



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: POM 214F 0299 Office: Portland

Date:

OCT 3 2000

IN RE: Petitioner:



Petition: Petition for Approval of School for Attendance by Nonimmigrant Students Under Section 101(a)(15)(M) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(M)

Public Copy

IN BEHALF OF PETITIONER: Self-represented

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

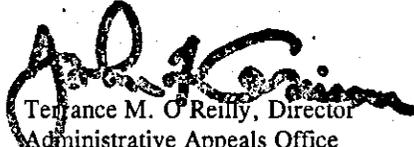
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Terrence M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The petition was denied by the District Director, Portland, Maine, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner, [REDACTED] is a privately owned institution which provides vocational and technical education. It seeks approval of its institution for attendance of nonimmigrant students under section 101(a)(15)(M) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(M). The district director determined that the petitioning institution does not offer a full course of study as required by section 101(a)(15)(M)(i) of the Act.

On appeal, the petitioner states that when the unique qualities of direct entry midwifery education are considered, it will be clear that its students dedicate sufficient hours for this classification.

The regulation at 8 C.F.R. 214.2(m)(9) states that a "full course of study" as required by section 101(a)(15)(M)(i) of the Act means:

(iii) Study in a vocational or other nonacademic curriculum, other than in a language training program except as provided in § 214.3(a)(2)(iv), certified by a designated school official to consist of at least **eighteen clock hours of attendance a week** if the dominant part of the course of study consists of classroom instruction, or at least **twenty-two clock hours a week** if the dominant part of the course of study consists of shop or laboratory work[.]

The record indicates that the petitioning institution's curriculum consists of one three-semester course of study in direct-entry midwifery. During the first semester, the students are in the classroom for 12 hours per week. During the following two academic semesters, the students are in class at least six hours per week and are also required to document a minimum of 65 hours of specific clinical experience during each semester in preceptor sites. Consequently, the petitioning institute has not shown that it offers a "full course of study" to its students as defined by regulation.

Beyond the decision of the district director, this case cannot be approved for other reasons. The regulation at 8 C.F.R. 214.3(b) states in pertinent part that:

Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he or she is authorized to do so to the effect that it is licensed, approved, or accredited. In lieu of such certification a school which

offers courses recognized by a State-approving agency as appropriate for study for veterans under the provisions of 38 U.S.C. 3675 and 3676 may submit a statement of recognition signed by the appropriate official of the State approving agency who shall certify that he or she is authorized to do so....

The petitioning institution has not submitted evidence to show it has been licensed, approved or accredited by the appropriate licensing, approving, or accrediting official. Absent such certification, this case cannot be approved.

The record does contain a preaccreditation certificate from The [REDACTED] Preaccredited as defined by the United States Department of Education, Office of Postsecondary Education, means "the status of public recognition that an accrediting agency grants to an institution or program for a limited period of time that signifies that the agency has determined that the institution or program is progressing towards accreditation and is likely to attain accreditation before the expiration of that limited period of time." Also, See 34 CFR 600.2. Therefore, a preaccreditation certificate does not establish that an institution, specifically, [REDACTED] has been accredited.

Further, the agency which issued the preaccreditation certificate is not a nationally recognized accrediting agency. It may be possible for the petitioner to obtain certification by writing to the [REDACTED]

The record also contains a license issued by the Department of Education in Augusta, Maine. However, the license expired on December 31, 1999.

The regulation at 8 C.F.R. 214.3(b) states that:

A school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the size of its physical plant, nature of its facilities for study and training, educational, vocational, or professional qualifications of the teaching staff, salaries of the teachers, attendance and scholastic grading policy, amount and character of supervisory and consultative services available to students and trainees, and finances (including a certified copy of the accountant's last statement of school's net worth, income and expenses).

A school catalogue, or the information required in the aforementioned regulation has not been furnished by the petitioning institution.

The regulation at 8 C.F.R. 214.3(c) states that:

If the petitioner is a vocational, business or language school, or American institution of research recognized as such by the Attorney General, it must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character.

The petitioning institution has not submitted such evidence. This can be accomplished by submitting letters from at least three employers attesting that recent graduates of the petitioning institution are fully qualified in the field of training. Such letters should be written on company letterhead and state the name and title or position of the graduate, the school from which she or he graduated, and dates of employment.

The regulation at 8 C.F.R. 214.3(e) states in pertinent part that the petitioning institution must establish that it is a bona fide school and that it is an established institution of learning or other recognized place of study. A postsecondary vocational institution should be accredited and should have been in existence for at least two years. See 34 C.F.R. 600.6. The petitioning institution has not established it is an educational institution that is legally authorized to provide an educational program beyond secondary education in the State of Maine.

The petitioning institution must also establish that it possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses.

The evidence submitted in support of the petition has been carefully considered. The petitioning institution has not satisfactorily established that it has met the requirements of the regulations.

ORDER: The appeal is dismissed.