

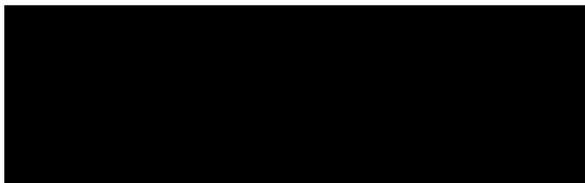
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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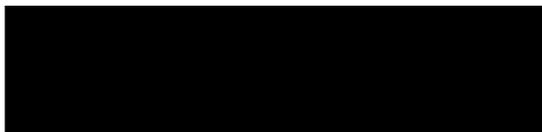
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Date: **JUL 05 2011**

Office: VERMONT SERVICE CENTER

FILE: 

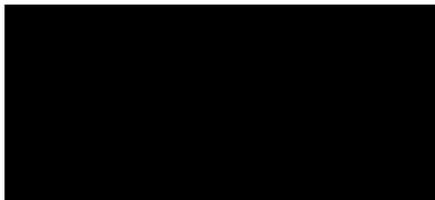
IN RE: Petitioner:



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:

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew

Chief, Administrative Appeals Office

Beneficiary will conduct ongoing assessments as determined by the adult or elderly patient's condition and/or the client facility's policies, procedures, or protocols and reprioritizes care accordingly. The Beneficiary develops a plan of care that is individualized for the adult or elderly patient reflecting collaboration with other members of the healthcare team.

The petitioner further claimed that the beneficiary earned a bachelor of science degree in nursing from the School of Medical Education, MG University, located in India in 2003. The petitioner also submitted a copy of an undated credential evaluation prepared by CES indicating the beneficiary satisfied similar requirements to the completion of a Bachelor of Science degree in nursing from an accredited institution of tertiary education in the United States.

The director found the initial evidence submitted to be insufficient, and issued an RFE on July 10, 2009. The director requested a more detailed description of the duties of the proffered position, as well as an explanation as to why a registered nurse without a bachelor's degree could not perform these duties. In addition, the director requested evidence demonstrating where the beneficiary will actually work, and further requested documentation regarding the educational requirements for nurses to obtain the appropriate license in the State of Florida.

In response to the RFE, the petitioner through counsel claimed that while it was the beneficiary's actual employer, she would render her services to the petitioner's client, [REDACTED]

[REDACTED] With regard to the director's request for a more specific overview of the duties of the proffered position, the petitioner submitted what appears to be an excerpt from a job description/performance appraisal. It is unclear, however, if this document was prepared by the petitioner or the end client. The document divides the duties of a "Registered Nurse Specialty Critical Care" into the following eight sections: (A) Physical and Mental Demands; (B) Equipment Used; (C) Working Conditions; (D) Hazards; (E) Supervisory [C]ontrol; (F) Required Education/Licensing; (G) Required Work Related Experience; and (H) Miscellaneous. Finally, it is noted that the petitioner did not address the educational requirements for obtaining a license to practice in Florida. Instead, counsel merely stated that "[t]he Petitioner requires a Bachelors degree (or equivalent) and a valid state license."

On September 3, 2009 the director denied the petition. The director determined the proffered position was not a specialty occupation, noting that the Department of Labor's *Occupational Outlook Handbook (Handbook)* did not require a bachelor of science degree as a prerequisite for entry into the field of nursing. Specifically, the director noted that, according to the *Handbook*, there were three major educational paths to registered nursing: (1) a bachelor of science degree obtained from four-year programs in colleges and universities; (2) an associate degree in nursing obtained from community or junior colleges, and (3) a diploma in nursing obtained through hospital-sponsored programs. The director noted that according to the *Handbook*, licensed graduates of any of these three programs qualified for entry-level nursing positions. The director further noted that while certain advanced nursing practice occupations are considered H-1B equivalent if a beneficiary has obtained advanced practice certification, no such certification was evident in the instant petition.