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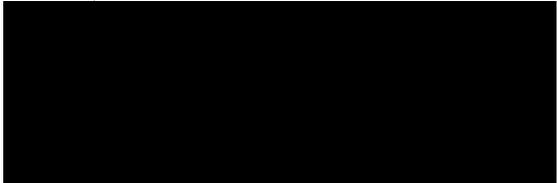
FILE: WAC 04 128 50450 Office: CALIFORNIA SERVICE CENTER Date: JAN 23 2006

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
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 sustained. The petition will be approved.

The petitioner is a sub-acute and skilled nursing facility and seeks to employ the beneficiary as a medical records director. The petitioner endeavors to classify the beneficiary 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 stating that the proffered position does not qualify as a specialty occupation. On appeal, counsel submits a brief and additional information stating that the offered position does qualify as a specialty occupation.

The issue to be discussed in this proceeding is whether the proffered position qualifies as a specialty occupation.

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), provides, in part, for the classification of qualified nonimmigrant aliens who are coming temporarily to the United States to perform services in a specialty occupation.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

The term "specialty occupation" is further defined at 8 C.F.R. § 214.2(h)(4)(ii) as:

[A]n occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;

- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties are so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B with counsel's brief. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a medical records director. Evidence of the beneficiary's duties includes the Form I-129 petition with attachment and the petitioner's response to the director's request for evidence. According to this evidence the beneficiary would plan, develop and administer the health information system for the petitioner's health care facility. Specifically, she would:

- Develop and implement policies and procedures for documenting, storing, and retrieving information and correspondence requests in conformance with federal, state and local statutes (30 per cent of the time);
- Develop and implement policies and procedures for processing medical-legal documents, insurance data, and develop, design and implement computerized health information systems (30 per cent of the time);
- Conduct analysis of patient data for reimbursement, facility planning, quality of patient care, risk management, utilization management and research (30 per cent of the time); and
- Supervise staff in preparing and analyzing medical documents (10 per cent of the time).

The petitioner requires a minimum of a bachelor's degree in healthcare management for entry into the proffered position.

Upon review of the record, the petitioner has established that the proffered position qualifies as a specialty occupation. The AAO routinely consults the Department of Labor's *Occupational Outlook Handbook (Handbook)* for information about the duties and educational requirements of particular occupations. The duties of the proffered position are essentially those noted for medical and health services managers as the

beneficiary would manage all aspects of the medical records department for the petitioner. The requirements of the position exceed the duties of a medical records technician as found by the director. The *Handbook* notes that in larger institutions, the medical records director is usually an administrator with a bachelor's degree in medical records and health information administration. In the *Handbook* section on medical and health services managers, medical records administrators are described as clinical managers with specific responsibility in a particular clinical area. The position offered in this instance would be equivalent to a clinical department head in charge of medical records services at the petitioner's healthcare facility. The petitioner is a 112 bed sub-acute and skilled nursing facility employing 170 people, with a gross annual income of \$9,700,000. As such, a bachelor's degree in medical records and health information administration is sufficient for entry into the position. The position is, therefore, a specialty occupation as a baccalaureate or higher degree in a specific specialty is normally required for entry into the position. 8 C.F.R. § 214.2(h)(4)(iii)(A)(I).

The director did not determine whether the beneficiary was qualified to perform the duties of the proffered position as the petition was denied on another ground. The record is, however, sufficient for the AAO to make that determination. The beneficiary's foreign education is equivalent to a bachelor's degree in business administration with a concentration in healthcare management at an accredited institution of higher education in the United States. 8 C.F.R. § 214.2(h)(4)(iii)(C)(2). The degree is closely related to the position offered and will qualify the beneficiary to perform the duties of the proffered position.

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 and the appeal shall accordingly be sustained.

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