

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

D/

PUBLIC COPY



FILE: WAC 02 056 50152 Office: CALIFORNIA SERVICE CENTER Date: JUN 26 2006

IN RE:



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.

A handwritten signature in blue ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition, and the petitioner filed an appeal. The Administrative Appeals Office (AAO) withdrew the director's decision and remanded the matter for further examination as to whether the beneficiary was qualified to perform the specialty occupation. The director denied the petition based on the petitioner's written request to "discontinue" the petition. The matter is now before the AAO on appeal. The appeal will be rejected.

The petitioner is a residential care facility that seeks to employ the beneficiary as a management dietician. The petitioner endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 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 because the petitioner's manager submitted a letter, dated August 20, 2004, requesting that the petition be discontinued/withdrawn. On appeal, counsel states that the director failed to state the specific reasons for his denial. Counsel states further that the petitioner can only assume that the director mistakenly presumed that the proffered position requires a license. Counsel also states that a thorough search of state, county, and city laws and ordinances finds no licensing requirement.

As discussed above, the petitioner requested that the petition be discontinued/withdrawn.

The Service's acknowledgement of a withdrawal may not be appealed. 8 C.F.R. § 103.2(b)(15).

An applicant or petitioner may withdraw an application or petition at any time until a decision is issued by the Service . . . However, a withdrawal may not be retracted. 8 C.F.R. § 103.2(b)(6).

In view of the foregoing, the appeal will be rejected.

ORDER: The appeal is rejected.