



**U.S. Citizenship
and Immigration
Services**

(b)(6)

DATE: **JAN 28 2014** OFFICE: VERMONT SERVICE CENTER

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)

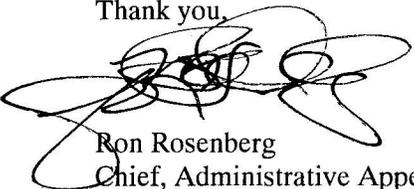
ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you.


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the Vermont Service Center on June 6, 2012. In the Form I-129 visa petition, the petitioner describes itself as a medical practice specializing in neurology that was established in 1969. In order to employ the beneficiary in what it designates as a neurodiagnostic technologist position, the petitioner seeks 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 (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on January 10, 2013, finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions. Thereafter, a Notice of Appeal or Motion (Form I-290B) was filed. The AAO conducted a preliminary review of the record of proceeding and found that the signature for the petitioner's authorized official, Sally Seiler, varies significantly throughout the record of proceeding.¹ On November 7, 2013, the AAO issued a Request for Evidence (RFE) and asked that Ms. Seiler detail which (if any) of the forms and documents that were submitted to USCIS in connection with the H-1B petition and appeal she personally signed, and which (if any) were not personally signed by her.

The petitioner did not respond within the time period allowed in the request, or any time since then. If a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. See 8 C.F.R. § 103.2(b)(13)(i). As further provided in 8 C.F.R. § 103.2(b)(14), the failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition.

As the petitioner has not responded to the AAO's request for evidence, the petition is deniable under the regulatory provisions cited above. Accordingly, the appeal will be dismissed, and the petition will be summarily denied as abandoned and denied due to the failure to submit requested evidence

¹ The regulation at 8 C.F.R. § 292.4(a) provides:

An appearance must be filed on the appropriate form as prescribed by DHS by the attorney or accredited representative appearing in each case. The form must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS. . . . Further proof of authority to act in a representative capacity may be required.

Furthermore, the regulation at 8 C.F.R. § 103.2(a)(2) states that a petitioner must sign his or her benefit request. By signing the benefit request, the signatory certifies under penalty of perjury that the benefit request, and all evidence submitted with it is true and correct. *Id.*

(b)(6)

NON-PRECEDENT DECISION

Page 3

that precludes a material line of inquiry, making any remaining issues in this proceeding moot.

ORDER: The appeal is dismissed.