U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10426033

DATE: JAN. 25, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for an Alien Worker

The Petitioner, a healthcare facility, seeks to employ the Beneficiary as a registered nurse, a Schedule A occupation as codified at 20 C.F.R. § 656.5(a). It requests classification of the Beneficiary under the third preference immigrant category.

In this case the only requirements of the ETA Form 9089 are an associate's degree in nursing, or a foreign educational equivalent, and passage of the NCLEX-RN examination. The Director denied the petition. The matter is now before us on appeal.

Upon *de novo* review, we will withdraw the Director's decision and sustain the appeal. The Beneficiary meets the specific educational and examination requirements of the ETA Form 9089, in conformance with the regulation at 8 C.F.R. § 204.5(l)(3)(ii). We conclude that the Beneficiary is eligible for the classification as requested in this petition.

ORDER: The appeal is sustained.