U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38291142

Date: AUG. 5, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Skilled Worker)

The Petitioner, a healthcare staffing agency, seeks to employ the Beneficiary as a registered nurse. The company requests her classification under the employment-based, third-preference (EB-3) immigrant visa category as a "skilled worker." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. 1153(b)(3)(A)(i). Businesses may sponsor aliens for U.S. permanent residence in this category to work in jobs requiring at least two years of training or experience. *Id.*

Service Center Operations (SCOPS) revoked the petition's approval, concluding that the filing had been erroneously granted. SCOPS found that the Beneficiary's reported inability to converse in the English language at a U.S. consular interview and her suspect healthcare worker certificate cast significant doubt on her qualifications for the offered job and the requested immigrant visa classification. On appeal, the Petitioner contends that the Beneficiary's struggles at the interview do not accurately reflect her English abilities and that her healthcare worker certificate is valid.

In revocation proceedings, the Petitioner continues to bear the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Ho*, 19 I&N Dec. 582, 589 (BIA 1988) (citation omitted). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a preponderance of the evidence supports the Beneficiary's qualifications for the offered job and the requested visa category. We will therefore sustain the appeal.

I. LAW

Immigration as a skilled worker typically follows a three-step process. First, to permanently fill a job in the United States with an alien, a prospective employer must obtain certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). If DOL certifies a job, an employer must next submit the labor certification with an immigrant visa petition to U.S. Citizenship and Immigration Services (USCIS). *See* section 204(a)(1)(F) of the Act, 8 U.S.C. § 1154(a)(1)(F). Finally, if USCIS grants a petition, an alien beneficiary may apply abroad for an immigrant visa or, if eligible, adjustment of status in the United States. *See* section 245(a) of the Act, 8 U.S.C. § 1255(a).

DOL, however, has already determined that the United States lacks sufficient nurses and that the employment of aliens in these "Schedule A" jobs will not harm the wages or working conditions of U.S. employees in similar positions. 20 C.F.R. § 656.5. Employers therefore need not advertise nursing jobs to U.S. workers, and DOL authorizes USCIS to adjudicate Schedule A labor certification applications in petition proceedings. 20 C.F.R. § 656.15(a). Thus, in this matter, USCIS rules not only on the petition, but also on its accompanying Schedule A application. *See* 20 C.F.R. § 656.15(e) (describing USCIS Schedule A determinations as "conclusive and final").

"[A]t any time" before a beneficiary obtains U.S. permanent residence, USCIS may revoke a petition's approval for "good and sufficient cause." Section 205 of the Act, 8 U.S.C. § 1155. If supported by a record, a petition's erroneous approval may justify its revocation. *Matter of Ho*, 19 I&N Dec. at 590.

USCIS properly issues a notice of intent to revoke (NOIR) a petition's approval if the unrebutted and unexplained record at the time of the NOIR's issuance would have warranted the petition's denial. *Matter of Estime*, 19 I&N Dec. at 450, 451 (BIA 1987). USCIS properly revokes a petition's approval if a petitioner does not timely respond to a properly-issued NOIR or if a response does not overcome the stated revocation grounds. *Id.* at 451-52.

II. ANALYSIS

A petitioner must demonstrate that a beneficiary met an offered job's minimum requirements by a petition's priority date. *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Acting Reg'l Comm'r 1977). This petition's priority date is December 10, 2018, the date of the petition's filing. *See* 8 C.F.R. § 204.5(d) (explaining how to determine a petition's priority date).

The Beneficiary here must further meet the requirements for the requested Schedule A designation. 8 C.F.R. § 204.5(l)(3)(ii)(B). A nurse qualifies for Schedule A designation if they:

- Have received a certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS);
- Hold a permanent, full and unrestricted license to practice professional nursing in the state of intended employment; or
- Have passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN), administered by the National Council of State Boards of Nursing.

20 C.F.R. § 656.5(a)(2).

The Petitioner states its intent to employ the Beneficiary as a registered nurse at the site of a client hospital. The company's Schedule A application lists the job's minimum requirements as a U.S. associate's degree or a foreign equivalent degree in nursing. The application states that the job does not require any training or experience.[1] But the job requires a "RN license, NCLEX pass, or CGFNS certificate."

[1] Contrary to the requirements of the requested immigrant visa category, the offered job does not specifically require at least two years of training or experience. *See* section 203(b)(3)(A)(i) of the Act. But "[r]elevant post-secondary education may be considered as training." 8 C.F.R. § 204.5(l)(2) (defining the term "skilled worker"). Thus, by requiring at least a two-year associate's degree in nursing, the job calls for a skilled worker.

The Petitioner's initial filing included copies of a graduation certificate and academic record indicating that a South Korean university awarded the Beneficiary a bachelor of science degree in nursing in 1999. The company also submitted documentation showing that she passed the NCLEX in 2017 and has a 2017 nursing license for the state of intended employment and a 2018 CGFNS healthcare worker certificate. Later evidence shows that she renewed the healthcare worker certificate in 2023.

After granting the petition in December 2018, SCOPS revoked the filing's approval in March 2025. SCOPS' September 2024 NOIR informed the Petitioner that, in April 2022, a U.S. consular officer in South Korea interviewed the Beneficiary regarding her immigrant visa application. At the interview, the Beneficiary reportedly "demonstrated a clear lack of English language ability and had difficulty answering any questions. The interview was continued in Korean once it was evident that the beneficiary could not continue in English."

The NOIR also stated that the Beneficiary's CGFNS healthcare worker certificate "appears to be fraudulent." The certificate lacks a signature from one of the two authorizing officials listed on it and her picture on it reportedly does not meet its size and placement requirements. She told the consular officer that she had an online nursing degree from a U.S. university and therefore need not have a CGFNS health worker certificate.[2] But the officer reportedly found that the U.S. university's website did not list any online nursing degree programs and that the school's online degrees required the completion of at least 20 credit hours "in residence" in the United States.

The NOIR stated:

> Evidence of a fraudulent document in a filing brings to question the validity of all submitted documents. Regardless of the evidence, the beneficiary indicated a lack of English language ability during the consular interview. It is unclear how the beneficiary was able to pass any courses or tests presented in English. Additionally, it is unclear how the beneficiary will be able to perform the job duty requirements in a US medical facility with an apparent language barrier.

"Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition." *Matter of Ho*, 19 I&N Dec. at 591. Thus, the unexplained defects in the Beneficiary's healthcare worker certificate and her reported struggles with the English language at the consular interview cast doubt on her qualifications for the offered job sufficient to have warranted the petition's denial. SCOPS therefore properly issued the NOIR.

CGFNS's website, however, verifies the validity of the Beneficiary's healthcare worker certificate and its renewal. *See* TruMerit, "Verify a VisaScreen Certificate," www.trumerit.org/services/certification/visascreen-visa-credentials-assessment/digital-certificate/.[3] Thus, despite the alleged defects in her

[2] The Beneficiary appears to have been referring to section 212(r) of the Act. That provision excepts certain foreign nurses from possessing healthcare worker certificates if they graduated from nursing programs that were taught in English. Section 212(r) of the Act.

[3] In February 2025, CGFNS changed its name to TruMerit. *See* TruMerit, "CGFNS International to Change its Name to TruMerit," (Feb. 25, 2025), www.trumerit.org/cgfns-international-to-change-its-name-to-trumerit/.

2018 certificate, a preponderance of the evidence demonstrates its validity. Because the record establishes the certificate's validity, the document does not cast doubt on the rest of her evidence.

The Petitioner has also rebutted the allegations that the Beneficiary's U.S. university did not offer online nursing degrees and required U.S. residence for 20 credit hours. The company submitted a letter, diploma, and transcript from the university in the Beneficiary's name and printouts from the school's website about the baccalaureate program. The printouts show that the school offers online nursing degrees and that the 20-hour residency requirement applies only to associate degrees, not baccalaureates.

The Beneficiary's reported difficulties with the English language at the consular interview concerns us. Nevertheless, we find that her English struggles do not cast doubt on her qualifications sufficient to warrant the petition's revocation. The Beneficiary meets all requirements for Schedule A designation. She not only has an RN license in the state of intended employment but she also has a CGFNS certificate and passed the NCLEX. Consistent with the requirements on the labor certification, she further has the foreign equivalent of at least a U.S. associate's degree in nursing.

III. CONCLUSION

A preponderance of the evidence establishes the Beneficiary's qualifications for the requested immigrant visa category and the offered job. We will therefore withdraw SCOPS' revocation decision and sustain the appeal.

ORDER: The appeal is sustained.