U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: APR 0 9 2014 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under 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 employment as a periodontal public health specialist. 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 petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel and printouts of recent correspondence.

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

> (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 –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements 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 petitioner holds a Master of Public Health Degree from the [redacted] The petitioner also claims a Doctor of Dental Surgery degree from the [redacted] Mexico. An evaluation of the petitioner's education at the [redacted] found that the petitioner "has the United States equivalent of: Completion of four years of study in a dentistry program." The evaluation did not indicate that the petitioner had received the United States equivalent of a dentistry degree, and the petitioner did not claim to hold a license or other credentials as a dentist in any U.S. jurisdiction. Therefore, the petitioner qualifies as a member of the professions holding an advanced degree owing to her master's degree from [redacted] rather than her foreign 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 the pertinent 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 regulations implementing the Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] 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.

In re New York State Dep't of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* 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. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term "prospective" is included 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. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on December 13, 2012. The petition form identified the petitioner's intended occupation as "Preventive Medicine Physician," with a Standard Occupational Classification code of 29-1069, which corresponds to "Physicians and Surgeons." The petitioner, however, holds no medical degree, and counsel's introductory statement does not indicate that the petitioner seeks to practice medicine. Rather, counsel stated:

> [The petitioner's] specific job duties include the following: identify groups at risk for specific preventable diseases or injuries; evaluate the effectiveness of prescribed risk reduction measure or other interventions; prepare preventative health reports including problem descriptions, analyses, alternative solutions and recommendations; design and implement, or evaluate health service delivery systems to improve the health of targeted populations; perform epidemiological investigations of acute and chronic diseases; and design or use surveillance tools, such as screening, lab reports, and vital records, to identify health risks. . . .
>
> [The petitioner] seeks to continue her employment in the United States in order to pursue work in the area of Periodontal Public Health with a focus on periodontal disease and how it is linked to prostate cancer and low birth weight in babies, as well as environmental and occupational safety issues, including biomedical lab safety.

The director found that the petitioner's occupation has substantial intrinsic merit, and that the benefit from employment in that occupation is national in scope. What remains under consideration is the third prong of the *NYSDOT* national interest test, concerning the influence of the petitioner's past work in her field.

Counsel stated: "[the petitioner] has found that periodontal disease (gum disease) in pregnant mothers can lead to low birth weight in their babies, which places the babies' health at risk. . . . [The petitioner] has found that men with periodontal disease (gum disease) are more at risk of getting prostate cancer than other men." Counsel cited articles, fact sheets, and other published materials confirming the links described above. These materials, however, do not credit the petitioner with discovering these links. The record contains no evidence to support counsel's claim that it was the petitioner who "found" the described correlations. An October 2006 article in the *Journal of the American Dental Association* began with this assertion: "In the last two decades, the scientific community has demonstrated a growing interest in determining whether periodontal disease is associated with pregnancy complications." The petitioner is not one of the authors of that article, and the article did not cite the petitioner's work as a source. The article indicated that trials were underway to determine the impact of prenatal periodontal care on neonatal outcomes.

An undated fact sheet from the American Dental Hygienists' Association stated: "Research has identified periodontal (gum) disease as a risk factor for . . . low birth weight babies." The fact sheet cited one source for this assertion, specifically a 2002 paper from the *Journal of Periodontology*. The petitioner, who did not enter dental school until 2003, is not named as a co-author.

The record identifies a 2008 article in *The Lancet Oncology* that announced a link between gum disease and some types of cancer (including prostate cancer). The record does not include the article itself, and the petitioner did not claim to be an author of that article.

For her 2012 master's thesis, the petitioner analyzed data from the third National Health and Nutrition Examination Survey (NHANES III). Beginning with the assertion that "[i]f periodontal disease is associated with abnormal levels of sex hormones this may indicate a link between periodontal disease and prostate cancer," the petitioner concluded: "After adjusting for known risk factors, periodontal disease was significantly associated with sex hormones. . . . The results indicate the need for further study of periodontal disease and serum levels of testosterone, free testosterone, estradiol and free estradiol in men." In the thesis, the petitioner did not claim to have discovered the link between periodontal disease and prostate cancer. Rather, on page 2 of the thesis, she stated: "Other emerging factors associated with prostate cancer are diet and periodontal disease." The petitioner cited a 2003 paper to support this assertion.

In sum, the submitted materials do not support counsel's claim that the petitioner "found" the links between gum disease and low birth weight, or between gum disease and prostate cancer. The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel claimed that the petitioner "has influenced the Periodontal Public Health field to a greater degree than others in the field . . . through development of new and unique approaches that have been widely emulated by others in the field." Counsel did not identify these claimed approaches.

Turning from periodontal disease to occupational health, counsel stated that the petitioner "has worked on university campuses, first in small pilot programs, and then in larger campus-wide initiatives to promote occupational health for all university faculty, staff, and students, and to improve biosafety standards for biomedical labs." Counsel contended that "she has contributed to the field of environmental science in three diverse projects . . . which have been studied and reviewed by others." The record indicates that the petitioner's experience in occupational health consists of part-time employment undertaken in conjunction with her graduate studies at [redacted] sometimes at [redacted] and sometimes at the [redacted]

Under the heading "Evidence of Achievement and Acclaim: Publications," counsel listed five items, specifically four poster presentations from 2007-2008 and the petitioner's 2012 master's thesis. Counsel did not identify any publication (such as a journal) in which any of the listed works appeared. Under "Evidence of Awards," counsel listed two awards that the petitioner received at an April 2008 meeting of the [redacted] The awards recognized the petitioner's efforts as a thesis advisor (she was, at the time, on the teaching staff of a dental school).

The petitioner submitted information about which "serves approximately 143 laboratories." The information indicates that opened a Level 3) laboratory in September 2010, "and the lab has functioned without any major interruptions." The petitioner also submitted several pages of information regarding the National Institute of Health's laboratory certification requirements. The existence of these national standards shows that followed an existing standardized protocol, rather than developed a new model for others to emulate. Following a pre-existing " Certification Checklist" does not influence the field of occupational safety.

Several witness letters accompanied the petition. Dr. is coordinator of the Master in Odontology Sciences Program at the Dr. stated:

> [The petitioner] participated in diverse activities . . . , such as a teaching assistant of Oral Pathology and Periodontology I class. She also participated in local conferences as well as international conferences presenting research she and her students conducted related to Oral Pathology. [The petitioner] did excellent research [on] rare clinic cases in which she developed an extensive literature review for very complex cases. She was particularly passionate about research that blended her knowledge of periodontal disease and oral pathology with public health in order to meet the needs of the community. Not only is [the petitioner] passionate about public health research, she is also a true-professional; innovative, positive, obliging, supportive, and well-informed. . . .
>
> In short, I highly recommend [the petitioner] as one of the top experts in the field of Public Health.

All of the remaining initial witnesses work for in coordinator of Admissions and Alumni Affairs at School of Public Health, offered general praise rather than specific details about the petitioner's work, stating for instance that the petitioner "is prepared and willing to provide Public Health Education to communities."

graduate research assistant in Department of Environmental Health and Safety, stated:

> [The petitioner] is a highly qualified health care professional with experience in public health and dentistry. She conducted a study in our area to determine the causes of underweight newborns of mother[s] with periodontal diseases. The results had a significant impact in our area. Her results indicated that periodontal disease was associated with low birth weights of babies in our community. Her study was the only [one] of its kind, whose results identified a target risk group in our community where good oral health is essential.

> [The petitioner's] expertise in public health is among the best I have seen. She is among the few dentists who work in public health that are very skilled in diagnosing accurately periodontal disease. Her skills proved essential to the study and made it possible for the study to be considered for publication.

The record contains no evidence that any journal had published, or accepted for publication, the study described above.

The sentence "She is among the few dentists who work in public health that are very skilled in diagnosing accurately periodontal disease" also appears in a letter from project coordinator for the School of Public Health, Regional Campus. Ms. stated:

> Many of the published studies, where periodontal disease is used as a variable, have failed to produce promising results in associating it with certain adverse health effects. This is mainly due to the author's lack of expertise in using the correct variables needed to diagnose it. [The petitioner's] study produced promising results by utilizing a more correct method of diagnosing periodontal disease. Her results indicated that periodontal disease was associated with low birth weights of babies in our community.

The record shows that the petitioner did not first propose the correlation between low birth weight and maternal periodontal disease, and the record does not indicate that anyone outside of in considers the petitioner to have confirmed the link.

Raymundo Lozano III, safety specialist at UTEP, stated:

> [The petitioner] managed our Occupational Health Program. She did an excellent job of ensuring that our diverse research community at UTEP was provided the appropriate medical surveillance. . . .
>
> Our university is one of the few in the state that conducts research in a high containment Biosafety Level 3 laboratory (BSL-3). One of the responsibilities of having such a laboratory is to ensure that no infectious microorganisms are able to escape containment and infect the community. [The petitioner] is one of the few professionals who work in health and safety that have a background in medicine coupled with knowledge in public health. These skills made her the best person to aid our program by developing prudent and effective standing operating procedures to prevent the escape of microorganisms. I am confident that her skills and knowledge will transfer greatly to any university in the United States that contain such laboratories.

Mr. Lozano's letter, like that of Dr. Donohue Cornejo, included the sentence "In short, I highly recommend [the petitioner] as one of the top experts in the field of Public Health." His letter,

however, indicates local impact. The evidence indicates not that the petitioner develops laboratory safety techniques that others then emulate. Rather, she coordinated efforts to ensure 's compliance with existing standards.

, director of Environmental Health and Safety at , provided additional information about the petitioner's work on Occupational Health Program:

> [The petitioner] worked in our department as the coordinator for the University's Occupational Health Program. The Occupational Health Program (OHP) is a risk-based wellness and preventive care program for researchers and the community as a whole. Due to her background in medicine and expertise in public health, [the petitioner] was a crucial component in helping us expand the Occupational Health Program from a small pilot project to a campus-wide initiative. She was able to identify which individuals would benefit the most from specific preventative medicine initiatives such as immunizations and respiratory protection. This allowed for our resources to be used more effectively and direct them to identify other segments of our university that would benefit greatly from our OHP. Such a community was our maintenance workers who work in noisy areas. [The petitioner] performed sound testing in our noisiest environments such as mechanical rooms. She was able to identify which individuals were exposed to noise hazards. Her expertise and knowledge in public health made a great impact for our community by identifying this risk group and developing a hearing loss prevention program.

The director issued a request for evidence (RFE) on April 18, 2013. The director stated that the petitioner had not submitted "any corroborative evidence of the impact of [her] work," or shown that she "developed new and original methods and/or treatments that have been adopted by others [in the petitioner's] field."

In response, counsel stated:

> [The petitioner] has worked and will continue to work on significant topics within the field of Periodontal Public Health, including: 1) work linking periodontal disease and prostate cancer; 2) work linking periodontal disease in mothers and baby's low birth weight; and 3) work related to environmental health and safety, including air quality, noise control, vector control, radiation protection, water quality, and biomedical lab safety, especially in the context of university campuses.

Topic 3 above has no evident connection to "the field of Periodontal Public Health." The petitioner conducted research on periodontal issues as part of her graduate studies, and worked part-time as an occupational safety coordinator while she was a student. Counsel identified no full-time career occupation that would involve all three of the factors she identified.

Counsel stated that the petitioner had established a "past record of prior achievement with some degree of influence on the field as a whole. . . . In the initial filing, [the petitioner] provided evidence of Achievement and Acclaim: Publications and Evidence of Awards. Please note that [the petitioner] graduated from and taught at one of the most prestigious institutions in Mexico." The director addressed the cited evidence in the RFE, noting that the petitioner had not established the field's response to the petitioner's claimed publications, or the significance of awards that the petitioner received for her work as a thesis advisor. With respect to the petitioner's studies and employment "at one of the most prestigious institutions in Mexico," there is no provision in the statute, regulations, or case law for granting the national interest waiver based on affiliation with a particular university.

Counsel repeated, word for word, the previous assertion that the petitioner has developed "new and unique approaches that have been widely emulated by others in the field," but the petitioner did not submit any evidence of this claimed emulation. Counsel's repetition of a prior claim cannot meet the petitioner's burden of proof. *See Matter of Obaigbena*, 19 I&N Dec. 534 n.2, and *Matter of Ramirez-Sanchez*, 17 I&N Dec. 506. Counsel quoted from previously submitted witness letters, but almost all of those witnesses are at one institution and all of them have worked with the petitioner. Their statements are not first-hand evidence that the petitioner's work has been "widely emulated," or that it has attracted serious attention at other institutions.

Counsel asserted that the petitioner possesses all the necessary skills "to be a qualified and exceptional Periodontal Public Health Specialist (sometimes referred to as Preventative Medicine Physicians or Public Health Directors) in the United States." There exists no blanket waiver for periodontal public health specialists, and therefore to be a qualified member of that profession is not evidence of eligibility for the waiver. Likewise, aliens of exceptional ability are typically subject to the job offer requirement at section 203(b)(2)(A) of the Act, and so the petitioner would not qualify for the waiver by virtue of being an "exceptional Periodontal Public Health Specialist." Counsel did not establish that the three job titles listed above are interchangeable as claimed. The petitioner is not a "physician"; she neither holds nor claims to hold a medical degree or a license to practice medicine.

Counsel stated:

> [I]t is not common for trained dentists, such as [the petitioner], to specialize in Public Health. The fact that she is a trained dentist makes her work in Public Health more valuable because she is more prepared than others in the Public Health field to prevent disease and injury, as well as diagnose disease, because she knows the mechanisms of the body and how the body works.

The record does not support the claim that the petitioner's training in dentistry makes the petitioner a more effective public health worker. Also, the petitioner does not qualify for the waiver by virtue of having specialized training. *See NYSDOT*, 22 I&N Dec. 221.

Counsel also asserted that "public health studies take time. . . . Some studies can take up to four years to complete. Thus, related studies also take time to develop, be completed and then published." Counsel noted that the petitioner's most significant claimed work took place between 2009 and 2012. This assertion does not indicate that the petitioner's work has influenced the field. Rather, it is an attempt to explain the lack of evidence of influence. The contention that the petitioner's work is so new that has not yet had time to influence others is not grounds for granting the national interest waiver. Rather, it is grounds for concluding that the waiver application was premature. The petitioner must be eligible for the benefit sought at the time of filing. *See* 8 C.F.R. § 103.2(b)(1). The petitioner cannot show that she was eligible on the date of filing by contending that her influence will become evident in future years.

Most of the exhibits submitted with the RFE response duplicate previous submissions, apart for background materials about public health dentistry (which addresses only the undisputed intrinsic merit of the occupation) and new letters, all from witnesses at in

now a research technician at Southwestern Medical Center in , previously collaborated with the petitioner at the campus of the School of Public Health. Ms. stated that the petitioner's "background in dentistry" and her "knowledge in public health field made a perfect fit for her contribution to [a] study" "to determine and to better understand if a correlation exists between underweight newborns and periodontal diseases in mothers." Ms. did not specify the nature of the petitioner's contribution to the study.

Other witnesses supplemented previously submitted letters. in her second letter, stated that the petitioner "conducted a study in the area," which "indicated that periodontal infection is a contributing factor for preterm low birth weight." Ms. stated that the petitioner's "study was the only one of its kind in the community," but she did not discuss other literature (such as the 2002 article cited in the petitioner's master's thesis) that reported this link years earlier.

provided the most information about the petitioner's low birth weight study, stating that the petitioner "was able to recruit 118 pregnant women" for the study, which "has produced promising results by utilizing a more correct method of diagnosing periodontal disease." The record does not say whether the petitioner herself devised the "more correct method," or rather learned it elsewhere. Ms. stated: "More recently, in 2012, [the petitioner] was able to find an association between periodontal disease and levels of the sex hormones, specifically testosterone and estradiol, among men." Ms. stated that the petitioner analyzed data gathered as early as 1988, which "show[s] how long the information has been available and the fact that other researchers had yet to find such association."

stated that the petitioner's "thesis project is the only study that has identified periodontal disease as a factor that is shown to increase free testosterone and free estradiol, which is linked to prostate cancer." The petitioner's thesis found only a correlation between the two factors;

the petitioner twice stated (on pages 17 and 19) that "causality cannot be interpreted from the results" owing to limitations in the source data.

The above letters do not show that the petitioner's aforementioned studies have influenced the field or attracted any attention outside of or that they have resulted, even locally, in higher birth weights or a reduction in prostate cancer.

stated: "We were very privileged to have [the petitioner] manage our Occupational Health Program. [The petitioner] is one of only a few people with the skill set of a clinician in preventative medicine as well as an expert in public health that enables her to assist an undergraduate university in the United States." A shortage of qualified workers is not grounds for a waiver under *NYSDOT*, because the labor certification process addresses the local availability of qualified workers. *See id.* at 218.

Mr. added that "the protocols that [the petitioner] developed are still being used today at our lab and in our department . . . in our manual." The record does not show wider adoption of the protocols, and therefore the petitioner has shown influence on laboratory safety procedures at but not on the field as a whole.

The director denied the petition on October 9, 2013, stating that the petitioner had satisfied the first two prongs of the *NYSDOT* national interest test, concerning intrinsic merit and national scope, but had not established that she would benefit the national interest to a substantially greater degree than a similarly qualified U.S. worker. The director acknowledged the petitioner's past work but found that the petitioner had not established its impact on the field.

On appeal, counsel asserts that the director "did not give proper weight or proper application to the evidence provided." Counsel states that the petitioner "has established that she meets [the third *NYSDOT* prong] based on a totality of the evidence under the preponderance of the evidence standard." Counsel then repeats, in slightly modified form, statements from the RFE response, many of which repeated portions of counsel's initial comments at the time of filing. Repetition of claims that predate the denial notice does not substantively respond to the findings in that denial notice.

The petitioner submits printouts of two electronic mail messages. An assistant professor at Health Sciences Center, , expressed an interest in collaborating with the petitioner on a study that, like the petitioner's master's thesis, drew on data from NHANES III. A pediatric dentist in Illinois, requested a copy of the petitioner's study "The Prevalence of Periodontal Disease among Pregnant Women of Mexican Origin," stating that the "paper may be a great asset in helping to educate physicians as to the importance of their patients' oral health as it relates to their prenatal care." Both of these messages date from late October 2013, more than ten months after the petition's December 13, 2012 filing date, and neither establishes that the petitioner has had concrete influence on her field. An invitation to collaborate with a local researcher is the result of the two researchers' perceived overlapping interests. The Illinois dentist's request for a copy of the petitioner's paper is an indication that the requestor has not yet seen the paper. Such a

request is, therefore, not evidence of influence. At best, it provides an avenue for possible future influence.

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *NYSDOT*, 22 I&N Dec. 217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole.").

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 AAO will dismiss the appeal for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.