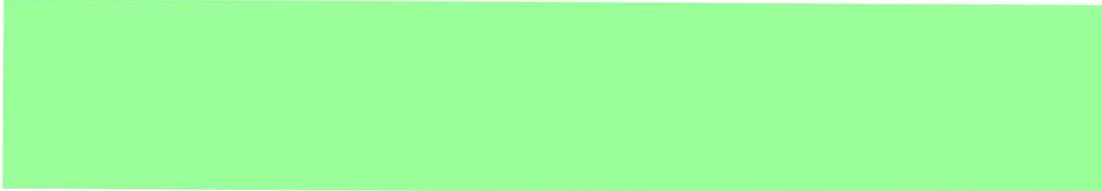


(b)(6)

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



DATE: **MAR 05 2014** 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)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

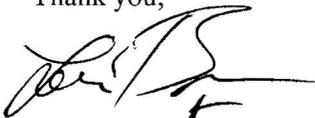
ON BEHALF OF PETITIONER:  


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks to employ the beneficiary permanently in the United States as a physical therapist, pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). The director denied the petition concluding that the "[t]he petitioner has not demonstrated that the beneficiary has the equivalent to a U.S. [m]aster's [d]egree."

The petition is for a Schedule A, Group I occupation. The U.S. Department of Labor (DOL) has determined that there are not sufficient U.S. workers who are able, willing, qualified, and available and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of aliens in Schedule A occupations. 20 C.F.R. § 656.5. Only professional nurses and physical therapists are on the current list of Schedule A, Group I occupations. 20 C.F.R. § 656.5(a).

Petitions for Schedule A occupations do not require the petitioner to test the labor market and obtain a certified ETA Form 9089, Application for Alien Employment Certification, from DOL prior to filing the petition with U.S. Citizenship and Immigration Services (USCIS). Instead, the petitioner files the petition directly with USCIS with an uncertified ETA Form 9089, in duplicate. 8 C.F.R. §§ 204.5(a)(2) and (k)(4); *see also* 20 C.F.R. § 656.15.

On appeal, counsel submitted a statement and additional evidence. On June 28, 2013, the AAO issued a notice of intent to dismiss the appeal (NOID) in accordance with the regulation at 8 C.F.R. § 103.2(b)(16). The NOID advised the petitioner and counsel of information that was not consistent with a conclusion that the beneficiary's bachelor's degree in physical therapy from the Philippines meets the regulatory definition of advanced degree. In response, counsel submitted a statement and additional evidence. In his response, counsel frames the issue as involving the following questions:

- Does the industry require a "level of education which is equivalent to an advanced degree?"
- Does the LC [labor certification] reflect that industry requirement?
- Does the beneficiary possess the requirements stated on the LC (an advanced degree)?

The sole issue, however, is whether the petitioner has demonstrated that the beneficiary is a member of the professions holding an advanced degree, defined as a degree above that of a baccalaureate. 8 C.F.R. § 204.5(k)(2).

For the reasons discussed below, upon review of the entire record, including the evidence submitted in response to the AAO's NOID, the petitioner has not established that the beneficiary is eligible for the classification sought.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. --

(A) In general. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

The regulation at 8 C.F.R. § 204.5(k)(2) defines an "advanced degree" as:

[A]ny United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. 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 United States doctorate or a foreign equivalent degree.

The regulation at 8 C.F.R. § 204.5(k)(3)(i) states that a petition for an advanced degree professional must be accompanied by:

- (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

A physical therapist ultimately seeking admission based on an approved immigrant petition must present a certificate from a credentialing organization listed at 8 C.F.R. § 212.15(e). 8 C.F.R. §§ 212.15(a)(1), (c). The provisions at 8 C.F.R. §§ 212.15(f)(1)(i) and (iii) require that approved credentialing organizations for health care workers verify "[t]hat the alien's education, training, license, and experience are comparable with that required for an American health care worker of the same type" and "[t]hat the alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission into the United States." The latter verification, however, is not binding on the Department of Homeland Security (DHS). 8 C.F.R. § 212.15(f)(1)(iii).

## II. ANALYSIS

The beneficiary's eligibility to practice in the United States is not at issue. Similarly, that the beneficiary possesses the necessary credentials for licensure is also not an issue. Further, whether physical therapy is a profession is not at issue.<sup>1</sup>

At issue in this matter is solely whether the beneficiary holds an advanced degree, defined as a degree above that of baccalaureate. As the petitioner does not claim, nor does the record demonstrate, that the beneficiary qualifies for the classification based upon the foreign equivalent of a baccalaureate degree combined with five years of progressive experience, the petitioner must establish that the beneficiary meets the regulatory definition of advanced degree by virtue of his degree alone.

The petition included a copy of the beneficiary's Bachelor of Science in Physical Therapy degree and transcript from [REDACTED] in the Philippines, a "Comprehensive Credential Evaluation Certificate" dated October 9, 2008 from the [REDACTED] and a [REDACTED] Course Work Evaluation Checklist" (evaluation) dated October 3, 2008, along with a duplicate "Report of Evaluation of Educational Credentials" (report) from [REDACTED] dated February 28, 2011, both of which [REDACTED] Managing Director of Credentialing Services at [REDACTED] signed. The [REDACTED] report states that the beneficiary's degree program consisted of four years of "[c]lassroom time" and ten months of "[c]linical time" and that the school "is comparable to a regionally accredited college or university in the U[nited] S[tates]." The report also states that the program's admission requirement is the equivalent of a diploma from a U.S. high school. According to the [REDACTED] evaluation, "the curriculum is substantially equivalent in content to the first professional physical therapy degree in the United States...[which] is the master's or higher."

In letters dated February 28, 2011 and May 5, 2011, Dr. [REDACTED] explained that, in 2001, the Commission on Accreditation in Physical Therapy Education (CAPTE) discontinued the accreditation of baccalaureate degree programs in the United States. Dr. [REDACTED] further explained that U.S. accredited programs have converted to post-baccalaureate programs. Dr. [REDACTED] concluded that the current first professional degree in the United States is at least a master's degree or higher. However, as stated in the NOID, "[t]he fact that the United States no longer awards baccalaureate degrees in physical therapy is not, by itself, persuasive evidence that the beneficiary's bachelor's degree from the Philippines is equivalent to an advanced degree."

The report and evaluation state that "sixty (60) semester credits in general education" and "ninety (90) semester credits in professional education" are the minimum requirements, along with a "required period of fulltime internship" and that the beneficiary has a total of 65.25 semester credits

---

<sup>1</sup> A determination that physical therapy is a profession does not suggest that it requires an advanced degree. The materials from O\*NET's website that counsel provides in response to the AAO's June 28, 2013 notice do not support a conclusion that the profession requires a master's degree for all current license holders. Rather, 21 percent of responding physical therapists report having only a baccalaureate.

in general education and 90.75 semester credits in professional education. They also note that the beneficiary earned an additional 21 credits during the course of his degree studies.

In its NOID, in addition to providing the information below, the AAO explained that neither the [redacted] report, nor the evaluation, provides a basis for the statement that 150 semester credits is the minimum required for an advanced degree in physical therapy in the United States. As stated in the AAO's NOID, page iv of CAPTE's *Evaluative Criteria PT Programs* (November 2013), currently available for download online at <http://www.capteonline.org/AccreditationHandbook/>, states that "[o]n average, DPT [Doctor of Physical Therapy] programs require 234 credits (116.4 preprofessional, 118.3 professional; 94.3 classroom/lab, 24 clinical education), which is 31.9 more credits than master's programs." Therefore, according to CAPTE, the average master's program in physical therapy requires 202.1 credits. In addition, the DOL's *Occupational Outlook Handbook* (OOH), available at <http://www.bls.gov/ooh/>, stated, as of June 18, 2013, that doctoral programs in physical therapy are typically three years, with a master's program requiring two to three years of study.<sup>2</sup>

In response to the AAO's NOID, the petitioner submitted a July 16, 2013 letter from Dr. [redacted] which states: "[redacted] role is to determine substantial equivalency to the minimum requirement for a U.S. entry-level master's degree" and that "there is support from multiple sources for the conclusion that 150 credit hours is the appropriate measure for such a degree." The letter further cites the U.S. Department of Education (DOE), Institute of Educational Sciences, Publication from the National Center for Education Statistics [NCES]: *Digest of Education Statistics 2006, Appendix B: Definitions*, as well as data from *The American Physical Therapy Association ("APTA") Fact Sheet, 2009-10*.

The petitioner failed to provide copies of Dr. [redacted] sources. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). An online search for the documents Dr. [redacted] references yielded both documents. The 2006 *Digest of Education Statistics, Appendix B* states that a bachelor's degree "requir[es] at least 4 years (or equivalent) of full-time college-level study. This includes degrees granted in a cooperative or work-study program." In other words, a bachelor's degree may, in some cases, require more than four years, or 120 semester credits, and include "co-operative or work-study programs," such as the beneficiary's ten month clinical program.

*The American Physical Therapy Association Fact Sheet, 2009-2010* does not discuss whether 150 credit hours is the appropriate measure for a degree above a baccalaureate, but rather states that the average physical therapist education program required 210.9 total semester credits in 2004-2005 and 228.1 total semester credits in 2009-2010, which far exceeds the 150 stated by Dr. [redacted] and is

<sup>2</sup> DOL recently revised its information pertaining to physical therapists at <http://www.bls.gov/ooh/healthcare/print/physical-therapists.htm>; however, the AAO incorporated the June 18, 2013 version into the record of proceeding and provided a copy with the NOID.

consistent with the information in CAPTE's publication, discussed in the AAO's NOID and above. Dr. [REDACTED] also references the Electronic Database for Global Education (EDGE) which "defines the undergraduate bachelor's degree as four years of study, or 120-140 semester credits...[and] a master's degree as 1-2 years in length," but also does not state that 150 semester credits is the minimum required for a U.S. advanced degree in physical therapy.

Finally, the Georgia State Board of Physical Therapy's Policy #14, Foreign Credentialing, which counsel references, states that 150 credit hours are required for foreign educated applicants without specifying a required degree. Thus, this policy, while requiring 150 credits, does not demonstrate that 150 credits in a physical therapy program are necessarily indicative of a degree above a baccalaureate.

In her July 2013 letter, Dr. [REDACTED] states that "[t]here is no basis, however, for using an 'average' calculation to set the minimum threshold for educational equivalency" and that "[s]ome recognized U.S. programs will fall above and below this 'average.'" The AAO provided this information in the NOID to demonstrate that, according to CAPTE, the "average" master's program length in physical therapy requires 52.1 credits, or almost two years, more than the 150 used by [REDACTED] and is consistent with a six to seven year total program length, including a four year baccalaureate degree prior to entry into an advanced degree physical therapy program. In the instant petition, the beneficiary's education consisted of four years of classroom time plus ten months of clinical time after graduation from high school. Furthermore, the fact that it is possible to receive a master's degree in some fields after a total of 150 semester credits, does not mean that every degree requiring at least 150 credits is above a baccalaureate. Ultimately, the petitioner must still demonstrate that the beneficiary has a foreign equivalent degree above a baccalaureate in physical therapy, the beneficiary's profession, rather than simply meeting the minimum number of total credits for a master's degree in another field.<sup>3</sup>

Contrary to counsel's assertions in response to the AAO's NOID, the regulatory authority of approved credentialing organizations to issue certificates for foreign health care workers is for the limited purpose of overcoming the inadmissibility provision pursuant to 8 C.F.R. § 212.15(e). [REDACTED] authority, which USCIS granted pursuant to 8 C.F.R. § 212.15(e)(3), does not extend to determining whether the beneficiary's education satisfies the regulatory definition of "advanced degree," the issue in the instant petition. Regardless, a credentialing organization's verification of the beneficiary's education, training, license and experience for admission into the United States is not binding on DHS. 8 C.F.R. § 212.15(f)(1)(iii).

According to the July 2013 letter from Dr. [REDACTED]

Each applicant is reviewed separately and all documentation from the post-secondary level [is] included in the review. Regardless of the individual's degree title, the

---

<sup>3</sup> Being a member of the professions does not entitle the alien to classification as a professional if he does not seek to continue working in that profession. See *Matter of Shah*, 17 I&N Dec. 244, 246-47 (Reg'l Comm'r 1977).

curriculum followed by the individual to complete their degree, combined with additional coursework, may meet the minimum length of study and content requirements established by CAPTE for U.S. schools. Notably, in the case of the University of Manila, all applicants from this university who have requested a credentials evaluation from [REDACTED] had completed additional post-graduate studies to supplement their initial degree, which contributed to the equivalency analysis.

The letter also states that "[REDACTED] analysis does not examine whether a particular degree or educational institution is equivalent – rather, FCCPT separately evaluates the specific coursework of each individual applicant." Completing substantially equivalent coursework is not the same as holding the foreign equivalent of an advanced degree, defined as above the baccalaureate level.

The regulation at 8 C.F.R. § 212.15(f)(i) also authorizes FCCPT to look at all of the individual's credentials in the aggregate when it is considering the individual's suitability for health care worker certification for admissibility purposes. As FCCPT looks at coursework and credentials beyond the beneficiary's degree, its certification does not determine whether the beneficiary's four year and ten month bachelor's degree from the Philippines is a single foreign equivalent degree above that of a baccalaureate, the requirement for this classification. See *Snapnames.com, Inc. v. Chertoff*, No. CV-06-65.MO, 2006 WL 3491005 \*11 (D. Or. Nov. 30, 2006) (finding USCIS was justified in concluding that the combination of a three-year degree followed by the coursework required for membership in the Institute of Chartered Accountants of India, was not a single college or university "degree" for purposes of classification as a member of the professions holding an advanced degree).

Where the analysis of the beneficiary's credentials relies on "equivalence to completion of a United States baccalaureate or higher degree," the result is the "equivalent" of an advanced degree rather than a "foreign equivalent degree."<sup>4</sup> Furthermore, neither FCCPT, nor Dr. Lindeblad, states that the beneficiary's degree is the foreign equivalent of a U.S. advanced degree, as required by the regulation and the sole issue in the instant petition. Rather, the provided information makes it clear that FCCPT looks at an individual's coursework (which may include coursework from multiple sources), and not the individual's degree, to determine "substantial equivalence," which is a different standard than what is required by this classification. Neither FCCPT's credibility, nor its evaluations for licensing purposes, is in question. Rather, based upon FCCPT's methodology, the evaluation is not a proper basis to determine whether the beneficiary holds the foreign equivalent of an advanced degree.

In response to the director's notice of intent to deny, the petitioner submitted an evaluation from Sharalynn D. Cromer of the Foundation for International Services, Inc. (FIS) which states that the beneficiary has "the equivalent of a master of physical therapy degree from a regionally accredited college or university in the United States." The FIS evaluation granted an equal number of U.S.

---

<sup>4</sup> Compare 8 C.F.R. § 214.2(h)(4)(iii)(D) (defining for purposes of a nonimmigrant visa classification, the "equivalence to completion of a United States baccalaureate or higher degree.") The regulations pertaining to the immigrant classification sought in this matter do not contain similar language.

credits for each credit earned in the Philippines. For example, Ms. [REDACTED] evaluation states that the beneficiary's College Algebra class, which lists 3 credits on the transcript, is equivalent to 3 U.S. semester credits. Similarly, Ms. [REDACTED] deems the 3 credits listed for Basic Statistics on the beneficiary's transcript equivalent to 3 U.S. semester credits. However, according to the [REDACTED] evaluation, "one (1) Philippine credit equals 0.75 U.S. semester credits" and the same courses [REDACTED] evaluates as 3 U.S. semester credits [REDACTED] deems equivalent to only 2.25 semester credits. The record contains no explanation for this discrepancy. Furthermore, as stated in the AAO's NOID, copies of the materials Ms. [REDACTED] relied upon are not part of the record of proceeding and the petitioner did not respond to that concern by providing copies of the relevant pages of those sources. As a result, the evaluation has little probative value.

According to EDGE, the Bachelor of Arts/Science/Commerce, etc. degree in the Philippines "represents attainment of a level of education comparable to a bachelor's degree in the United States." Under the credential description section, EDGE states that the bachelor's degree is "four to five years beyond the high school diploma (except Law which is an advanced degree as in the USA) with four being the most common length," but that "(Architecture, Engineering, Physical Therapy and Occupational Therapy for example, are five)." EDGE further states that the Master of Arts/Sciences degree in the Philippines "represents attainment of a level of education comparable to a master's degree in the United States."

In the June 28, 2013 NOID, the AAO advised the petitioner of the information from EDGE and provided information about the American Association of Collegiate Registrars and Admissions Officers (AACRAO), which created EDGE. The AAO noted that USCIS considers EDGE to be a reliable source of information about foreign credential equivalencies.<sup>5</sup> While counsel is correct that the referenced Liaison Council is no longer in existence, according to its website, AACRAO does still maintain a group of experts that reviews the information in EDGE. The AAO also provided a copy of a letter from [REDACTED] Director, [REDACTED] received in response to AAO's request for further information on this issue. The letter explains that the educational system in the Philippines is "based on the U[.]S[.] educational model...and [] employs [the same] nomenclature." Mr. [REDACTED] further states that "[t]he master of science in physical therapy exists in the Philippines as a higher or advanced degree and it is THAT degree which would be comparable to the U[.]S[.] master's degree." The AAO provided the petitioner with copies of all of the relevant information.

In response, counsel asserts that EDGE is relying solely on the name of the degree itself. Rather, as stated above, Director Gough explains that the Philippine educational system is similar to the U.S. system and uses the nomenclature used in the United States. Furthermore, counsel's statement that EDGE finds "the Philippine five-year physical therapy degree of today [] the same as the U.S. [b]achelor[']s in physical therapy of more than ten years ago," is an incorrect summary of EDGE's

<sup>5</sup> See *Confluence Intern., Inc. v. Holder*, Civil No. 08-2665 (DSD-JJG), 2009 WL 825793 (D. Minn. Mar. 27, 2009); *Tisco Group, Inc. v. Napolitano*, No. 09-cv-10072, 2010 WL 3464314 (E.D. Mich. Aug. 30, 2010); *Sunshine Rehab Services, Inc.* No. 09-13605, 2010 WL 3325442 (E.D. Mich. Aug. 20, 2010). See also *Viraj, LLC v. Holder*, No. 2:12-CV-00127-RWS, 2013 WL 1943431 (N.D. Ga. May 18, 2013).

finding. Rather, EDGE's determination is that the five year physical therapy degree program in the Philippines is equivalent to an undergraduate level education in the United States, not an advanced degree. The decision in the United States to discontinue the baccalaureate degree in physical therapy does not create a presumption that a country that continues to offer a baccalaureate degree must have increased the level of that degree to above a baccalaureate.

In addition, counsel asserts that Director [REDACTED] conclusion regarding the similarities between the U.S. and Filipino education systems "is entirely dependent on imagined prejudices of control and influence for which there is no support," but provides no evidence to support such a statement. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). According to EDGE:

The Philippine Government essentially kept the American educational model though one major exception was made. Strong central control over the educational system, reminiscent of the Spanish model, provides a stark contrast to the situation prevalent in the United States.

See <http://edge.aacrao.org/country/overview/philippines-overview>. Counsel also asserts that "EDGE would be required to not only have a thorough understanding of CAPTE standards for the education of a physical therapist in the U.S., but to also have knowledge of the content of the actual coursework taken at the foreign universities attended by the person being evaluated." Counsel acknowledges, however, that the author of the Philippine section of EDGE is familiar with and has used the Federation of State Boards of Physical Therapy (FSBPT) coursework tool. Regardless, there is no evidence that CAPTE, FCCPT, or any other approved credentialing agency bases its evaluation on whether the individual has a single degree that, in and of itself, is a foreign equivalent degree above a baccalaureate. Unlike [REDACTED] which bases its determination on credits for coursework, EDGE looks at the educational system of the country and the degree itself to make its determination.

The petitioner has not demonstrated that the information from EDGE is not applicable to the beneficiary's baccalaureate degree, especially since it addresses the five-year (including clinical training) Bachelor of Physical Therapy degree offered in the Philippines. Furthermore, the petitioner has not demonstrated that the beneficiary's program is different from the other five year physical therapy programs EDGE references.

In response to the AAO's June 28, 2013 NOID, counsel submits evidence of an email exchange and telephone call with Mr. [REDACTED] the author of the Philippine section of EDGE. Mr. [REDACTED] is the Assistant Director of Admissions at The [REDACTED] (which the State of Texas has authorized to perform credential reviews for physical therapists). Counsel's correspondence with Mr. [REDACTED] pertains to an unrelated petition involving a different occupation. Counsel asserts that Mr. [REDACTED] initially agreed to speak with him but later claimed a "conflict of interest" and would not speak with counsel "unless it was clear that the conflict could be waived by" USCIS. The record does not contain independent evidence of such a statement on the part of Mr.

Furthermore, USCIS is not a “client” of EDGE and petitioners may submit any available evidence desired to establish eligibility for the immigration benefit being sought.

Counsel claims that he sought a consultation with Mr. [REDACTED] because Mr. [REDACTED] “has found in the past that five (5) year Philippine Bachelor[] of Science in Physical Therapy [d]egrees do meet the Texas legal standard of ‘substantially equivalent to an entry-level degree in physical therapy granted by programs in the U[nited] S[tates].’” The record does not contain any evidence that Mr. [REDACTED] has issued evaluations that conflict with the information he authored in EDGE. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The record does contain a screenshot from the Texas Board of Physical Therapy Examiners website, which shows that Texas requires foreign-educated physical therapists to have a degree that is “substantially equivalent to an entry-level physical therapy degree granted by programs” in the United States, not a foreign equivalent degree above a baccalaureate. See <http://www.ptot.texas.gov/physical-therapy/pt-application/foreign-trained-applicants>, reproduced in counsel’s brief. The screenshot indicates that applicants may need to supplement their foreign degrees with additional coursework. Once completed, even the additional coursework would not result in the applicant possessing a foreign equivalent degree above a baccalaureate. See *Snapnames.com, Inc.*, 2006 WL 3491005 at \*11.

Accordingly, the evidence that the petitioner has provided shows that Texas will permit a combination of a degree and coursework for licensure. This information does not establish that the beneficiary currently possesses a single foreign equivalent degree above a baccalaureate.

In this case, the beneficiary’s Bachelor of Science in Physical Therapy degree would only meet the regulatory requirements for an advanced degree if the beneficiary also had five years of progressive post-baccalaureate experience. 8 C.F.R. § 204.5(k)(2). The petitioner has not asserted or demonstrated that the beneficiary had the required experience at the time the petitioner filed the petition.

Counsel relies heavily on the Adjudicator’s Field Manual (AFM) at Chapter 22.2(i)(C) to assert that USCIS should rely on the submitted evaluations in this matter, specifically that Immigration Service Officers (ISOs) “may favorably consider a credentials evaluation performed by an independent credentials evaluator who has provided a credible, logical and well-documented case for such an equivalency determination that is based solely on the alien’s foreign degree.” The AFM also states that adjudicators “should consider the opinions rendered...in conjunction with a review of the [ ] [b]eneficiary’s relevant education credentials, and other available credible resource material regarding the equivalency of the education credentials.” Finally, the AFM states that “any educational equivalency evaluation...is solely advisory in nature and that the final determination continues to rest with the” adjudicator.

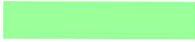
In the instant petition, the AAO considers the evaluations, along with other “credible resource material.” As stated previously, unlike EDGE, the [REDACTED] evaluation does not consider whether “the alien’s foreign degree” by itself is a foreign equivalent degree above a baccalaureate, but rather evaluates the beneficiary’s coursework to determine substantial equivalence to the content of a U.S. entry-level degree in physical therapy for admissibility purposes.

As previously stated, in response to the AAO’s NOID, counsel submitted a print out from the Georgia State Board of Physical Therapy, where the beneficiary is licensed and asserts that the requirements for licensure are further evidence that the beneficiary holds the foreign equivalent of an advanced degree. The submitted information, however, only confirms that Georgia requires an evaluation from one of three approved credentialing agencies, including [REDACTED] and that it “requires sixty (60) hours of general education and ninety (90) hours of professional education.” Ultimately, the record does not contain any evidence that Georgia requires a foreign-educated applicant to hold a single degree above a baccalaureate.

In response to the NOID, counsel also submitted a non-precedent AAO decision. The regulation at 8 C.F.R. § 103.3(c) provides that only precedent decisions of USCIS are binding on all its employees in the administration of the Act. The Departments of Homeland Security and Justice must designate and publish precedent decisions in bound volumes or as interim decisions. 8 C.F.R. § 103.9(a). Nevertheless, the decision involved a different occupation and, more importantly, the decision addressed the requirements of the offered position, which is not the issue in the instant petition. Therefore, counsel has not established that the non-precedent decision is relevant to the instant petition.

Based upon all of the information above, the petitioner has not demonstrated that the beneficiary holds the foreign equivalent of an advanced degree. It is incumbent upon the petitioner to submit relevant and probative evidence to establish the beneficiary’s eligibility. *Matter of Chawathe*, 22 I&N Dec. 369, 376 (AAO 2010). Where an opinion is not in accord with other information, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm’r 1988). USCIS is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought. *Id.* The truth is to be determined not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. at 376 citing *Matter of E-M-* 20 I&N Dec. 77, 80 (Comm’r 1989). In the instant petition, the petitioner has not submitted relevant and probative evidence that establishes by a preponderance of the evidence that the beneficiary’s degree is a foreign equivalent degree above that of a baccalaureate degree, as required by the classification.

As such, the petitioner has not established that the beneficiary holds an advanced degree as defined by the regulation at 8 C.F.R. § 204.5(k)(2). Therefore, the petitioner has not established that the beneficiary qualifies for classification as an advanced degree professional under section 203(b)(2) of the Act.



### III. CONCLUSION

The petitioner has not established that the beneficiary qualifies for immigrant classification as an advanced degree professional pursuant to section 203(b)(2) of the Act, and the implementing regulation at 8 C.F.R. § 204.5(k)(2). Accordingly, the petition may not be approved.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.