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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



U.S. Citizenship
and Immigration
Services



B5

DATE: NOV 09 2011 OFFICE: TEXAS SERVICE CENTER

FILE:

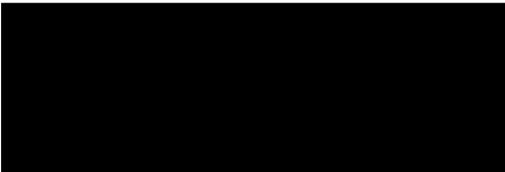


IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition and reaffirmed that decision on motion. 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 health care provider. It seeks to employ the beneficiary permanently in the United States as an internist physician pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, an ETA Form 9089, Application for Permanent Employment Certification, which the U.S. Department of Labor (DOL) approved, accompanied the petition. Upon reviewing the petition, the director determined that the beneficiary did not qualify for the second preference classification. Specifically, the director determined that the alien employment certification did not require an advanced degree and that the beneficiary did not possess an advanced degree or a bachelor's degree plus five years of progressive post baccalaureate experience.

On appeal, counsel submits a brief, an evaluation of the beneficiary's education, and additional evidence. For the reasons discussed below, the AAO finds that the alien employment certification calls for an advanced degree and that the beneficiary meets the requirements of the alien employment certification.

At the outset, the AAO emphasizes that the issue is not whether the beneficiary is eligible to practice medicine in the United States. The beneficiary is currently employed as an internist physician with the petitioner's practice in Texas. When the petitioner filed the Form I-140 on August 20, 2008, the beneficiary possessed a license issued by the Texas Medical Board to practice medicine valid until August 31, 2010. The petitioner also submitted evidence that the beneficiary was a member of the American Medical Association, the American College of Physicians, the American College of Physician Executives, and the National Stroke Association.

The petitioner has submitted evidence that the beneficiary had passed all three steps of the United States Medical Licensing Examination by December 28, 2002, had certification from the Educational Commission for Foreign Medical Graduates (ECFMG) by means of exams and a clinical skills assessment by July 16, 2002, had obtained certification as a diplomate in internal medicine by the American Board of Internal Medicine valid until 2016, and had completed a three-year residency program in internal medicine at Robert Packer Hospital in Sayre, Pennsylvania by July of 2006.

In pertinent part, section 203(b)(2) of the Act provides immigrant classification to members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. An advanced degree is a U.S. academic or professional degree or a foreign equivalent degree above the baccalaureate level. 8 C.F.R. § 204.5(k)(2).

The regulation further states: "A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a U.S. doctorate or a foreign equivalent degree." *Id.*

AACRAO.aspx (accessed November 8, 2011 and incorporated into the record of proceeding). Its mission “is to provide professional development, guidelines and voluntary standards to be used by higher education officials regarding the best practices in records management, admissions, enrollment management, administrative information technology and student services.” *Id.*

According to the login page, EDGE is “a web-based resource for the evaluation of foreign educational credentials” that is continually updated and revised by staff and members of AACRAO. [REDACTED] “AACRAO EDGE Login,” <http://aacraoedge.aacrao.org/> (accessed October 31, 2011 and incorporated into the record of proceeding).

In the section related to the Pakistani educational system, EDGE provides that an MBBS from Pakistan “represents the attainment of a level of education comparable to a first professional degree in medicine in the United States.”¹ A first professional degree within the United States includes an M.D.² This peer-reviewed opinion supports [REDACTED] conclusion that the beneficiary’s education in this matter a foreign equivalent degree to a medical degree from a regionally accredited institution in the United States.

Accordingly, the level of education required for issuance of an MBBS from Pakistan should be deemed to be the equivalent of that required for a United States medical degree.

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. Accordingly, the decision of the director denying the petition will be withdrawn.

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

¹ See placement recommendation for an MBBS from Pakistan in EDGE, accessed on October 31, 2011, copy incorporated into the record of proceeding.

² See <http://www.ed.gov/about/offices/list/ous/international/usnei/us/> [REDACTED] accessed on October 31, 2011, copy incorporated into the record of proceeding.