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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  
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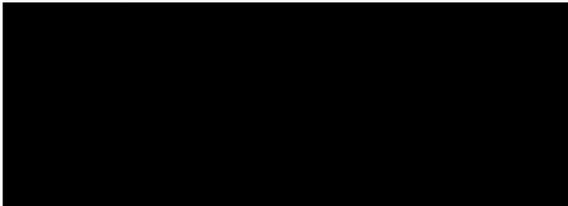
Date: **MAY 21 2012** Office: VERMONT SERVICE CENTER

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.

Thank you,

Perry Rhew  
Chief, 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.

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner describes itself as non-profit business with 260 employees. To employ the beneficiary in what it designates as a "Social Worker-Family Violence Services" position, the petitioner endeavors to classify her as a nonimmigrant worker in a specialty occupation 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). The director denied the petition on the grounds that the petitioner failed to establish that the beneficiary possesses the requisite license to perform the duties of a social worker in the State of New York.

Upon review of the entire record, we find that the petitioner has overcome the director's sole ground for denying this petition. The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The evidence presented in this particular record of proceeding establishes that the beneficiary is qualified to perform the duties of the proffered position. See 8 C.F.R. § 214.2(h)(iii)(C)(1).

The AAO notes that, contrary to counsel's allegation, the director correctly quoted the February 25, 2010 letter submitted to [REDACTED] the New York State Education Department, Office of the State Board for Social Work. As the director noted in his decision, the last paragraph in the letter from [REDACTED] states, "According to our records, [the beneficiary] has not applied for licensure and has not met the requirements to practice the profession."<sup>1</sup> However, read in context, it is clear that [REDACTED] was referring to the professions of "Licensed Master Social Worker" and "Licensed Clinical Social Worker," not the nonclinical social worker position at issue in the instant petition.

The burden of proof in visa petition proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

**ORDER:** The appeal is sustained. The director's May 14, 2010 decision is withdrawn, and the petition is approved.

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<sup>1</sup> The AAO notes that a slightly different version of the same letter was submitted by the petitioner on appeal; however, no explanation was provided for the variances in the letters. In any event, as explained, that particular statement made by [REDACTED] does not have any bearing on whether the beneficiary is qualified to perform the duties of the proffered position, as that position is neither a Licensed Master Social Worker nor Licensed Clinical Social Worker position.