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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

D2

MAR 02 2011



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:

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 BENEFICIARY:



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,

*for Michael T. Kelly*  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition, and dismissed a subsequent motion to reopen/reconsider. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a skilled nursing facility that seeks to employ the beneficiary in the position of training and development specialist. Accordingly, 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 based on the determination that the beneficiary was not qualified to perform the services of a specialty occupation. The petitioner, through counsel, filed a motion to reopen/reconsider, and the director affirmed his previous findings in a March 3, 2009 decision. On appeal, counsel disputes the director's conclusion and provides additional documentation in support of the beneficiary's academic credentials.

The Form G-28, Notice of Entry of Appearance as Attorney or Representative, that was submitted for the record in support of the appeal was signed by the beneficiary, not by the petitioner or an authorized representative thereof. U.S. Citizenship and Immigration Services (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). In this case, the Form G-28 that was submitted for the record was signed by the beneficiary in his personal capacity. The Form G-28 submitted in support of the petition and the Form G-28 submitted in support of the petitioner's motion to reopen/reconsider, were signed by [REDACTED], Administrator for the petitioner, on April 8, 2008. The Form G-28 submitted on appeal is signed by the beneficiary on March 24, 2009, and does not list the petitioner as a party being represented by counsel in these proceedings.

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1). As the beneficiary and his counsel are not recognized parties, counsel is not authorized to file an appeal. *Id.*; 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

**ORDER:** The appeal is rejected.