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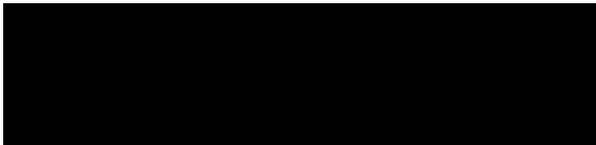
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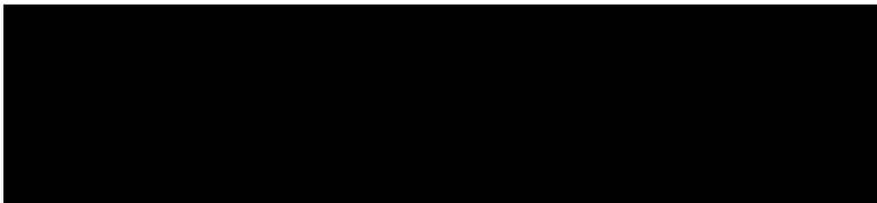


FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **JAN 22 2007**  
SRC 04 252 51409

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the “totality of the evidence establishes that [the petitioner] has proven the sustained national acclaim necessary to qualify him as an alien of extraordinary ability.”

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (November 29, 1991). As used in this section, the term “extraordinary ability” means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has earned sustained national or international acclaim at the very top level.

This petition, filed on September 28, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a physician. As required by section 203(b)(1)(A)(i) of the Act and the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner must demonstrate that his national or international acclaim has been sustained. The record reflects that the petitioner has been residing in the United States since November 30, 2001. Given the length of time between the petitioner’s arrival in the United States and the petition’s filing date (more than

two years and nine months), it is reasonable to expect him to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a physician in this country.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). The petitioner submitted a non-translated award certificate reflecting his “receipt of a RAZI award in recognition of research and presentation of ‘Effects I.V. Metronidazole in Treatment of 31 patients with Pseudomembraneous Colitis,’ Shiraz University School of Medicine, Shiraz, Iran, Oct. 1994.” Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to CIS shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English. The petitioner’s RAZI award certificate was not accompanied by a certified English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3).

On appeal, counsel states: “The RAZI award is a major international award based on outstanding educational achievement.” Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The record includes no evidence of international publicity surrounding the petitioner’s RAZI award or evidence showing that it commands a substantial level of recognition beyond the presenting institution. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3), however, specifically requires a major internationally recognized award and it is the petitioner’s burden to submit evidence establishing that his award meets this requirement. In this instance, we find that the petitioner’s RAZI award, which was presented to him by his alma mater (Shiraz University School of Medicine) in the year of his graduation, reflects local or institutional recognition rather than major international recognition.

Given Congress’ intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” the regulation permitting eligibility based on a single award must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739. Given that the House Report specifically cited to the Nobel Prize as an example of a one-time achievement, examples of one-time awards which enjoy truly international recognition may include the Pulitzer Prize, the Academy Award, and the Olympic Gold Medal. These prizes are “household names,” recognized immediately even among the general public as being the highest possible honors in their respective fields. The record does not establish that the petitioner’s RAZI award, which will be further addressed below under the criterion at 8 C.F.R. § 204.5(h)(3)(i), commands immediate international recognition comparable to the examples cited above.

Barring the alien’s receipt of a major internationally recognized award, the regulation at 8 C.F.R. § 204.5(h)(3) outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence pertaining to the following criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner submitted a certificate issued by Shiraz University School of Medical Sciences (with an accompanying English language translation) stating that he earned the first ranking “among medical students” in his program of studies at the university. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. A student award may place the petitioner among the top students at his particular university, but it offers no meaningful comparison between the petitioner and experienced professionals in the medical field.

As stated previously, the petitioner also submitted a certificate indicating that he is a recipient of Shiraz University School of Medicine’s RAZI award. This award certificate, however, was not accompanied by a certified English language translation in accordance with the regulation at 8 C.F.R. § 103.2(b)(3). In addressing this award, counsel states: “The RAZI award was given to [the petitioner] based on his **ability to research** and the fact that he was elected as the 1994 Class Valedictorian of Shiraz University School of Medicine.”

In respect to the awards from universities and other learning institutions, CIS views academic awards as local or institutional honors rather than nationally or internationally recognized awards for the reason that they are limited to students who attend the school or institution presenting the awards. According to counsel, the preceding awards from Shiraz University School of Medicine were based on the petitioner’s academic progress and “ability to research” rather than professional experience in the medical field. Therefore, the preceding student honors are not indicative of national or international acclaim “for excellence in the field of endeavor.” Such honors do not measure the petitioner’s standing or selection from among those who are well established in the field and thus they do not show his extraordinary ability under this criterion.

The petitioner submitted a photograph of a plaque presented to him in “Summer 2001” for “compassion and dedication” shown to his students at St. Matthew’s University School of Medicine, San Pedro, Belize. According to his resume, the petitioner served as Assistant Professor of Microbiology and Neuroscience at this university in 2001. We find that this award from his immediate employer at that time reflects local or institutional recognition rather than national or international recognition

The petitioner submitted an award certificate for “Best Clinical Paper” presented to him by Carraway Methodist Medical Center in Birmingham, Alabama at its “Fifth Annual Education and Research Day” on May 14, 2004 “in recognition of outstanding scholarly achievement.” According to his resume, the petitioner participated in this institution’s internal medicine residency training program from 2003 to 2004. The petitioner also submitted an informational brochure from the May 14, 2004 Education and Research Day stating:

Carraway Methodist Medical Center has been committed to medical education since it created an internship program in 1919. Accredited residency training programs are offered in family practice, general surgery, internal medicine and a transitional year. Residents benefit from an excellent balance between direct patient care responsibility and effective supervision by faculty physicians.

Carraway Education and Research Day provides an opportunity for residents to present results of current research, highlight preliminary findings of ongoing investigations, and discuss interesting or challenging problems encountered on the clinical services. Presentations are judged on merit and awards are provided for the best papers.

This award, which is limited to medical residents in training at the Carraway Methodist Medical Center, reflects institutional recognition rather than national or international recognition. By its nature, this award is restricted to physicians in the early stages of their career who require “effective supervision by faculty physicians.” An award bestowed by one’s immediate employer as a part of its “residency training program” is not evidence of national recognition for excellence in one’s field of endeavor, nor is it an indication that the recipient is “one of that small percentage who have risen to the very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2).

The petitioner submitted a certificate bearing the letters I.H.S.R.C. (Iran Helicopter Support and Renewal Company) and text in a foreign language that has not been properly translated in accordance with the regulation at 8 C.F.R. § 103.2(b)(3). According to his resume and a December 20, 2000 letter of support from the I.H.S.R.C., the petitioner worked for the Occupational Medical Office of I.H.S.R.C. from 1995 to 2000 evaluating workers on “a regular periodic basis for possible job-related illnesses.” We find that this award from the petitioner’s employer at that time reflects institutional recognition rather than national or international recognition.

Regarding the preceding awards submitted by the petitioner, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner’s awards be nationally or internationally *recognized* and it is the petitioner’s burden to establish every element of a given criterion. In this case, there is no supporting documentation from the awarding entities or the print media to establish that the awards submitted by the petitioner are nationally or internationally recognized awards for excellence in the medical field. Thus, the petitioner has not established that he meets this criterion.

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Therefore, membership in an association that evaluates its membership applications at the local or regional chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation.

The petitioner submitted evidence of his "Associate" membership in the American College of Physicians. The petitioner also submitted his membership card for the Iran Medical Counsel, but this document was not accompanied by a certified English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). The petitioner also submitted two diplomas issued by the Basketball Federation of the Islamic Republic of Iran acknowledging the petitioner's involvement in an international basketball tournament held in Tehran in August 1999 and August 2000. We do not find that providing medical services for a sporting event constitutes membership in an association for purposes of this criterion. Nevertheless, the record includes no evidence of the membership bylaws or the official admission requirements for the preceding organizations in which the petitioner claims membership. There is no evidence establishing that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership. Thus, the petitioner has not established that he meets this criterion.

*Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

In general, in order for material to meet this criterion, it must be primarily about the alien and, as stated in the regulations, be printed in professional or major trade publications or appear in major media. To qualify as major media, the publication or broadcast should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication or regional broadcast.

The petitioner submitted what counsel claims is a videotape of him "speaking on a National Iranian Television Show in 1999." The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N at 533, 534; *Matter of Laureano*, 19 I&N at 1; *Matter of Ramirez-Sanchez*, 17 I&N at 503, 506. The petitioner's videotape was not accompanied by an English language translation as required by this criterion and the regulation at 8 C.F.R. § 103.2(b)(3). Further, we find no indication that the videotape footage is primarily about the petitioner, nor is there any supporting evidence showing that it was broadcast to a national television audience. Without evidence demonstrating that the videotape footage of the petitioner aired nationally, we cannot conclude that it was broadcasted through major media. Thus, the petitioner has not established that he meets this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

In response to the director's request for evidence, the petitioner submitted evidence identifying him as a "contributor" rather than author of the publication *Blackwell Underground Clinical Vignettes*, 4<sup>th</sup> edition, Step 1, Pharmacology (2005).<sup>1</sup> There is no evidence showing that this book, which is a study guide for medical students, represents an original contribution of major significance in the medical field. The petitioner has not shown how the medical field has changed as a result of this work. Further, this book was published

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<sup>1</sup> According to its book cover, this review guide for the United States Medical Licensing Examination was authored by [REDACTED], and [REDACTED]. In addition to the preceding authors, the book had five "contributors," one of whom was the petitioner.

subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971). Accordingly, the AAO will not consider this book in this proceeding.

The petitioner submitted two letters of support dated July 2001 from [REDACTED], Managing Director, Iran Health Control Center, reflecting that the petitioner is a part owner of this local health clinic in Tehran. Dr. Behnam states:

We hereby certify that [the petitioner] has been working in this polyclinic as both the head of the Research Department and a G.P. [General Practitioner] since Feb. 1999.

\* \* \*

[The petitioner] is the head of the Research Department & he has been working in this department with considerable enthusiasm, knowledge & perseverance. . . . Moreover, he works in our check-up clinic as a G.P. in charge two days per week. It is noteworthy that [the petitioner] is presently involved in the final stages of a research project on "Correlation of Urinary Calculi with dietary habits in a sample of 1600 Iranian habitants."

The record includes no supporting evidence establishing the reputation of this clinic, nor information detailing the petitioner's specific activities as head of the Research Department.

In a December 15, 2005 letter responding to the director's request for evidence, counsel states: "The clinic has had a major impact on the population of Tehran and provides much needed service of not only clinical magnitude, but also groundbreaking research that is necessary for the medical field." The record, however, includes no evidence showing the extent of the impact of this health clinic or that its Research Department has produced "groundbreaking" medical research. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N at 533, 534; *Matter of Laureano*, 19 I&N at 1; *Matter of Ramirez-Sanchez*, 17 I&N at 503, 506.

While the petitioner's employment for this clinic may have had a local impact on the patients he served, there is no evidence showing that his work was recognized at the national or international level as a major contribution. Further, there is no evidence showing the extent of the impact of the petitioner's findings from the study entitled "Correlation of Urinary Calculi with dietary habits in a sample of 1600 Iranian habitants."

On appeal, counsel argues that the preceding research study and the clinical paper entitled "Atrial Myxoma – Kill Two Birds With One Stone" presented by the petitioner at the Carraway Methodist Medical Center's "Fifth Annual Education and Research Day" meet this criterion. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the petitioner's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of science or medicine, it can be expected that the petitioner's results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work. Without evidence showing that the results of the petitioner's research studies have significantly influenced his field (such as frequent citation

of his work by independent researchers), we cannot conclude that this work qualifies as a contribution of major significance. The petitioner must demonstrate not only that he has performed original research, but also that it has impacted the field such that it can be considered indicative of sustained national or international acclaim.

The petitioner submitted evidence showing that he prepared a syllabus for a Fall 2001 Microbiology course he taught at St. Matthews University School of Medicine. On appeal, counsel states:

In addition, the 256 page syllabus written by the petitioner and published was used as text by the St. Matthew's University because it was a unique and one-of-a-kind publication that discussed and pioneered the clinical aspects of Microbiology. The impact of this publication was so significant . . . that the petitioner received the honor of becoming the Teacher of the Year.

The record, however, includes no evidence showing that the petitioner's syllabus has been utilized by colleges and universities other than that of his former employer. We do not find that successfully performing general duties required by one's occupation (Assistant Professor of Microbiology) rises to the level of a contribution of major significance. The petitioner has not shown how this work has had a significant national or international impact.

Without extensive documentation showing that the petitioner's work has been unusually influential or highly acclaimed by independent medical researchers or practitioners at the national or international level, we cannot conclude he meets this criterion.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

In response to the director's request for evidence, the petitioner submitted the publication *Blackwell Underground Clinical Vignettes*, 4<sup>th</sup> edition, Step 1, Pharmacology (2005). As stated previously, this book identifies Vikas Bhushan, Tao Le, and Vishal Pall as its authors rather than the petitioner. Further, the petitioner has not established that the 12 clinical vignettes he claims to have contributed to this book constitute "scholarly articles." Nor is there evidence of circulation data for this book showing that it qualifies as major media. Finally, this book was published subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak*, 14 I&N at 45. Accordingly, the AAO will not consider this book in this proceeding.

The petitioner also submitted articles entitled "Diagnosis, Prevention and Treatment of Rejection in Cardiac Transplantation," "Atrial Myxoma – Kill Two Birds With One Stone," "Effects of Hydralazine on 23 Preeclamptic Patients," "Effects of I.V. Metronidazole in Treatment of 31 Patients with Pseudomembraneous Colitis," and "Hypokalemia Among Patients Receiving Capecitabine for GI Malignancies." The latter article was published in 2005 subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak*, 14 I&N at 45. Accordingly, the AAO will not consider the latter article in this proceeding.

The record includes no evidence showing that the preceding articles were published in “professional or major trade publications or other major media.” Nor is there is evidence of the field’s reaction to the petitioner’s articles in the form of citation indices showing that his articles are frequently cited by others in his field. Frequent citation by independent researchers would demonstrate widespread interest in, and reliance on, the petitioner’s work. If, on the other hand, there are few or no citations of his work, suggesting that that work has gone largely unnoticed by the greater research community, then it is reasonable to conclude that his articles are not nationally or internationally acclaimed.

Counsel argues that the syllabus the petitioner prepared for the Fall 2001 Microbiology course he taught at St. Matthews University School of Medicine and the videotape of his appearance on television also meet this criterion. The record, however, includes no evidence showing that the syllabus appeared in “professional or major trade publications or other major media.” Regarding the videotape footage of the petitioner, we note that it was not accompanied by an English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, without evidence demonstrating that the videotape footage of the petitioner aired nationally, we cannot conclude that it was broadcasted through major media.

In light of the above, the petitioner has not established that he meets this criterion.

*Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases.*

In a December 15, 2005 letter responding to the director’s request for evidence, counsel argues that the videotape of the petitioner’s appearance on television, his presentations at Carraway Methodist Medical Center’s “Annual Education and Research Day” on May 14, 2004 and May 25, 2005, and his poster presentation at the May 2005 Annual Meeting of the American Society of Clinical Oncology meet this criterion. The latter events from May 2005 occurred subsequent to the petition’s filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *see Matter of Katigbak*, 14 I&N at 45. Accordingly, the AAO will not consider the May 2005 presentations in this proceeding. Nevertheless, the plain language of this criterion indicates that it applies to the visual arts (such as sculpting and painting) rather than science or medicine.

Regarding the petitioner’s videotape, we note that it was not accompanied by an English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, there is no indication that the videotape footage is primarily about the petitioner’s work. In regard to the petitioner’s conference presentations, we note that the record includes no documentation demonstrating that the presentation of one’s work is unusual in the petitioner’s field or that the invitation to present was a privilege extended to only a few top physicians. In fact, the informational brochure from the May 14, 2004 Education and Research Day indicates that those invited to speak at this event consisted of physicians in the early stages of their career who required “effective supervision by faculty physicians.” Further, we find that participation in medical conferences and symposia is routine and expected in the medical community. Many professional fields regularly hold conferences and symposia to present new work, discuss new findings, and to network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not elevate the petitioner above almost all others in his field at the national or international level. The record includes no evidence showing that the

petitioner's presentations drew a larger audience than that of the numerous other presenters or that he has served as a keynote speaker at a national or international scientific conference.

In light of the above, the petitioner has not established that he meets this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

In order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of the petitioner's role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted a December 20, 2000 letter from Dr. [REDACTED] Chairman, I.H.S.R.C. Infirmary, stating:

This is to certify that [the petitioner] has been working in the infirmary of the Iran Helicopter Support & Renewal Company (I.H.S.R.C.) as the head of Occupational Medicine Department from Jan. 1995 to Nov. 2000.

\* \* \*

[The petitioner] evaluates all workers in a regular periodic basis for possible job-related illnesses.

There is no evidence showing that this infirmary has earned a distinguished reputation in the field of medicine, nor do we find that monitoring employees for job-related illness under the supervision of the chairman of the infirmary is tantamount to a leading or critical role.

The petitioner submitted a July 5, 2001 letter of support from Dr. [REDACTED], Managing Director, Iran Health Control Center, stating:

We hereby certify that [the petitioner] has been working in this polyclinic as both the head of the Research Department and a G.P. [General Practitioner] since Feb. 1999.

\* \* \*

[The petitioner] is the head of the Research Department & he has been working in this department with considerable enthusiasm, knowledge & perseverance. . . . Moreover, he works in our check-up clinic as a G.P. in charge two days per week. It is noteworthy that [the petitioner] is presently involved in the final stages of a research project on "Correlation of Urinary Calculi with dietary habits in a sample of 1600 Iranian inhabitants."

There is no evidence showing that this clinic has earned a distinguished reputation in the field of medicine, nor is there sufficient information detailing the petitioner's duties and responsibilities as head of the Research

Department. Without sufficient details regarding the petitioner's role as head of the Research Department, it has not been established that his position was leading or critical.

The petitioner submitted a November 7, 2001 letter from the President of Saint Matthew's University verifying the petitioner's "appointment to the rank of Assistant Professor in Microbiology at Saint Matthew's University School of Medicine." The record, however, includes no evidence showing that Saint Matthew's University School of Medicine campus in Belize has a distinguished national or international reputation, or that the petitioner performed in a leading or critical role for this institution during his six months of service as an Assistant Professor.

The petitioner submitted a copy of his Evaluation Certificate from the United Arab Emirates Ministry of Health reflecting that he was authorized to work as a General Practitioner in that country, but there is no evidence showing that he performed in a leading or critical role for a distinguished organization or establishment in that country.

The petitioner also submitted a March 2005 e-mail from [REDACTED] offering him a position in the University of New Mexico's fellowship program in 2006. We do not find that a job offer satisfies the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Further, this offer occurred subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *see Matter of Katigbak*, 14 I&N at 45. Accordingly, the AAO will not consider this evidence in this proceeding.

On appeal, counsel states:

Several pieces of evidence were introduced by the Petitioner that satisfied this criterion. However, the Examiner, instead of applying the correct standard of proof, i.e. preponderance of evidence, applies the clear and convincing evidence standard, as the examiner states: "The Petitioner has not clearly established that he has played a leading or critical role for an organization with a distinguished reputation." (emphasis added). The letters submitted were clear on their faces that the Petitioner has in fact satisfied this criterion. However, the examiner is going above and beyond the text of the letters and is seeking additional collateral evidence to clearly establish the proof of the statements asserted in the letters. Under the proper standard of proof, the evidence submitted should have been more than enough to show that the Petitioner satisfies this criterion.

We find that counsel's assertions relating to the petitioner's eligibility and the standard of proof are not persuasive. The benefit sought in the present matter specifically requires "extensive documentation" to establish eligibility. *See* section 203(b)(1)(A)(i) of the Act. The commentary for the proposed regulations implementing this statute provide that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Further, the petition must be filed with the initial evidence required by regulation. 8 C.F.R. § 103.2(b)(1). The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2). For example, in regard to the letters from the petitioner's employers, the petitioner failed to submit evidence establishing that these institutions

had distinguished reputations as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Determinations regarding the standard of proof arise only after the petitioner submits the required initial evidence.

Section 291 of the Act provides:

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this Act, and, if an alien, that he is entitled to the nonimmigrant; immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be.

The law goes on to assert that the evidence must establish eligibility “to the satisfaction” of the adjudicating officer. This burden is confirmed in *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965) and *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). We acknowledge that the director’s decision states that the petitioner “has not clearly established that he has played a leading or critical role for an organization with a distinguished reputation.” While the director used the phrase “not clearly established” instead of “preponderance of the evidence,” the director appears to be using the common usage of the word “clearly” as opposed to articulating a higher standard of proof, such as “clear and convincing.” The AAO finds that the director’s use of the phrase “not clearly established” was innocent of any intent to hold the petitioner to a higher standard of proof and constitutes harmless error, at worst. Regardless, we do not find that the petitioner has established his eligibility under this criterion by a preponderance of the evidence. According to 8 C.F.R. § 204.5(g) letters from employers are acceptable evidence of experience if they provide “a specific description of the duties performed by the alien.” As previously discussed, the brief, vague letters submitted by the petitioner did not meet this requirement. Further, the petitioner must also submit objective evidence of the reputation of the employer to satisfy the specific requirement of 8 C.F.R. § 204.5(h)(3)(viii). In this case, the record includes no such evidence.

In light of the above, the petitioner has not established that he meets this criterion.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The petitioner submitted a July 3, 2004 letter of support from Dr. [REDACTED] stating that the petitioner was his assistant for plastic surgeries performed from April 1999 to May 2001. Dr. [REDACTED] further states: “During this period, [the petitioner’s] income was about four times of a General Practitioner.” Dr. [REDACTED], however, does not identify the specific source of salary data upon which his opinion is based. Nor is there supporting financial documentation (such as payroll records or income tax forms) showing the petitioner’s actual earnings for any given period of time. The plain language of this criterion requires the petitioner to submit evidence of a “high salary . . . in relation to others in the field.” The petitioner offers no official wage statistics as a basis for comparison showing that his compensation was significantly high in relation to others in his field. There is no evidence that the petitioner earns a level of compensation that places him among the highest paid physicians in the United States or Iran. Thus, the petitioner has not established that he meets this criterion.

On appeal, counsel argues that four recommendation letters constitute other comparable evidence of the petitioner’s extraordinary ability. The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of

comparable evidence, but only if the ten criteria “do not readily apply to the beneficiary’s occupation.” Therefore, the petitioner must demonstrate that the regulatory criteria are not applicable to his field. Of the ten criteria, counsel has argued that at least eight readily apply to the petitioner’s occupation. Where an alien is simply unable to meet three of the regulatory criteria, the wording of the regulation does not allow for the submission of comparable evidence. Thus, the regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner’s occupation cannot be established by the ten criteria specified by the regulation. However, we will briefly address counsel’s argument and the recommendation letters submitted by the petitioner.

While the regulation at 8 C.F.R. § 204.5(h)(4) permits “comparable evidence” where the ten criteria do not “readily apply” to the alien’s occupation, the regulation neither states nor implies that letters of support written by professional acquaintances of the petitioner attesting to his standing in the field are “comparable” to the strict documentation requirements in the regulations setting forth the ten criteria.

Dr. [REDACTED] Suburban Heights Medical Center, Chicago Heights, Illinois, states that he has known the petitioner “for many years” and that the petitioner worked on a research project under his direction. Dr. Kayan describes the petitioner as “an impressive young man with great potential for a bright future in either academic or clinical health field.”

Dr. [REDACTED], Professor, UCLA David Geffen School of Medicine, states:

I have known [the petitioner] through working with him since April 2002 and have been impressed with his interest in our ongoing investigations here at the Atherosclerosis Research Unit.

\* \* \*

[The petitioner] has a great potential for an outstanding career in Health Care and Biomedical Research and is a promising candidate for future academic success . . . .

Dr. [REDACTED], UCLA Medical Center, states that she has known the petitioner since April 2002 and enjoys discussing scientific issues with him. Dr. [REDACTED] describes the petitioner as “dedicated to research” and “bright, responsible, and enthusiastic.”

The petitioner also submitted a December 7, 2005 letter of support from Dr. [REDACTED], Attending Physician at Carraway Methodist Medical Center, where the petitioner is completing his residency training in Internal Medicine. Dr. [REDACTED] who indicates that he has known the petitioner for two years, states: “I feel that [the petitioner] is a tremendous asset to the world wide medical community including the United States, and thrilled that he is going into the field of Hematology and Oncology . . . .”

Assertions from the preceding witnesses that the petitioner has a promising future do not establish eligibility, for the regulations require evidence showing that the petitioner has already earned sustained national or international acclaim at the very top of his field. The above witnesses state that the petitioner has “great potential” and is “a promising candidate for future academic success.” Such attestations, however, cannot meet the extremely high threshold of extraordinary ability. The petitioner seeks a highly restrictive visa

classification, intended for aliens already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. The preceding comments by the petitioner's superiors are not an indication that he is "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Further, the individuals submitting letters on the petitioner's behalf consist entirely of his immediate acquaintances and former coworkers. With regard to the personal recommendation of individuals from institutions where the petitioner has trained and worked, the source of the recommendations is a highly relevant consideration. These letters are not first-hand evidence that the petitioner has earned sustained acclaim outside of his affiliated institutions. The statutory requirement that an alien have "sustained national or international acclaim," necessitates evidence of recognition beyond direct acquaintances of the petitioner. While such evidence need not be in the form of letters from independent experts (the regulation at 8 C.F.R. § 204.5(h)(3) provides ten types of evidence), the opinions of close colleagues cannot form the cornerstone of a successful claim of national or international acclaim.

In this case, the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.