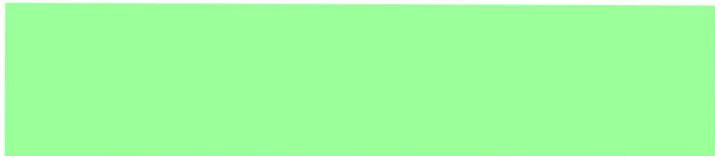
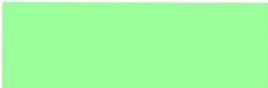


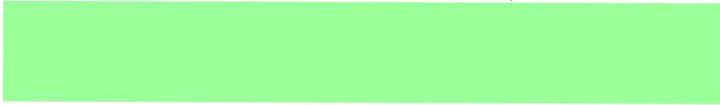
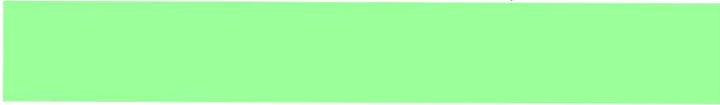


U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: JUN 06 2012 OFFICE: TEXAS SERVICE CENTER FILE: 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 with the field office or service center that originally decided your case by filing a 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,

Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner describes itself as a nursing registry. It seeks to permanently employ the beneficiary in the United States as a registered staff nurse. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. ^ 1153(b)(3)(A).<sup>1</sup>

The procedural history in this case is documented by the record and incorporated into the decision. Further elaboration of the procedural history will be made only as necessary.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted upon appeal.<sup>2</sup>

The petition is for a Schedule A occupation. A Schedule A occupation is an occupation codified at 20 ^ C.F.R. 656.5(a) for which 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 such occupations. The current list of Schedule A occupations includes professional nurses and physical therapists. *Id.*

Petitions for Schedule A occupations do not require the petitioner to test the labor market and obtain a certified ETA Form 9089 from the DOL prior to filing the petition with U.S. Citizenship and Immigration Services (USCIS). Instead, the petition is filed directly with USCIS with a duplicate uncertified ETA Form 9089. *See* 8 C.F.R. ^^ 204.5(a)(2) and (1)(3)(i); *see also* 20 C.F.R. ^ 656.15.

If the Schedule A occupation is a professional nurse, the petitioner must establish that the beneficiary has a Certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS); a permanent, full and unrestricted license to practice professional nursing in the state of intended employment; or passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN). *See* 20 C.F.R. ^ 656.5(a)(2).

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<sup>1</sup> Section 203(b)(3)(A)(i) of the Act, 8 U.S.C. ^ 1153(b)(3)(A)(i), grants preference classification to qualified immigrants who are capable of performing skilled labor (requiring at least two years training or experience), not of a temporary nature, for which qualified workers are not available in the United States. Section 203(b)(3)(A)(ii) of the Act, 8 U.S.C. ^ 1153(b)(3)(A)(ii), grants preference classification to qualified immigrants who hold baccalaureate degrees and are members of the professions.

<sup>2</sup> The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by 8 C.F.R. ^ 103.2(a)(1). *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

Petitions for Schedule A occupations must also contain evidence establishing that the employer provided its U.S. workers with notice of the filing of an ETA Form 9089 (Notice) as prescribed by 20 C.F.R. ^ 656.10(d), and a valid prevailing wage determination (PWD) obtained in accordance with 20 C.F.R. ^ 656.40 and 20 C.F.R. ^ 656.41. See 20 C.F.R. ^ 656.15(b)(2).

The director's decision denying the petition concludes that the petitioner failed to properly provide Notice in accordance with 20 C.F.R. ^ 656.10(d)(1), and also failed to establish that the beneficiary qualified for the offered position.

On appeal, the petitioner did not provide a statement explaining any erroneous conclusions of law or fact in the director's decision denying the petition. The petitioner merely indicated that additional information would be submitted to the AAO within thirty days of filing the appeal.

The petitioner dated the appeal May 25, 2009. As of this date, more than three years later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. ^^ 103.3(a)(2)(vii) and (viii).

As stated in 8 C.F.R. ^ 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The petitioner has not even expressed disagreement with the director's decision. The appeal must therefore be summarily dismissed.

It is also noted that, according to the New Jersey Division of Revenue's On-line Corporate Annual Report, Business Reinstatement and Agent Change Service website, the status of the petitioning business has been revoked. See [https://www1.state.nj.us/TYTR\\_COARS/JSP/page1.jsp](https://www1.state.nj.us/TYTR_COARS/JSP/page1.jsp).

**ORDER:** The appeal is dismissed.