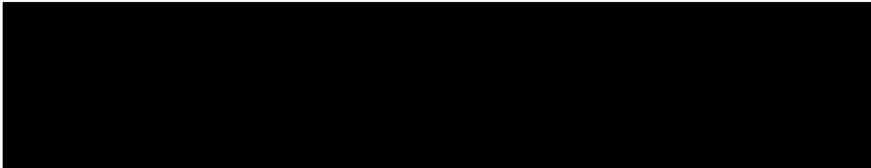


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**U.S. Citizenship
and Immigration
Services**

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FILE: LIN 05 243 70001 Office: NEBRASKA SERVICE CENTER Date: NOV 09 2006

IN RE: Applicant: 

APPLICATION: Application for Authorization to Issue Certification for Health Care Workers pursuant to section 212(a)(5)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(5)(C)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant seeks to obtain authorization to issue visa-screening certificates to foreign health care workers. The acting director determined, in conjunction with the recommendation of the Secretary of Health and Human Services (HHS), that the applicant (1) had failed to identify the health professions for which it sought authorization to issue health care worker certifications, and (2) had failed to provide clear responses to several of the standards included in 8 C.F.R. §§ 212.15(k). The acting director noted that in order to be considered for approval an applicant is obliged to provide “a full description of [its] activities in response to each standard [at 8 C.F.R. §§ 212.15(k)].”

On appeal, the applicant submits a letter.

Section 212(a)(5)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(5)(C), provides for the granting of authorization to an independent credentialing organization, deemed equivalent to the Commission on Graduates of Foreign Nursing Schools (CGFNS) by Citizenship and Immigration Services (CIS) in consultation with HHS, to issue a certificate to foreign health-care workers to overcome the inadmissibility provision at section 212(r) of the Act, 1182(r)¹.

The regulation at 8 C.F.R. § 212.15(k) states, in pertinent part, the following:

Standards for credentialing organizations. [CIS] will evaluate organizations, including CGFNS, seeking to obtain approval from [CIS] to issue certificates for health care workers, or certified statements for nurses. Any organization meeting the standards set forth in paragraph (k)(1) of this section can be eligible for authorization to issue certificates. . . . All organizations will be reviewed, including CGFNS, to guarantee that they continue to meet the standards required of all certifying organizations, under the following:

(1) *Structure of the organization.*

(i) The organization shall be incorporated as a legal entity.

(ii) (A) The organization shall be independent of any organization that functions as a representative of the occupation or profession in question or serves as or is related to a recruitment/placement organization.

(B) [CIS] shall not approve an organization that is unable to render impartial advice regarding an individual's qualifications regarding training, experience, and licensure.

(C) The organization must also be independent in all decision making matters pertaining to evaluations and/or examinations that it develops including, but not limited to: policies and procedures; eligibility requirements and application processing; standards for granting certificates and their renewal; examination content, development, and administration; examination cut-off scores, excluding those pertaining to English language requirements; grievance and disciplinary processes; governing body and committee meeting rules; publications about qualifying for a certificate and its renewal; setting fees for

¹ This ground of inadmissibility was established by section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Public Law 104-208, 110 Stat. 3009, 636-37 (1996).

application and all other services provided as part of the screening process; funding, spending, and budget authority related to the operation of the certification organization; ability to enter into contracts and grant arrangements; ability to demonstrate adequate staffing and management resources to conduct the program(s) including the authority to approve selection of, evaluate, and initiate dismissal of the chief staff member.

(D) An organization whose fees are based on whether an applicant receives a visa may not be approved.

(iii) The organization shall include the following representation in the portion of its organization responsible for overseeing certification and, where applicable, examinations:

(A) Individuals from the same health care discipline as the alien health care worker being evaluated who are eligible to practice in the United States; and

(B) At least one voting public member to represent the interests of consumers and protect the interests of the public at large. The public member shall not be a member of the discipline or derive significant income from the discipline, its related organizations, or the organization issuing the certificate.

(iv) The organization must have a balanced representation such that the individuals from the same health care discipline, the voting public members, and any other appointed individuals have an equal say in matters relating to credentialing and/or examinations.

(v) The organization must select representatives of the discipline using one of the following recommended methods, or demonstrate that it has a selection process that meets the intent of these methods:

(A) Be selected directly by members of the discipline eligible to practice in the United States;

(B) Be selected by members of a membership organization representing the discipline or by duly elected representatives of a membership organization; or

(C) Be selected by a membership organization representing the discipline from a list of acceptable candidates supplied by the credentialing body.

(vi) The organization shall use formal procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors. Not-for-profit corporations which have difficulty meeting this requirement may provide in their applications evidence that the organization is independent, and free of material conflicts of interest regarding whether an alien receives a visa.

(vii) The organization shall be separate from the accreditation and educational functions of the discipline, except for those entities recognized by the Department of Education as having satisfied the requirement of independence.

(viii) The organization shall publish and make available a document which clearly defines the responsibilities of the organization and outlines any other activities, arrangements, or

agreements of the organization that are not directly related to the certification of health care workers.

(2) *Resources of the organization.*

(i) The organization shall demonstrate that its staff possess the knowledge and skills necessary to accurately assess the education, work experience, licensure of health care workers, and the equivalence of foreign educational institutions, comparable to those of United States-trained health care workers and institutions.

(ii) The organization shall demonstrate the availability of financial and material resources to effectively and thoroughly conduct regular and ongoing evaluations on an international basis.

(iii) If the health care field is one for which a majority of the states require a predictor test, the organization shall demonstrate the ability to conduct examinations in those countries with educational and evaluation systems comparable to the majority of states.

(iv) The organization shall have the resources to publish and make available general descriptive materials on the procedures used to evaluate and validate credentials, including eligibility requirements, determination procedures, examination schedules, locations, fees, reporting of results, and disciplinary and grievance procedures.

(3) *Candidate evaluation and testing mechanisms.*

(i) The organization shall publish and make available a comprehensive outline of the information, knowledge, or functions covered by the evaluation/examination process, including information regarding testing for English language competency.

(ii) The organization shall use reliable evaluation/examination mechanisms to evaluate individual credentials and competence that is objective, fair to all candidates, job related, and based on knowledge and skills needed in the discipline.

(iii) The organization shall conduct ongoing studies to substantiate the reliability and validity of the evaluation/examination mechanisms.

(iv) The organization shall implement a formal policy of periodic review of the evaluation/examination mechanism to ensure ongoing relevance of the mechanism with respect to knowledge and skills needed in the discipline.

(v) The organization shall use policies and procedures to ensure that all aspects of the evaluation/examination procedures, as well as the development and administration of any tests, are secure.

(vi) The organization shall institute procedures to protect against falsification of documents and misrepresentation, including a policy to request each applicant's transcript(s) and degree(s) directly from the educational licensing authorities.

(vii) The organization shall establish policies and procedures that govern the length of time the applicant's records must be kept in their original format.

(viii) The organization shall publish and make available, at least annually, a summary of all screening activities for each discipline including, at least, the number of applications received, the number of applicants evaluated, the number receiving certificates, the number who failed, and the number receiving renewals.

(4) *Responsibilities to applicants applying for an initial certificate or renewal.*

(i) The organization shall not discriminate among applicants as to age, sex, race, religion, national origin, disability, or marital status and shall include a statement of nondiscrimination in announcements of the evaluation/examination procedures and renewal certification process.

(ii) The organization shall provide all applicants with copies of formalized application procedures for evaluation/examination and shall uniformly follow and enforce such procedures for all applicants. Instructions shall include standards regarding English language requirements.

(iii) The organization shall implement a formal policy for the periodic review of eligibility criteria and application procedures to ensure that they are fair and equitable.

(iv) Where examinations are used, the organization shall provide competently proctored examination sites at least once annually.

(v) The organization shall report examination results to applicants in a uniform and timely fashion.

(vi) The organization shall provide applicants who failed either the evaluation or examination with information on general areas of deficiency.

(vii) The organization shall implement policies and procedures to ensure that each applicant's examination results are held confidential and delineate the circumstances under which the applicant's certification status may be made public.

(viii) The organization shall have a formal policy for renewing the certification if an individual's original certification has expired before the individual first seeks admission to the United States or applies for adjustment of status. Such procedures shall be restricted to updating information on licensure to determine the existence of any adverse actions and the need to re-establish English competency.

(ix) The organization shall publish due process policies and procedures for applicants to question eligibility determinations, examination or evaluation results, and eligibility status.

(x) The organization shall provide all qualified applicants with a certificate in a timely manner.

(5) *Maintenance of comprehensive and current information.*

(i) The organization shall maintain comprehensive and current information of the type necessary to evaluate foreign educational institutions and accrediting bodies for purposes of ensuring that the quality of foreign educational programs is equivalent to those training the same occupation in the United States. The organization shall examine, evaluate, and validate the academic and clinical requirements applied to each country's accrediting body or bodies, or in countries not having such bodies, of the educational institution itself.

(ii) The organization shall also evaluate the licensing and credentialing system(s) of each country or licensing jurisdiction to determine which systems are equivalent to that of the majority of the licensing jurisdictions in the United States.

(6) *Ability to conduct examinations fairly and impartially.*

An organization undertaking the administration of a predictor examination, or a licensing or certification examination shall demonstrate the ability to conduct such examination fairly and impartially.

(7) *Criteria for awarding and governing certificate holders.*

(i) The organization shall issue a certificate after the education, experience, license, and English language competency have been evaluated and determined to be equivalent to their United States counterparts. In situations where a United States nationally recognized licensure or certification examination, or a test predicting the success on the licensure or certification examination, is offered overseas, the applicant must pass the examination or the predictor test prior to receiving certification. Passage of a test predicting the success on the licensure or certification examination may be accepted only if a majority of states (and Washington, DC) licensing the profession in which the alien intends to work recognize such a test.

(ii) The organization shall have policies and procedures for the revocation of certificates at any time if it is determined that the certificate holder was not eligible to receive the certificate at the time that it was issued. If the organization revokes an individual's certificate, it must notify the DHS, via the Nebraska Service Center, and the appropriate state regulatory authority with jurisdiction over the individual's health care profession. The organization may not reissue a certificate to an individual whose certificate has been revoked.

(8) *Criteria for maintaining accreditation.*

(i) The organization shall advise [CIS] of any changes in purpose, structure, or activities of the organization or its program(s).

(ii) The organization shall advise [CIS] of any major changes in the evaluation of credentials and examination techniques, if any, or in the scope or objectives of such examinations.

(iii) The organization shall, upon the request of [CIS], submit to [CIS], or any organization designated by [CIS], information requested of the organization and its programs for use in investigating allegations of non-compliance with standards and for general purposes of determining continued approval as an independent credentialing organization.

(iv) The organization shall establish performance outcome measures that track the ability of the certificate holders to pass United States licensure or certification examinations. The purpose of the process is to ensure that certificate holders pass United States licensure or certification examinations at the same pass rate as graduates of United States programs. Failure to establish such measures, or having a record showing an inability of persons granted certificates to pass United States licensure examinations at the same rate as graduates of United States programs, may result in a ground for termination of approval. Information regarding the passage rates of certificate holders shall be maintained by the organization and provided to HHS on an annual basis, to [CIS] as part of the 5-year reauthorization application, and at any other time upon request by HHS or [CIS].

(v) The organization shall be in ongoing compliance with other policies specified by [CIS].

On the application and supporting documents, the applicant claimed to have been established during 1997 and described itself as “an independent, unbiased academic referee.” The applicant described itself as an educational research and evaluation company performing educational evaluations.

The applicant provided the names of the members of its evaluation committee, their degrees, and the institutions at which they earned those degrees, but did not otherwise describe the structure of the organization.

In the space on the Form I-905 application labeled “Occupations for which you are seeking authorization” the applicant entered, “[REDACTED] is one of the partner and member [sic] of evaluation team. We need approval of all medical profession.” The applicant did not otherwise state the medical positions it is seeking licensure to certify and did not demonstrate that its evaluators are competent to certify the educational credentials of those medical professionals seeking such certifications.

As to the process pursuant to which it would issue certificates the applicant stated on the application that it would check documents presented for authenticity and interview the person seeking certification. In an addendum the applicant stated that foreign documents are critically examined to determine the number of years of study, the content of the courses and institutions, the “medium of study,” and the educations and degrees of the faculty at which degrees were earned.

Another section of the Form I-905 requests that the applicant “Explain [its] expertise, knowledge, and experience in the health care occupations for which [it seeks] authorization.” In answer to that question the applicant stated that it does “all kinds of credential evaluation including medical profession,” [sic] and that “The expert opinion of [REDACTED] is always taken if there is any need, any other expert opinion in the similar field is obtained before a final issuance of the certification and its proper records are maintained.” The applicant did not otherwise explain its expertise, knowledge, and experience pertinent to health care occupations.

In answer to the request that it explain how it meets the standards described in the instructions sheet² the applicant referred to an addendum. In the addendum the applicant asserted that it is a legal incorporated entity, that it is independent of hospitals and other health care providers, that it is impartial, that its fees are not contingent, and that the applicant is able to obtain outside expert advice. The applicant did not provide evidence in support of any of those assertions.

² The standards described in the instructions sheet include all of the standards listed in at 8 C.F.R. § 212.15(k)(1) – (8), set out above.

Asked to describe the procedure it will establish to enable DHS to verify the validity of its certificates the applicant stated that it retains records for five years.

The acting director sought consultation with HHS as directed under 8 C.F.R. § 212.15(j)(3), which found that the applicant failed to demonstrate eligibility pursuant to 8 C.F.R. § 212.15(k) and recommended denying the application. The acting director determined that the evidence submitted did not establish that the applicant was eligible to be authorized to issue certifications for health care workers, and, on June 20, 2005, denied the application. The acting director incorporated HHS' recommendations into his decision. In that decision the acting director noted that,

In order to be considered for approval to issue health care worker certification[s the applicant must submit] a full description of [its] activities in response to each standard . . . as well as evidence to support [its] response.

On appeal the applicant submitted a letter dated July 14, 2005 from its manager. In that letter the manager stated that the applicant seeks approval to do credential evaluations for licensed practical nurses, licensed vocational nurses, registered nurses, occupational therapists, physical therapists, and medical technologists. That letter also provided the applicant's web address, <http://www.degreeevaluation.com> as evidence of the applicant's compliance with the regulations.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(i) the manager stated that, "[The applicant] is registered in NY and a legal entity of NY state." The manager provided no evidence of that assertion.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(ii)(A) the manager stated, "[The applicant] is an independent organization and are [sic] not involved in any kind of recruitment of any health care professionals or their placements etc." The manager provided no evidence of that assertion.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(ii)(B) The manager stated, "[The applicant] is very strict on credential evaluation since it is established. The integrity of the documents and its checking standard are tough here. Each individual's credential are critically examined and unbiased and impartial confidential report is prepared about the qualifications, training, experience, and licensure. **WE ARE AN INDEPENDENT UNBAIED ACADEMIC REFEREE.**" [Emphasis and errors in the original.] The manager did not provide any evidence in support of those assertions. The manager did not otherwise address the requirement that the applicant demonstrate that it is able to render impartial advice regarding an individual's qualifications.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(ii)(C) the manager stated that the applicant is "a free and independent organization." The manager provided no evidence of that assertion. Unsupported assertions are insufficient to meet the burden of proof in these proceedings. *Matter of Soffici* 22 I&N Dec. 158, 165 (Comm. 1998) (citing to *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The applicant has not demonstrated compliance with this regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(ii)(d) The manager stated, [The applicant] is not involved in any kind of visa activities, and we are in business for about a decade and on the basis of our evaluation thousands of programmers and other professional were granted visa from the Immigration. **IT IS NOT OUR CONCERN WHETHER AN APPLICANT GETS VISA OR NOT. WE ONLY DO EVALUATION.**" [Emphasis and errors in the original.] The manager did not otherwise address the requirement that the applicant's fees not be contingent and provided no evidence in support of his assertions.

This office notes, however, that the applicant's website indicates, at http://www.degreeevaluation.com/index_files/page0001.htm that the applicant is an expert in various visa types and other immigration assistance, and that it offers consultations to employers pertinent to obtaining alien workers. Finally the applicant states, "The higher caliber attorneys and consultants are always available for all kinds of immigration help, just call [the applicant's phone number]. These representations by the applicant appear to be inconsistent with the applicant's assertion in seeking approval of this application that it "is not involved in any kind of visa activities."

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, the applicant must resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (Comm. 1988).

The applicant has not demonstrated that it is in compliance with the requirement of 8 C.F.R. § 212.15(k)(1)(ii)(d).

As to the requirement of 8 C.F.R. § 212.15(k)(1)(iii)(A) the manager stated "Certainly a US Qualified professional is a member of the evaluation committee in the same health care discipline as alien health care worker evaluated." The manager provided no evidence of that assertion. The manager did not otherwise demonstrate that its evaluation committee includes licensed practical nurses, licensed vocational nurses, registered nurses, occupational therapists, physical therapists, and medical technologists. Merely asserting that the applicant is in compliance with this regulation is insufficient, given that the regulations require supporting evidence. The applicant has not demonstrated that it complies with the requirement of 8 C.F.R. § 212.15(k)(1)(iii)(A).

As to the requirement of 8 C.F.R. § 212.15(k)(1)(iii)(B) the manager stated, "Of course one public member to represent the interest of the consumers and protect the interests of the public are included in the committee. Not only this, their name, category and representation should be mentioned in the evaluation committee." [Errors in the original.] The manager provided no evidence to demonstrate that its evaluation committee includes at least one voting public member, not a member of the discipline evaluated, to represent the interests of consumers and protect the interests of the public. The applicant has not demonstrated that it conforms to the requirements of that regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(iv) the manager stated, "It is our utmost effort that there should be a balance in the evaluation committee and each application be dealt with on merit and justice. All members must have equal say, equal weight and equal voting." The manager provided no evidence that the evaluators from the health care profession evaluated, the voting public members, and any other evaluators have equal input into the credentialing and examination processes. The applicant has not demonstrated that it complies with that regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(1)(v) the manager stated,

"A licensed professional in the same field or area of expertise be selected to serve in the committee as an advisor." and "A professional in the same field must be in the committee – this is our basic policy – Some time some individual is busy and does not like to join the evaluation committee, in this situation we try to select another license professional in the same field of expertise."

[Errors in the original.]

The manager did not otherwise address the requirement pertinent to the process by which representatives of the health care discipline will be selected. Further, the manager provided no evidence pertinent to the process by which it will select representatives of the subject health care discipline. The applicant has not demonstrated that it selects representatives of the subject discipline pursuant to one of the three methods specified at 8 C.F.R. § 212.15(k)(1)(v).

As to the requirement of 8 C.F.R. § 212.15(k)(1)(vi) the manager stated, “[The applicant] is a not-for-profit organization. A formal procedure is adopted to select a member of the governing body. We never select a successor.” The manager provided no evidence in support of those assertions and did not otherwise address the requirement that it use formal procedures for the selection of members of the governing body that prohibit the governing body from selecting a majority of its successors. As the petitioner neither alleged nor demonstrated that it has yet selected a method for selecting and replacing members of the governing body this office is unable to find that its procedure conforms to the requirements of 8 C.F.R. § 212.15(k)(1)(vi). The applicant has not demonstrated that it conforms to the requirements of that regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(2)(i) the manager stated,

For health care workers, evaluation is done mostly by senior professors or it is done under the direct supervision of senior staffs. The integrity of the education received (we interview individual and check the education and skills and check from the back home institute they qualify the degree and license), English Proficiency, License, Experience are accurately measured by keeping the US education and license, in-house training etc. in mind.

[Errors in the original.]

The manager provided no evidence in support of its assertions and did not otherwise address the requirement that the applicant demonstrate that its staff is qualified to assess education, experience, licensure of health care workers and the equivalence of foreign education to US education. Other than their names, degrees, and the institutions from which they were earned the applicant has provided no information pertinent to its staff. The applicant has not demonstrated that its staff is competent to assess the qualifications of foreign health care workers and has not, therefore demonstrated that it complies with the requirement of 8 C.F.R. § 212.15(k)(2)(i).

As to the requirement of 8 C.F.R. § 212.15(k)(2)(ii) the manager stated,

[The applicant] has availability of all kinds of resources including the financial resources to evaluate the health care professionals. We have our own very strong library and other resources.

[Errors in the original.]

The regulation states that the applicant must “demonstrate the availability of financial and material resources to conduct evaluations on an international basis.” The manager provided no evidence in support of his assertion that the applicant has such resources. Merely asserting that it meets the requirements of the regulation is insufficient.

As to the requirement of 8 C.F.R. § 212.15(k)(2)(iii) the manager stated, “[The applicant] has the capacity to conduct the examination or predictor test in any country of the world within a month. We have the resources and finance.”

The manager provided no evidence in support of those assertions. Merely asserting that it is competent to conduct examinations in various countries is insufficient to show compliance with the regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(2)(iv) the manager stated, “[The applicant] believes in transparency and our all procedures [sic] and steps are open for public inspection.” The manager did not otherwise address the applicant’s ability “to publish and make available general descriptive materials on the procedures used to evaluate and validate credentials including eligibility requirements, determination procedures, examination schedules, locations, fees, reporting of results, and disciplinary and grievance procedures.” Again, merely asserting that it has the resources to publish materials pertinent to its procedures is insufficient to sustain the burden of proof.

As to the requirement of 8 C.F.R. § 212.15(k)(3)(i) the manager stated, “[The applicant] is very strict about the integrity of any evaluation it performs. Not only education, license, training and experience are critically examined by one-to-one basis but also ENGLISH PROFICIENCY is checked for a would be alien health professional. “ [Errors and emphasis in the original.] The manager provided no evidence in support of his assertions and did not otherwise address the applicant’s ability to “publish and make available a comprehensive outline of the information, knowledge or functions covered by the evaluation/examination process including information regarding testing for English language competence.” The manager’s assertions are insufficient to sustain the applicant’s burden of proof.

As to the requirement of 8 C.F.R. § 212.15(k)(3)(ii) the manager stated,

[The applicant] first evaluate the integrity of the educational and licenses documents, experience etc. plus English Proficiency but never be so harsh to cut the throat of a foreign health care professional, WE MAINTAIN A FAIR AND JUST EVALAUTION FOR ALL CANDIDATES.

[Errors and emphasis in the original.]

The manager did not provide any evidence in support of those assertions and did not otherwise address the applicant’s ability to use reliable, objective, fair, job-related evaluation examination mechanisms to evaluate individual credentials and competence. The applicant neither alleged nor demonstrated that it has yet devised the examination it will use to assess candidates. This office cannot, therefore, find that the examination conforms to the requirements of 8 C.F.R. § 212.15(k)(3)(ii). The applicant has not demonstrated that its practices conform to the requirements of that regulation.

As to the requirement of 8 C.F.R. § 212.15(k)(3)(iii) the manager stated, “[The applicant] is very keen on educational research, evaluation and examination mechanism. We love and are busy in on-going research always.” The manager did not provide any evidence in support of those assertions and did not otherwise address the applicant’s ability to conduct ongoing studies to substantiate the reliability and validity of its evaluation/examination mechanisms. The assertion of the applicant’s manager is insufficient to sustain the applicant’s burden of proof.

As to the requirement of 8 C.F.R. § 212.15(k)(3)(iv) the manager stated,

[The applicant] agrees to implement a formal policy of periodic review of the evaluation/examination. The knowledge and updating is a must for any kind of credential evaluation and particularly in the field of health care workers.

The manager provided no evidence that it is capable of implementing such a mechanism and did not otherwise address the requirement of that regulation. The applicant has not demonstrated that it is able to comply with 8 C.F.R. § 212.15(k)(3)(iv).

As to the requirement of 8 C.F.R. § 212.15(k)(3)(v) the manager stated, “[The applicant] agrees to this point.” The manager did not otherwise address the requirement that the applicant use policies and procedures to ensure that all aspects of the evaluation examination process are secure. The applicant has not demonstrated that it is able to comply with the requirements of 8 C.F.R. § 212.15(k)(3)(v).

As to the requirement of 8 C.F.R. § 212.15(k)(3)(vi) the manager stated, “[The applicant] never entertains any false documents. We hold the false document and never return it. We do not do any evaluation unless we receive the documents directly from the institute or licensing authority.” The manager provided no evidence in support of that assertion and did not otherwise address the requirements of 8 C.F.R. § 212.15(k)(3)(vi). Further, this office notes that the applicant’s website states, at http://www.degreeevaluation.com/index_files/page0005.htm, that the applicant reserves the right to request original documents or to verify documents with the issuing institution, rather than that it always requires that the institution provide the documents. The applicant has not demonstrated that it complies with the requirement of 8 C.F.R. § 212.15(k)(3)(vi).

As to the requirement of 8 C.F.R. § 212.15(k)(3)(vii) the manager stated, “[The applicant] keeps the record for [sic] each evaluation for 5 years.” The applicant’s website, however, states that the records are maintained for one to three years. See http://www.degreeevaluation.com/index_files_page0006.htm. The applicant has not demonstrated that it complies with the requirement of 8 C.F.R. § 212.15(k)(3)(vii).

As to the requirement of 8 C.F.R. § 212.15(k)(6) the manager stated, “[The applicant] does and agrees that in future all examinations be conducted fairly and impartially.” [Errors in the original.] The manager did not provide evidence to demonstrate the ability to conduct such examinations fairly and impartially. The manager’s assertion is insufficient to sustain the applicant’s burden of proof. The applicant has not demonstrated that it is able to comply with the requirements of 8 C.F.R. § 212.15(k)(6).

The regulation at 8 C.F.R. § 212.15(j) creates a mandatory requirement that CIS accord great discretion to HHS’ recommendations upon issuance of its decision. Among preambulatory comments to issuance of the final regulation, in its section titled “*The Standards an Organization Must Meet in Order To Obtain Authorization To Issue Certificates*,” CIS stated the following, in pertinent part:

An organization seeking approval to issue certificates or certified statements ***should submit evidence*** addressing each of the standards. These standards were developed by HHS in order to ensure that an organization meets the requirements contemplated by Congress. In drafting these standards, HHS drew upon the legislative history to IIRIRA, and drew extensively from the standards of the National Commission for Certifying Agencies, a nationally recognized body that accredits certifying organizations. There are four guiding principles to the standards:

1. [CIS] should not approve a credentialing organization, unless the organization is independent and free of material conflicts of interest regarding whether an alien receives a visa;

2. The organization should demonstrate an ability to evaluate both the foreign credentials appropriate for the profession, and the results of examinations for proficiency in the English language appropriate for the health care field in which the alien will be engaged;
3. The organization should also maintain comprehensive and current information on foreign educational institutions, ministries of health, and foreign health care licensing jurisdictions; and
4. If the health care field is one for which a majority of the States require a predictor examination (currently, this is done only for nursing), the organization should demonstrate an ability to conduct the examination outside the United States.

[Emphasis added].

CIS also stated that its reliance and collaboration with HHS was out of concern that organizations issuing certificates should be held to standards to avoid unqualified organizations from issuing certificates to foreign health care workers which would result in adverse consequences for health care in the United States. CIS conceded that the standards are voluminous and strict, and stated that “[a]n organization seeking approval is required to meet the majority, but not all, of the listed standards,” but also stated that “[a]n organization seeking approval to issue a health care certificate should make every attempt to *submit evidence* addressing each of the criteria listed.” [Emphasis supplied.]

To demonstrate its eligibility the applicant made many assertions. The applicant submitted no corroborating evidence, however, that it meets any of the regulatory standards. Generally it merely quoted or paraphrased the language of the regulations and stated that it met or would meet those requirements. Thus, to summarize the detailed decision above, the applicant has failed to provide information and evidence showing that it meets the majority of the standard criteria.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden.

ORDER: The appeal is dismissed.