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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**



C1

DATE: **APR 15 2011** OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]  
WAC 07 101 50564

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.

Thank you,

A handwritten signature in cursive script that reads "Perry Rhew".

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) remanded the matter for consideration under new regulations. The director again denied the petition and, following the AAO's instructions, certified the decision to the AAO for review. The AAO withdrew the director's decision and again remanded the matter for further action and consideration. The director denied the petition a third time, and the petitioner appealed that decision to the AAO. The AAO will withdraw the director's decision and approve the petition.

The petitioner is a retreat and hospital described as a supporting ministry of the Seventh-day Adventist Church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a lifestyle counselor/instructor therapist. The director determined that the petitioner had not established that the beneficiary's intended position qualifies as a religious occupation.

On appeal, the petitioner submits several letters and copies of religious writings.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before September 30, 2012, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2012, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The petitioner filed the Form I-360 petition on February 23, 2007. The AAO has previously withdrawn denial decisions issued on July 13, 2007, and May 5, 2009, and stated that the only remaining issue left to resolve concerns the nature of the beneficiary's intended work. The AAO's remand order of August 25, 2009 details the early procedural history of this petition, and we need not repeat those details here. Instead, we incorporate the 2009 decision by reference.

The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(5) defines a "religious occupation" as an occupation that meets all of the following requirements:

- (A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.
- (B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.
- (C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.
- (D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

In its August 2009 remand order, the AAO found that the petitioner had not adequately shown that the beneficiary's intended position qualifies as a religious occupation. On September 15, 2009, the director instructed the petitioner to "[p]rovide a **detailed description** of the work to be done" (emphasis in original), and "evidence that the duties primarily relate to a traditional religious function and the position is recognized as a religious occupation within the denomination."

In response, Mr. Ferreira provided a new job description, consisting of 29 duties listed over a page and a half:

The beneficiary's counseling duties will include:

- Using the health message as a means of reaching lifestyle guests and winning them to God by His love.
- Preaching Christ and delivering the joyful message of salvation to lifestyle guests.
- Moving with compassion at guests' pitiful plight, and providing them with hope that the Gospel message brings deliverance and wholeness to anyone who believes it.
- Conducting morning and evening worship services for lifestyle guests.
- Praying frequently for the restoration of lifestyle guests' health and for the power of the Holy Spirit in their lives and for His blessing on each guest.

- Providing physical, spiritual and emotional care and counseling to lifestyle guests and meeting their needs or referring the need to the appropriate person(s).
- Frequently reading the Bible and Spirit of Prophecy books to and with lifestyle guests and giving Bible studies to them and working toward understanding God's love for them and developing their personal relationship with Him.
- Assisting the doctor with the history and physical exams of lifestyle guests and determining the initial lifestyle-change objectives integrating ideas of spiritually [*sic*] in their healing process.
- Assisting in administering the prescribed hydrotherapy to lifestyle guests
- Observing lifestyle guests' compliance to their therapeutic modalities, their progress, and their group inters- reactions [*sic*].
- Making rounds with the staff physicians two times a week and evaluating lifestyle guest's progress.
- Assisting the doctor in health education of lifestyle guests teaching them that disease is a result of sin, which is the transgression of the moral laws – Ten Commandments, and the laws of nature that God has established for the good of all mankind, and that only in obedience to them can health be recovered or preserved.
- Assisting the Chaplin [*sic*] in religious education of lifestyle guests pointing them to the Savior that takes away disease of the soul.
- Preparing vegetarian meals as needed, being sure that all is in order and being aware of special diets and assisting as needed.
- Taking lifestyle guest to church for Wednesday Prayer meetings, Friday Vespers and Sabbath School and Divine Services and ministering to them in the form of teaching Sabbath school classes and preaching sermons.
- Conducting and assisting in health lectures and vegetarian cooking classes educating and advising lifestyle guests on the [*sic*] God's principles of diet and nutrition in which they can improve their health by adopting healthier eating habits.
- Continuing giving health lectures and Bible studies to discharged lifestyle guests.
- Constantly seeking improved or new therapeutic approaches using God's natural remedies and trust in divine power.
- Studying the Spirit of Prophecy books such as: Counselors on Diet and Food, Medical Ministry, Ministry of Healing, Counselors on Health and the Scriptures and knowing them as best friend [*sic*] in this missionary work.

As a [REDACTED] the beneficiary's roles will include the following:

- Maintaining a teaching assignment for each module.
- Instructing the assigned course(s) in accordance with the approved curriculum.
- Ensuring that the quality and quantity of instruction provided in the classroom is consistent with the stated objectives of the school and industry.
- Maintaining a daily record of student attendance and grades in accordance with school policy.

- Ensuring that the classroom and school's atmosphere is conducive to maximum learning and retention of students.

The beneficiary's advisory duties will include:

- providing information to the customers on nutritional value of the products represented at the store;
- helping quickly choose healthier products;
- counseling on the benefits of a vegan diet – eating without meat, eggs, or dairy products; providing information on how a vegan lifestyle protects against chronic disease; what the best sources for protein and calcium really are and how to supplement a diet properly to ensure the proper intake of the daily requirements.
- educating and advising a wide range of store customers with dietary-related disorders on the [sic] God's principles of diet and nutrition in which they can improve their health by adopting healthier eating habits;
- refereeing [sic] interested customers to [the petitioning] [REDACTED] for further information and services.

The new list of duties contains details omitted from earlier job descriptions, which shed further light on the religious nature of the beneficiary's duties.

[REDACTED] stated that the position requires four qualifications:

1. the completion of a medical missionary training course from a qualified [REDACTED] designed to give individuals an understanding of the Bible, Spirit of Prophecy, God's methods in the treatment of the sick, preventive medicine, natural remedies, and other aspects of God's healing way while at the same time preparing the student to share the truths of the gospel;
2. certificates in [REDACTED]
3. two-year membership in the [REDACTED].
4. Prior experience in helping professions.

To show that the beneficiary's duties relate to a traditional religious function, [REDACTED] stated:

Through the Spirit of Prophecy advocated in the writings of [REDACTED] the Lord instructs us to use health as one of His chosen ways for reaching people who are unaware, or jaded, about spiritual matters. Health touches people at the level of their need and "serves as an entering wedge for Bible truths." As people recognize their powerlessness to regain health by themselves they start searching for health principles and looking to the Lord for healing and become more open and receptive to things of the Holy Spirit and to a message of hope.

██████████ stated that the majority of [the beneficiary's duties] involve carrying out the creed of restoring fallen humanity into the image of God. With respect to the beneficiary's work with hydrotherapy, ██████████ quoted ██████████ founder of the ██████████ who advocated [w]ater treatments instead of poisonous drugs as the most satisfactory means of saving many lives that promotes health and assists nature to resist disease. ██████████ noted: As Seventh-day Adventists we believe that ██████████'s writings are as equally inspired as the Bible and hold them both as a creed of our denomination. ██████████ asserted that, because the beneficiary's duties derive directly from ██████████ teachings, they primarily, directly, and substantially relate to the religious beliefs and creed of our denomination.

The director denied the petition on November 18, 2009. The director quoted the petitioner's original description of the beneficiary's job duties, and found that the petitioner had not explained or demonstrated the religious significance of the beneficiary's work. The director stated: The petitioner has not shown that the beneficiary is responsible for creating religious content, or that the beneficiary's essential job functions are inherently or predominantly religious.

On appeal from the latest decision, the petitioner protests: we believe that this time the Director again simply concurred with the AAO's concerns in regard to the nature of the beneficiary's duties . . . without taking the time to review submitted evidence [in response to] the second RFE or simply discounting it as insufficient again. The record is consistent with this complaint. The director, in the latest denial notice, focused on the less-detailed original job description, and did not acknowledge the new details that the petitioner subsequently provided.

The petitioner submits writings by ██████████ founder of the ██████████. As explained earlier, the denomination considers ██████████'s writings to be sacred scripture, rather than simply commentary. These materials support the petitioner's position. Also, the record shows that the petitioner is not simply a hospital or retreat that happens to have a religious affiliation, but offers medical care that is similar to what is found at secular institutions. Instead, the petitioner's stated avoidance of drugs, combined with reliance on treatments such as hydrotherapy that find little acceptance in mainstream secular medicine, emphasizes the religious nature of the petitioning entity as well as the beneficiary's role therein. (Nevertheless, we caution against construing this decision as a blanket finding that every worker at the petitioning entity necessarily qualifies for classification as a religious worker for immigration purposes.)

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 met that burden. Accordingly, the AAO will withdraw the director's denial decision, sustain the appeal, and approve the petition.

**ORDER:** The appeal is sustained and the petition is approved.