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FILE: WAC 03 153 50327 Office: CALIFORNIA SERVICE CENTER Date: APR 18 2005

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:
[Redacted]

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 dialysis center and seeks to employ the beneficiary as a medical records specialist. 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 specialist. Evidence of the beneficiary's duties includes the I-129 petition with attachment and the petitioner's response to the director's request for evidence. According to this evidence the beneficiary would: develop and implement policies and procedures for documenting, storing, and retrieving information, and for processing medical-legal documents, insurance data, and correspondence requests, in conformance with federal, state, and local statutes; review existing policies and procedures and update, where necessary; observe on-site processing of documents and information; interview personnel and get feedback on effectiveness of existing systems; formulate alternative procedures that would address deficiencies in the existing systems; research current trends in medical records maintenance and reporting by accessing information from medical journals, websites, and related publications; supervise staff, directly or through subordinates, in preparing and analyzing medical documents; oversee and manage coding, abstracting, and indexing standards for provision of accurate reports; set up feedback mechanism to obtain assessment of recording and retrieval systems; monitor staff performance, and mentor, as may be necessary, to advance effective health information management; participate in development and design of computer software for computerized health information system; analyze types of medical data entered into the system; categorize intermediate and end-users of stored medical information; ascertain ease and speed in retrieval of information from existing systems; determine critical data entry points and recommend methods to ensure accuracy of data input; research available computer software to determine suitability to existing systems used; coordinate medical care evaluation with medical staff and develop criteria and methods for such evaluation; assist medical staff in evaluating the quality of patient care and in formulating criteria and methods for such evaluation; develop methods to reduce/eliminate entry of uncertain clinical information; develop in-service educational materials and conduct instructional programs for health care personnel; based on feedback, develop instructional materials targeting common areas of difficulty in reporting/recording information; prepare and conduct instructional programs in specified areas such as coding, abstracting and indexing of medical information; analyze patient data for reimbursement, facility planning, quality of patient care, risk management, utilization management and research; liaise with management officers regarding issues relating to medical incidents affecting hospital care and development of policies and procedures; and provide technical support to management regarding clinical data codification, data reconciliation and compliance, data submission, data sharing and distribution, indexing and storage

systems, electronic health records, etc. The petitioner requires a minimum of a bachelor's degree in nursing, medicine, health administration or allied medical science 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 a master's degree in health services administration, long-term care administration, health sciences, public health, public administration, or business administration is the standard credential for most generalist positions in the field. A bachelor's degree, however, is adequate for some entry-level positions in smaller facilities and at the department level within healthcare organizations. Physician's offices and some other facilities may substitute on-the-job experience for formal education. For clinical department heads, a degree in the appropriate field plus experience may be sufficient for entry. The position offered in this instance would be equivalent to a clinical department head in charge of medical records services at the dialysis center. As such, a bachelor's degree in a related field 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)(1).

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 Doctor of Medicine degree and a Bachelor of Science degree in nursing from an accredited institution of higher education in the United States. 8 C.F.R. § 214.2(h)(4)(iii)(C)(2). Both of these degrees are 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.