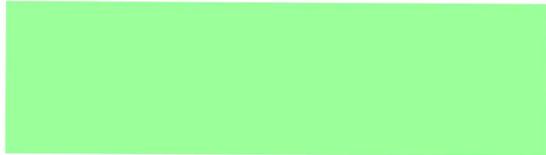
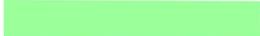


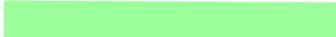
(b)(6)



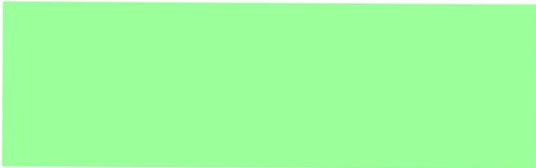
U.S. Citizenship  
and Immigration  
Services



DATE: **JAN 22 2015** OFFICE: CALIFORNIA 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 (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 instant nonimmigrant visa petition. Pursuant to a motion, the director reopened the matter then denied the visa petition again. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed as the matter is now moot.

In the Form I-129 visa petition, filed December 20, 2013, the petitioner described itself as a "Physician Practices" firm. In order to employ the beneficiary in what it designates as a "Physician" 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on January 29, 2014 because she determined that the petitioner failed to establish that it is entitled to an exemption from the numerical cap on H-1B visa petitions as it claimed on the visa petition. On August 11, 2014, the director affirmed that decision on motion, and denied the visa petition again. On appeal, counsel reiterates the assertion that the petitioner is exempt from the numerical cap.

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on February 10, 2014, subsequent to the initial denial of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on February 20, 2014. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, further pursuit of the matter at hand is moot.

**ORDER:** The appeal is dismissed. The petition is denied.