROCEEDING:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry must be made to that office.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the instant nonimmigrant visa petition. The petitioner filed a motion to reconsider, which the director granted. The director then affirmed the previous decision and denied the visa petition again. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner claims to be a hospice and home care service with 30 employees, established in 2006. It seeks to employ the beneficiary as an RN case manager for hospice and palliative care 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).

In the motion decision, the director denied the petition on February 8, 2012, concluding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation.

On Monday, March 12, 2012, a Form I-290B, Notice of Appeal or Motion, was filed by former counsel [REDACTED] without a new Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the petitioner.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a “new [Form G-28] must be filed with an appeal filed with the [AAO].” Title 8 C.F.R. § 292.4(a) further requires that the new Form G-28 “must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS.”

On December 31, 2013, this office sent former counsel a fax notice requesting a new, properly executed Form G-28 personally signed by both counsel and by an authorized official of the petitioning entity.

[REDACTED] contacted the AAO by telephone, stating that he had received only part of the faxed request. The AAO therefore faxed the request again on January 14, 2013. As of this date, the AAO has not received any response to this fax request.

Without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity, authorizing counsel to represent the petitioner in the proceeding of the instant appeal, the AAO cannot consider him to be the petitioner’s attorney of record with regard to the appeal currently before it.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) provides in pertinent part that: “If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.” In addition, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that: “An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed.”

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Accordingly, the instant appeal must be considered as having been filed by a person not entitled to file the appeal and, therefore, must be rejected as improperly filed.

ORDER: The appeal is rejected.