U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

Date: MAR 0 4 2013 Office: VERMONT SERVICE CENTER FILE:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, 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.

On the Form I-129 visa petition the petitioner stated that it is a pediatric clinic with five employees. To employ the beneficiary in what it designates as a registered nurse position, the petitioner endeavors to classify her 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, finding that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position. The director also observed that the petitioner had failed to provide a valid certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or another approved credentialing agency as required of aliens seeking admission to work in certain health care professions or of aliens seeking an extension of stay to work in those health care professions pursuant to 8 C.F.R. § 212.15(a)(1) and 8 C.F.R. § 214.1(a)(3)(i).

On January 7, 2011, the petitioner submitted a Form I-290B (Notice of Appeal or Motion), without a brief or evidence. The only comment that counsel submitted pertinent to the basis for the appeal is the following statement at Part 3 of the Form I-290B:

> Petitioner . . . respectfully requests the Immigration Service reopen the denial. In fact, Petitioner filed for an H-1B visa for . . . the beneficiary for the position of Registered Nurse. Neither Petitioner, nor the beneficiary were advised at the onset of H-1B petition that [the beneficiary] needed to obtain a CGFNS certificate under section 212(a)(5)(C) of the Act by their attorneys Petitioner's attorney advised them of the requirement only after receiving the RFE which asked for it. Petitioner's attorney did not even know what the certificate was, and asked [the beneficiary] to "look it up" on the internet. [The beneficiary] immediately called the organization and diligently completed all steps required to obtain the certificate. Unfortunately, she was not able to obtain it prior to the deadline for the RFE response. However, she has since received the certificate and we have attached it for your review and kind consideration.
>
> Petitioner also respectfully requests the Immigration Service reopen and reconsider that the position of Registered Nurse in the Petitioner's urban, pediatric practice with several high[-]risk patients is in fact a specialty occupation as per the regulations at 8 C.F.R. § 214.2(h)(4)(iii)(A). In support of our motions, we submit independent literature discussing the challenges of practicing in an urban environment, two independent letters from similarly situated doctors with urban pediatric practices attesting that a bachelor's degree is required for the position of Registered Nurse in their practices, and a company letter of support.

Although counsel referred to evidence pertinent to the challenges of practicing in an urban environment, no such evidence was submitted with the appeal. Further, although the petitioner's counsel checked box B at section 2 of the Form I-290B, indicating that the petitioner would send a brief and/or evidence within 30 days, the AAO has received neither. Accordingly, the record of proceeding is deemed complete as currently constituted.

The petitioner's statement on appeal pertinent to the failure to provide a CGFNS certificate contains no assignment of error on the director's part.[1] Similarly, although the statement pertinent to the specialty occupation issue urges the AAO to reconsider the issue, it contains no specific assignment of error. Alleging, directly or indirectly, that the director erred in some broad or unspecified way is an insufficient basis for an appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: "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."

The petitioner's counsel failed to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition; therefore, 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 summarily dismissed.

---

[1] In fact, the failure to provide a CGFNS certificate is relevant only to the determination of admissibility. It is not a factor in determining whether the H-1B visa petition is approvable, *per se*. To the extent that the director's decision may be read as denying the instant visa petition because the petitioner failed to provide such a certification, that portion of the decision is withdrawn. This does not, however, alter the fact that the appeal submitted contains no specific assignment of error.