

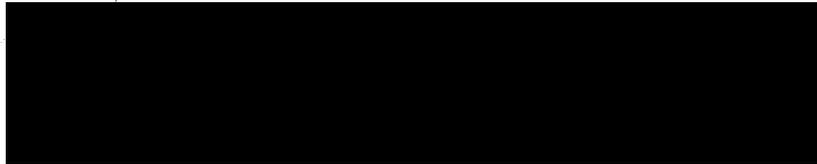


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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
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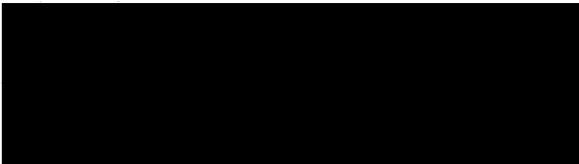
File: [Redacted] Office: Nebraska Service Center

Date: JUN 13 2002

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 that 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks to employ the beneficiary as a principal planning analyst-epidemiologist. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the beneficiary qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

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

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer. -- The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The petition was filed on December 4, 1998. The beneficiary holds a Master of Science degree in Epidemiology from the University of Calgary in Canada. The director acknowledged that the beneficiary qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor Service regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to Service regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, I.D. 3363 (Acting Assoc. Comm. for Programs, August 7, 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

Eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. At issue is whether this beneficiary's contributions in the field are of such unusual significance that she merits the special benefit of a national interest waiver, over and above the visa classification sought. By seeking an extra benefit, the petitioner assumes an extra burden of proof. The petitioner must demonstrate the beneficiary's past history of achievement having some degree of influence on the field as a whole. Id. at note 6.

Counsel describes how the beneficiary's work will benefit the United States:

The basis for the request for a national interest waiver stems from the research being conducted at Hennepin County and the significant contribution that [the beneficiary] is making to improve the quality of life and public health issues that address the citizens of Hennepin County and greater Minnesota. The model that has been developed by the team at Hennepin County is being used as a model on a national level and has earned the support of the U.S. Center for Disease Control.

Along with the beneficiary's certifications and documentation pertaining to her research, the petitioner submits several witness [redacted] the Assessment Team, Hennepin County Community Health Department, states:

I have known [the beneficiary] since 1997 when Hennepin County decided to work with the Minneapolis Department of Health and Family Support on a survey. Additionally, I assisted in the hiring and recruitment of [the beneficiary] to our department. At the Hennepin County Community Health Department, I work in the position of Program Supervisor for the Assessment Team and supervise the work currently performed by [the beneficiary].

\* \* \*

During the past ten years, significant changes have occurred in the public health field. The roles of public health and the health care delivery system have been examined and redefined. One of the outcomes has been an increased emphasis placed on population-based health assessment. The unit I supervise was developed to meet these building expectations. I believe the work we are doing is on the cutting edge. For example, our SHAPE project ("Survey of the Health of Adults, the Population, and the Environment") is unique both in its comprehensiveness and its localized nature.

\* \* \*

The Community Health Department uses many methods to promote and protect the health of Hennepin County residents. The Community Health Department programs share a common mission and vision. Our mission is to promote and protect the health of Hennepin County residents and to improve environments and conditions so that people can be healthy. Our vision is for Hennepin County to be comprised of healthy people living in healthy communities.

To help the Community Health Department reach its broader goals, the Assessment Team performs the following functions: 1) identify, analyze, and report the health status and the determinants of health of the residents of Hennepin County; 2) interact jointly with Community Health Department staff, the public, community organizations within Hennepin County, and other public health assessment professions to develop policy recommendations and program plans; and 3) provide consultation and support services to Community Health Department programs.

Our department has just finalized the development and publication of a major report on the state of the health of our adult residents. This report is known as the SHAPE (survey of the Health of Adults, the Population, and the Environment) 1998: Initial Report. The report is being jointly conducted by the Minneapolis Department of Health and Family Support and the Hennepin County Community Health Department. This report has provided groundbreaking research methodologies and assessment techniques to the nation as a model of the type of assessment functions that must be completed in order for the community to have quality information accessible to them in a format that will allow them to better the quality of their life. [The beneficiary] was a key member for this report

first with the Minneapolis Department of Health and Family Support and now with our department.

[The beneficiary] is currently leading the preparation of a report based on the SHAPE data known as "Behavioral Risk Factors Among Hennepin County Residents." This report will provide pioneering assessment information on the behavioral risk factors among county residents associated with smoking, drinking, nutrition, obesity, and rates of physical activity. The report will establish how the risk factors stated above are directly related to death from major chronic diseases such as cardiovascular disease, diabetes, and cancer. These chronic diseases 1) claim the lives of one and a half million Americans per year, 2) account for seven of every ten deaths in the United States, and 3) account for more than sixty percent of the total dollar amount of medical expenditures in this country. In addition, the prolonged illnesses and disabilities associated with the preventable chronic diseases that flow from these risk factors results in the decreased quality of life for millions of Americans. The report, being lead by [the beneficiary], will provide critical information to our community and will allow for policy and program planning recommendations which will encourage healthy lifestyles, reduce risk behaviors, and, ultimately, reduce deaths and healthcare cost burdens associated with the chronic diseases caused by the risk factors and improve the quality of health among Hennepin County residents.

\* \* \*

In addition to the major assessment and surveillance projects that [the beneficiary] has played key roles in, she also has served as a critical internal source for epidemiological consultation for other projects with the Assessment Team and our department. We also expect her to lead specific epidemiological studies such as "Sexually Transmitted Diseases in Minneapolis: Incidence Rates and Preventive Strategies" when time allows.

[The beneficiary's] background as a physician and epidemiologist, with work in both the academic setting and within the community in China, Canada, and the United States, is an invaluable asset to our department. Her knowledge of epidemiological principles and practice is extraordinary and the quality of her work is outstanding. She is a key Assessment Team member with our department and her presence is central to our department's ability and agenda to develop a strong Assessment Team and allows our department to satisfy its mission and goals. With her exceptional skills, expertise, and contributions, our Assessment Team is establishing itself as a model of public health assessment at the local (community) level for many other local health departments throughout the nation.

Having been involved in the recruitment of [the beneficiary], I can attest to the fact that locating an individual with [the beneficiary's] experience and skills is a difficult undertaking. Before we hired [the beneficiary], she was originally hired by the Minneapolis Department of Health and Family Support. Minneapolis recruited her, from Canada, after a

[REDACTED]

lengthy national search was unsuccessful in attracting individuals with the combination of assessment and research experience necessary for the job. [The beneficiary] possesses a rare combination of skills which are needed to design, oversee, and produce reports that assess the health of the communities we serve and initiate actions to address identified issues.

[The beneficiary] possesses uncommon skills that are greatly needed in our department. She has extensive experience conducting primary research and epidemiological studies; she has served as the principal or co-investigator on several population-based research efforts; her work has been published in several academic journals and books; she has presented her work at several conferences; she has experience developing and implementing survey instruments; and she has several years of experience in providing epidemiological and data analysis consultation. I strongly believe the combination of her education and broad experience will result in her being a very productive contributor to the development of critically important epidemiology technologies to Hennepin County, Minnesota, and to the United States.

[REDACTED] Director of the Minnesota Center for Health Statistics, Minnesota Department of Health, states that his department participated in the SHAPE project and supported its research. He briefly describes how the SHAPE project follows the goals of the U.S. Department of Health and Human Services and collects data elements at the local level required by the U.S. Center for Disease Control. [REDACTED] notes that the SHAPE Project "can serve as a prototype" for the county level "Health Report Cards" suggested by the U.S. Health Resources and Services Administration. The petitioner and [REDACTED] provide no evidence that any U.S. agency or states other than Minnesota view the SHAPE project as a national model, or credit the beneficiary with providing "a significant contribution to the overall awareness and health of citizens of the United States." The petitioner submits additional witness letters from the beneficiary's current and former co-workers, colleagues, and instructors that repeat much of the information provided above. These letters essentially limit the beneficiary's impact to her projects in Minnesota. For example [REDACTED] states: "The beneficiary's work has resulted in an important development for public awareness on locally-relevant health problems."

The letters provided by the petitioner discuss the beneficiary's local accomplishments, skills and dedication to her field. Here, we note that the analysis followed in "national interest" cases under section 203(b)(2)(B) of the Act differs from that for standard "exceptional ability" cases under section 203(b)(2)(A) of the Act. In the latter type of case, the local labor market is considered through the labor certification process and the activity performed by the alien need not have a national effect. For instance, pro bono legal services as a whole serve the national interest, but the impact of an individual attorney working pro bono would be so attenuated at the national level as to be negligible. Similarly, while education is in the national interest, the impact of a single schoolteacher in one elementary school would not be in the national interest for purposes of waiving the job offer requirement of section 203(b)(2)(B) of the Act. The letters offered by the petitioner fail to demonstrate the beneficiary's national impact or influence on the field of epidemiology as a whole.

[REDACTED] and [REDACTED] University of Ottawa, describe the beneficiary's "excellent academic record." University study is not a field of endeavor, but, rather, training for future employment in a field of endeavor. The beneficiary's scholastic achievement may place her among the top students at her educational institution, but it offers no meaningful comparison between the beneficiary and experienced professionals in the field of epidemiology.

[REDACTED] Commissioner of the Minneapolis Department of Health and Family Support, supervised the beneficiary when she was employed as a member of his research team. He states: "The beneficiary played a critical role in various research activities being undertaken by our Department." His letter provides a listing of local reports and research projects involving the beneficiary such as *Status of Sexually Transmitted Disease in Minneapolis*, *What Minneapolis Youth Say About Gun Violence* and the *State of the City 1997 Report*. [REDACTED] Hurt further states that "the U.S. public health system is in desperate need of professionals who can assist in the development of policy and practices." [REDACTED] Director of Research Programs at United Healthcare of Minneapolis, Minnesota, describes the beneficiary's involvement in the SHAPE project. He also asserts that the U.S. public health system is in desperate need of professionals who can assist in the development of policy and practices. In fact [REDACTED] and [REDACTED] use the exact same phrase in describing the worker shortage in the beneficiary's field. Pursuant to Matter of New York State Dept. of Transportation, a shortage of qualified workers in a given field, regardless of the nature of the occupation, does not constitute grounds for a national interest waiver. Given that the labor certification process was designed to address the issue of worker shortages, a shortage of qualified workers is an argument for obtaining rather than waiving a labor certification.

The director denied the petition, stating:

Providing epidemiologist and other healthcare services as a whole serves the national interest. And it is noted that local research and healthcare activities are often partially funded by and have ties with broader state and national public programs. However, the impact of an individual epidemiologist or other healthcare practitioner working in a specific geographic area, providing services primarily to the particular geographic area, is so attenuated at the national level as to be negligible. It is apparent that the services will primarily benefit a specific geographic area, the employing county. Therefore, the Service must conclude the position as described in the record fails to meet the second test, benefit of national scope.

The director also found that the petitioner failed to establish that a waiver of the requirement of an approved labor certification would be in the national interest of the United States.

On appeal, counsel states: "We feel that the director was in error because he interpreted the definition too narrowly and in contradiction with recent AAU decisions." The petitioner provides additional witness letters, documentation describing public health issues, copies of the

beneficiary's published and presented work, and a statement from counsel. The statement from counsel offers brief capsule summaries of four national interest waiver petitions adjudicated by the AAU. These synopses, prepared by the petitioner's attorney and including none of the original record documentation, do not present a complete picture of the approved petitions. Furthermore, the approvals in question do not represent published precedents and therefore are not binding on the Service in other proceedings.

In his second letter [REDACTED] states: "With her exceptional qualifications and skills, [the beneficiary] has contributed significantly to our department's community health improvement initiatives." Other witnesses from state agencies in Minnesota and the University of Minnesota offer further evidence of the beneficiary's exceptional ability in the public health field. However, in accordance with the statute, exceptional ability is not by itself sufficient cause for a national interest waiver. The benefit that the beneficiary presents to her field of endeavor must greatly exceed the "achievements and significant contributions" contemplated in the regulation at 8 C.F.R. 204.5(k)(3)(ii)(F). The petitioner must establish that the beneficiary will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. It cannot suffice to state that the beneficiary possesses useful skills, or a "unique background." As noted previously, regardless of the alien's particular experience or skills, even assuming they are unique, the benefit the alien's skills or background will provide to the United States must also considerably outweigh the inherent national interest in protecting U.S. workers through the labor certification process.

[REDACTED] notes that the SHAPE project received a National Association of Counties ("NACO") Achievement Award in 1999. This evidence came into existence subsequent to the petition's filing. See Matter of Katigbak, 14 I & N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. Thomas Milne, Executive Director of the National Association of County and City Health Officials, a NACO affiliate, states that the beneficiary's award-winning contribution via the SHAPE project significantly impacts the national public health agenda. A review of NACO's website reveals that the Achievement Award Program "is a non-competitive award program" to which county projects submit applications. The website lists hundreds of county projects that were recognized with NACO Achievement Awards in 1999, including forty recipients in the health category alone, the same category in which the SHAPE program was recognized. The petitioner has not provided the criteria for receipt of this award. Nor has it been established that only a small percentage of the applications are selected for recognition, thus demonstrating that the award reflects significant achievements in public health. Furthermore, the award was presented to Hennepin County rather than the beneficiary. We note that the record contains little formal recognition or awards for the beneficiary's individual work, arising from various groups taking the initiative to recognize the beneficiary's contributions, as opposed to private letters solicited from selected witnesses expressly for the purpose of supporting the visa petition.

[REDACTED] "The beneficiary's contributions on SHAPE enable communities to begin to identify relationships among non-biomedical determinants of health so that interventions can be

designed..." He also states: "National demonstration programs such as SHAPE contribute to public health practice innovation- continued investment in talented individuals such as [the beneficiary] is clearly in the best interest of the United States." However, the record contains no evidence that SHAPE techniques, or the beneficiary's specific policy recommendations, have been employed anywhere outside of Minnesota. Similarly, [REDACTED] Family Practice and Community Medicine, University of Minnesota, states that "SHAPE serves as a good model for many other regions and states to follow," however, he offers no examples of its impact beyond Minnesota, nor evidence of the beneficiary's individual accomplishments in epidemiology.

The majority of the witness letters are devoted to discussions related to how the beneficiary's local projects in Minnesota are part of the national public health agenda. For example, [REDACTED] Assistant Commissioner of the Minnesota Department of Health, states: "It is important to note that the areas focused on by [the beneficiary's] research are part of the objective list of the top ten leading health indicators for the nation." Witnesses focus on the SHAPE project rather than the beneficiary's specific contributions to her field. [REDACTED] Executive Director of the National Institute of Health Policy (a University of Minnesota and University of [REDACTED] partnership), states:

It is clear from my work at the National Institute of Health Policy that there is inadequate data nationally to understand the impact of many managed care and public health programs. The SHAPE survey gives us a specific starting point for these efforts and will make an important national contribution to constraining the growth of health care costs and improving the health of the population.

[REDACTED] will describe the national importance of the local public health project in which the beneficiary participates and how it ultimately serves the national interest. Pursuant to published precedent, the overall importance of a given project is insufficient to demonstrate eligibility for the national interest waiver. While the Service recognizes the importance of local public health research and policy formulation, eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. By law, advanced degree professionals and aliens of exceptional ability are generally required to have a job offer and a labor certification. A statute should be construed under the assumption that Congress intended it to have purpose and meaningful effect. Mountain States Tel. & Tel. v. Pueblo of Santa Ana, 472 U.S. 237, 249 (1985); Sutton v. United States, 819 F.2d 1289, 1295 (5<sup>th</sup> Cir. 1987). By asserting the beneficiary's involvement in public health projects inherently serves the national interest, witnesses for the petitioner essentially contend that the job offer requirement should never be enforced for her field, and thus this section of the statute would have no meaningful effect. Congress plainly intends the national interest waiver to be the exception rather than the rule.

We note Congress' creation of a blanket national interest waiver for certain physicians. The

creation of Section 203(b)(2)(B)(ii) of the Act demonstrates Congress' willingness to grant such blanket waivers. We cannot ignore, the absence, to date, of such a blanket waiver for community epidemiologists. Furthermore, the creation of the blanket waiver for certain physicians demonstrates that no such blanket waiver for any given occupation is implied in the statute. Otherwise, the blanket waiver for certain physicians would be superfluous.

██████████ Officer of the Boynton Health Service of the University of Minnesota, and President of the North Central College Health Association, states: "...the model of collaboration between local health departments and institutions of higher learning that [the beneficiary] has developed is being considered for use by colleges and universities throughout the country particularly among Big 10 schools." However, ██████████ evidence of its actual implementation.

██████████ of Minnesota's Third District states: "[The beneficiary] is a valuable asset in the national fight against alcohol and drug abuse." We do not dispute that the beneficiary has played an important role in assembling statistics and making public health recommendations for her state and local community. The petitioner's witness letters and supporting documentation establish the undoubted importance of public health research and analysis related to alcohol and tobacco use. However, we note that the issue in this case is not the overall importance of the beneficiary's projects, but, rather her specific individual contribution to the field of epidemiology/public health. Congressman Ramstad further states: "Although [the beneficiary] works for a local health department, her work has had national impact. The recently published report, *Underage Drinking in Hennepin County*, has been distributed nationally and internationally." The petitioner submits evidence of this article and two others, all published subsequent to the petition's filing. See Matter of Katigbak, supra.

Even if we were to consider the beneficiary's Hennepin County publications, their impact on the epidemiology field as a whole has not been demonstrated. While the beneficiary's participation in the authorship of locally published articles may demonstrate that her research efforts yielded some useful and valid results, the impact and implications of the beneficiary's findings must be weighed. The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition were the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." When judging the influence and impact of the beneficiary's work, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the beneficiary's findings. Frequent citation by independent researchers, on the other hand, demonstrates more widespread interest in, and reliance on, the beneficiary's work. The petitioner has failed to

provide a citation history of the beneficiary's published works demonstrating that her work has garnered significant attention in field of epidemiology.

In addition, several other witnesses discuss research published by the beneficiary subsequent to the petition's filing. [REDACTED] Trauma Foundation (San Francisco General Hospital), credits the beneficiary with conducting "a comprehensive assessment of underage drinking problems." She indicates that the beneficiary's report on underage drinking "was released very strategically and the beginning of the Minnesota Legislative session" and that it "will also be distributed... at the 12<sup>th</sup> Alcohol Policy Conference on Alcohol and Crime in Washington, D.C. in June 2000." [REDACTED] Yoast, Director of the Office of Alcohol and Other Drug Abuse, American Medical Association, states: The Hennepin County Underage Alcohol Use project, and the reports from this project's follow-up, are ground breaking. [REDACTED] the University of Minnesota, states that the information contained in the beneficiary's report is "crucial for local policymakers to identify effective policies and preventative strategies to reduce alcohol use." [REDACTED] Director of Join Together, a National Resource for Communities Fighting Substance Abuse and Gun Violence, states that the beneficiary's report reflects the type of data gathering that is "essential if communities are to make headway in the effort to reduce substance abuse." The report co-authored by the beneficiary, entitled *Underage Alcohol Use in Hennepin County*, was published in February 2000. See Matter of Katigbak, supra.

[REDACTED] Executive Director of the Minnesota Partnership for Action against Tobacco, states that the beneficiary "was instrumental in providing essential, in-depth, and practical information" to the state legislature.

We note that while many of the witnesses are professionals involved in the public health professions in some way, the professional expertise of the majority of the petitioner's witnesses is outside of the beneficiary's field of epidemiology.

On appeal, counsel provides of detailed listing of the beneficiary's published and presented work. Of the nineteen items listed, only two occurred prior to the filing of the petition. See Matter of Katigbak, supra. Even if we were to consider the subsequent publications and presentations, the record contains no evidence that the publication or presentation of one's work is a rarity in epidemiology research. Nor does the record sufficiently demonstrate that independent researchers have heavily cited or relied upon the beneficiary's work in their research. The beneficiary's participation in the authorship of several locally published articles (most of which were published subsequent to the petition's filing) may demonstrate that her efforts yielded some useful and valid results; however, the impact and implications of the beneficiary's findings must be weighed. The overall record fails to demonstrate that the beneficiary has garnered significant attention from other researchers in the epidemiology field. Without evidence reflecting independent citation of the beneficiary's work, we find that the petitioner has not significantly distinguished her results from those of other researchers in the field. It can be expected that if the beneficiary's published research was truly significant, it would be cited in professional journals.



proof. Without evidence that the beneficiary has been responsible for significant achievements in the epidemiology/public health field, we must find that the petitioner's assertion of prospective national benefit is speculative at best.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, U.S.C. 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.