**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)

[redacted]

DATE: MAR 27 2014 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
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:

[redacted]

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 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 pediatric nephrologist. At the time she filed the petition, the petitioner was a fellow at the [redacted] affiliated with the [redacted]. 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.

In this decision, the term "prior counsel" shall refer to [redacted], who represented the petitioner at the time the petitioner filed the petition. The term "counsel" shall refer to the present attorney of record.

On appeal, the petitioner submits a brief from counsel and supporting exhibits.

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 director did not dispute that the petitioner 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 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, P.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 7, 2012. In an accompanying statement, prior counsel stated:

> [The petitioner] is a highly specialized physician and researcher in the field of Pediatric Nephrology. . . .
>
> [The petitioner's] work fosters the development of new approaches into the causes, diagnosis, treatment, and prevention of pediatric renal diseases and disorders. Her research has demonstrated new methods of diagnosing kidney disease, including the identification of predictors of renal outcome in youth with systemic lupus erythematosus (SLE), analysis of renal biopsy techniques, and her unique analysis of the relationship between Nephrology and other medical issues in fields such as Cardiology, Neurology/Psychology, Rheumatology, and Vascular Disease. . . .
>
> [The petitioner] is credited with several original scientific and medical research contributions. . . . She is cited by experts as a creative, enthusiastic, and prolific researcher, known for her initiatives for undertaking research to advance the field and for the benefit of her patients.

The petitioner submitted documentation to establish the intrinsic merit and national scope of pediatric nephrology research. The petitioner also established the intrinsic merit of the clinical practice of pediatric nephrology, but did not establish the national scope of clinical practice; those who benefit directly from one physician's clinical practice are the necessarily limited number of patients whom that one physician directly treats.

Prior counsel cited six exhibits as "[e]vidence that [the petitioner's] research and clinical practice are national in scope." Three of the exhibits related to the petitioner's research work. A fourth exhibit pertained to the petitioner's peer review work "on behalf of an internationally circulated academic journal," which again relates to research rather than clinical practice. Of the two remaining exhibits, one concerns the petitioner's membership in "distinguished national professional organizations in her field." Prior counsel did not explain how these memberships give national scope to the petitioner's clinical work. The national reach of an organization does not lend national scope to the work of individual members of that organization. The last exhibit concerns a particular interdepartmental program at [redacted] Neither the petitioner nor any witness a[redacted] indicated that the petitioner would remain at [redacted] after she completed her fellowship (which is an advanced stage of medical training rather than a career position), and USCIS records show that the petitioner left [redacted] less than a year after she filed the petition. The petitioner held H-1B nonimmigrant status permitting her to work at [redacted] during her fellowship training; she did not require permanent immigration benefits in order to complete that training.

The petitioner submitted evidence that she has, in prior counsel's words, "consistently received meritorious academic recognition and awards in her field." Such awards can support a claim of exceptional ability under the regulation at 8 C.F.R. § 204.5(k)(3)(F), but exceptional ability, defined at 8 C.F.R. § 204.5(k)(2) as "a degree of expertise significantly above that ordinarily encountered" in a given field, does not establish eligibility for the waiver. Section 203(b)(2)(A) of the Act specifies that aliens of exceptional ability are typically subject to the job offer requirement. Furthermore, the petitioner received most of the awards as a student; the earliest ones are from when she was in high

school, before she had any medical training. Some of the claimed awards are high scores on college entrance examinations. Whatever the petitioner's academic success, academic performance cannot alone satisfy the national interest threshold or assure substantial prospective national benefit. *NYSDOT* at 219 n.6.

Copies of conference presentation materials and manuscripts and proofs of materials written for publication establish that the petitioner has been a productive researcher, but these exhibits are not evidence of their own impact or influence.

Several witness letters accompanied the initial filing of the petition. Two of the witnesses are on the faculty of where the petitioner served a residency in pediatrics from 2007 to 2010. stated that the petitioner "emerged as a subject matter expert and leader among medical students and her fellow residents," which does not establish impact and influence beyond trainees at one hospital. asserts that the petitioner:

> was recognized by the medical field at large . . . for her leading knowledge in Pediatric Nephrology when she was asked to draft two chapters in the widely used reference book, th Edition, edited by . This is a reference designed for quick consultation on problems seen in infants, children, and adolescents.

The record does not show that the petitioner's involvement in resulted from recognition "by the medical field at large." The petitioner submitted proof copies of her entries in the book, as well as a printout from the web site of an unidentified book seller in the United Kingdom (the book's price is listed in pounds). The seller's description of the book indicates that "[m]ore than 450 diseases and conditions are covered in [a] fast-access two-page outline format." The petitioner's entries match this description, providing two-page overviews of specific conditions designed not to impart new research findings, but rather to assist clinicians in diagnosing the conditions.

assistant professor at and attending staff member at discussed the petitioner's "research on congenital heart disease and obesity, which she conducted at the stated that the petitioner's "research has been well received in the field" after several conference presentations in 2009. The record does not show that the petitioner continues to perform research in that area, or that her earlier work that described continues to influence others' ongoing research.

director of the Fellowship Training Program at stated: "Research is a substantial component of the Fellows are responsible for conception and completion of an independent research project(s) and submission of first-authored presentation(s) related to the research, leading to eligibility to sit for the Subspecialty Board Examination." This assertion does not indicate that research separates the petitioner from other pediatric nephrologists. Rather, it indicates that research is a mandatory

component of training in the specialty. Further, it does not establish that the petitioner would continue to perform research after sitting for the board examination.

claimed that the petitioner's "clinical practice in Pediatric Nephrology at is recognized nationally, and attracts patients from across the United States. Since 2010, [the petitioner] has worked with patients from 22 states and territories" as far away as California. The record includes no evidence to support this claim. Furthermore, assuming wide geographical distribution of patients, the record does not show that these patients traveled to Philadelphia specifically because of the petitioner, rather than the overall reputation of program.

discussed the petitioner's involvement in "six ongoing research studies in the Division of Nephrology at " as well as three earlier research projects. None of the three earlier projects appears to have concerned nephrology. Because participation in research is a fundamental requirement of fellowship training at , the petitioner's involvement does not inherently distinguish her in her field. identified conferences where the petitioner had made presentations relating to this research, and stated that manuscripts for journal articles were in various stages of preparation, but he did not show that the petitioner's research at had yielded any articles published prior to the petition's filing date. The "Publications" section of the petitioner's own *curriculum vitae* listed seven manuscripts in preparation or under review, but no articles already in print.

stated:

> [The petitioner] has achieved much more than other minimally qualified physicians who have received basic medical training. . . . Of particular note and interest, [the petitioner] has gained significant interdisciplinary clinical skills through her clinical work in the . And she has demonstrated exceptional talent at linking Pediatric Nephrology to other medical areas, through her interdisciplinary clinical research. This truly sets her apart from other physicians or researchers who have function only within a narrow medical field.

described her collaboration with the petitioner "on a study of described the goals of the project but not the outcome. She did not claim that the project had yet resulted in any published or presented work, or that the results of the project had influenced the field. A collaborator's opinion of the importance of the study does not establish its wider impact.

, stated that the petitioner "is actively engaged in innovative research in , and is making important original contributions to the field." described various projects, and describes benefits that could potentially arise in the future as a result of those projects. Discussion of future impact in this way is necessarily speculative, and dis not balance this speculation with evidence of proven impact from the petitioner's earlier work.

> [The petitioner] and I are Co-Investigators of a study . . . which aims to explore the impact of and characterize the changes to the brain experienced by individuals with CKD [chronic kidney disease]. Through her work on this study, [the petitioner] is on the leading edge of research in the field of Pediatric Nephrology.

did not specify the petitioner's role in the project, which relies on "state of the art neuroimaging technology" more aligned with Prof. Hooper's specialty than with that of the petitioner.

also collaborated with the petitioner "to write a manuscript which is an extensive review of 35 years of scientific literature on neuroimaging in CKD patients, both adults and children." When wrote his letter, the manuscript was awaiting peer review.

stated:

> I have been fortunate to collaborate with [the petitioner] on a major U.S.-based cohort study of Systematic Lupus Erythematosus (SLE). . . . Our long-term goal is to identify predictors of disease activity and damage in pediatric lupus. . . .
>
> The advances [the petitioner] makes in our understanding, diagnosis, and treatment of devastating childhood diseases such as lupus will reach a wide audience through her publications and conference presentations, and will be implemented and built upon by physicians and researchers all over the country and the world.

The record does not establish the extent, if any, to which other physicians and researchers have already implemented and built upon the petitioner's research work.

stated: "[The petitioner], with a strong record of outstanding research achievements and clinical practice, offers qualifications well beyond those of a minimally trained physician. . . . [The petitioner] is one of the few Pediatric Nephrology fellows nationally to have such exceptional training and research initiative." did not elaborate on this claim.

The director issued a request for evidence on February 6, 2013. The director stated: "The petitioner must establish that the beneficiary has a past record of specific prior achievement with some degree of influence on the field as a whole."

In response, prior counsel stated that the exhibits submitted with the initial filing established that the petitioner is an influential researcher who "crosses medical practice areas, leading the field of Pediatric Nephrology to address the whole patient in an integrated approach." Prior counsel stated that the petitioner "has published two abstracts, for which she is the first author, in *Blood Purification*." Prior

counsel added: "the research/peer-review/publication cycle takes too long for citations to these studies to have been published yet."

[redacted] published both of the newly mentioned abstracts in 2013, after the petition's filing date. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). USCIS cannot properly approve the petition at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). In this instance, the publication of abstracts after the petition's filing date cannot retroactively establish the petitioner's influence on the field as of the filing date.

Prior counsel listed new and upcoming conference presentations by the petitioner. Like the two abstracts in [redacted], these contributions reached the field after the petition's filing date. They demonstrate that the petitioner remained active as a researcher, but cannot retroactively establish that the petitioner was already eligible for the waiver before the materials existed.

Regarding the claim that citations to the petitioner's work have not had time to appear, this assertion does not relieve the petitioner of her burden of proof. Rather, it acknowledges that it is too soon to say whether or not the new articles will influence the field. The record contains no evidence that independent researchers had already cited the petitioner's work in articles that were still pending publication, and therefore the assertion that citations will eventually appear amounts to speculation.

Prior counsel stated: "a labor certification would be inappropriate for the profession of Pediatric Nephrologist because there is an extreme nationwide shortage of Pediatric Nephrologists in the United States. We can conclude, therefore, that there is full employment for minimally qualified American workers in the field." The labor certification process is in place to address such shortages. *NYSDOT* at 218.

[redacted] tated:

> It is without doubt that [the petitioner's] research and clinical practice . . . make valuable and significant improvements to the national health. It is further without doubt that [the petitioner's] qualifications and accomplishments far exceed those of any minimally qualified physician, who might potentially be identified in the labor certification process.

[redacted] did not elaborate on the above claims. Instead, having stated that those claims are "without doubt," [redacted] devoted the remainder of his letter to the assertion that there is a shortage of pediatric nephrologists. [redacted] asserted: "In Delaware, the state where [the petitioner] has been offered employment, there are currently only two ABP-certified pediatric nephrologists."

Section 203(b)(2)(B)(ii) of the Act made a shortage-based waiver available to certain physicians in designated shortage areas, but to qualify for that waiver, a physician must meet certain conditions

specified in the statute and in the regulations at 8 C.F.R. § 204.12. The petitioner does not claim to have met those conditions. The petitioner has not submitted the evidence necessary to qualify for a waiver based on a physician shortage, and *NYSDOT* does not otherwise permit shortage-based waivers. No blanket waiver exists for pediatric nephrologists.

Furthermore, the petitioner worked in Pennsylvania and had no job offer in Delaware when she filed the petition. A local shortage of pediatric nephrologists in Delaware, therefore, would not establish eligibility as of the filing date even if there were no other impediment to approval of the waiver. Under the regulations at 8 C.F.R. § 204.12(f), if a physician has an approved Form I-140 petition with a shortage-based national interest waiver, and that physician then moves to a different medically underserved area, the physician must file a new Form I-140 petition with fee.

Professor [redacted], stated:

> duPont sincerely believes in the significant future benefit and influence [the petitioner] will have in Pediatric Nephrology. We also recognize how her training, research initiatives and accomplishment set her substantially apart from the majority of Pediatric Nephrologists. As evidence of these convictions, [redacted] has created a new, permanent, position specifically for [the petitioner]. We were eager and thrilled to recruit such an extraordinarily gifted Pediatric Nephrologist to our team.

[redacted] asserted that the petitioner's training "exceeds the minimal clinical training offered by other programs," and that the petitioner possesses "unique interdisciplinary experience" and "nationally recognized research experience" that "far exceed what a minimally qualified worker . . . could offer." Possessing more than the minimum qualifications is not sufficient grounds for receiving the national interest waiver. By statute, even aliens of exceptional ability are typically subject to the job offer requirement. Labor certification is not limited to minimally qualified foreign workers.

[redacted] stated that the petitioner's "nationally recognized research has influenced the field" but did not specifically elaborate on this point except to claim that the petitioner received invitations to perform peer review as a result of her "recognized expertise." [redacted] like prior counsel, pointed to newly published abstracts while asserting that this material was too new to have attracted any citations yet.

[redacted] praised the petitioner's past research work, but did not specify that the new position that the hospital created for her would involve research duties.

[redacted] stated that the petitioner's two 2013 abstracts published in [redacted] "offer clear and significant examples of how her research reaches and impacts the field of Pediatric Nephrology as a whole." [redacted] did not explain how these abstracts, published so recently that no citations exist, are evidence of the petitioner's impact on her field. [redacted] offered her professional opinion of the significance of the abstracts, but her opinion does not demonstrate impact on the field as a whole, either before or after the filing date.

stated that the petitioner's "research has impacted the field by clearly identifying areas in which specific diagnosis, treatment and prevention are needed and will be most effective." The record contains no objective evidence to show widespread adoption of the petitioner's work at the clinical level, or discussion of her work among other researchers. Proposing a solution to a problem has the potential to influence the field, but the proposal itself is not evidence of its own impact.

The director denied the petition on August 20, 2013. The director quoted from several witness letters, and stated: "The fact that the beneficiary is highly qualified for the job does not warrant a waiver of the job offer and labor certification requirement." The director found that a claimed shortage in the petitioner's specialty does not warrant a waiver under *NYSDOT*, and that the petitioner had not documented that her research has influenced the field as a whole. The director also found that clinical practice (as opposed to research) lacks national scope, and that the petitioner had not shown that her future duties would primarily involve research rather than clinical care. The director stated: "No evidence of citation of the petitioner's research was submitted to establish that others within the field are discussing or adopting the petitioner's findings. No independent evidence of the impact of the petitioner's research was submitted beyond referee letters."

On appeal, counsel asserts that the director made the "fatal error" of quoting only some of the witness letters. Counsel quotes from some of these letters on appeal, stating that they "specifically addressed the impact of [the petitioner's] impact [*sic*] on her field as a whole." This element of the appeal reinforces rather than rebuts the director's finding that the petitioner relied entirely on letters to establish the impact and influence of her past research work.

Counsel contends that the letters, "given their quantity, substance and who the referees are – in and of themselves are sufficient to rebut the director's erroneous conclusion" regarding the petitioner's impact on her field.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not

purport to be evidence as to "fact"). *See also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The letters submitted in support of the petition attested to the petitioner's claimed impact in the field but did not describe that impact. The petitioner also failed to submit corroborating evidence in existence prior to the preparation of the petition, which could have bolstered the weight of the reference letters.

Counsel quotes an unpublished, non-precedential AAO decision from 2009, regarding the value of independent witness letters. Counsel has furnished no evidence to establish that the facts of the instant petition are analogous to those in the unpublished decision. While 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all USCIS employees in the administration of the Act, unpublished decisions are not similarly binding.

The quoted appellate decision did not indicate that independent witness letters are of equal value: "Independent witness letters are another means to establish an alien's impact on his or her field. This not to say, of course, that every alien who manages to obtain independent witness letters is entitled to a national interest waiver." The same decision indicated that "consistency with the other evidence" affects the weight of witness letters.

Counsel does not establish that any of the petitioner's witnesses are independent. Most of the witnesses have directly participated in the petitioner's training and/or have collaborated with her, and none of the witnesses specifically claimed independent knowledge of the petitioner's work. Counsel has not supported the assertion that the number and/or identities of the witnesses lend their assertions the same evidentiary weight as independent documentation. The absence of verifiable documentation diminishes the weight and reliability of claims such as assertion that the petitioner is "a national leader in the field of Pediatric Nephrology."

Counsel states that the director had "not even mentioned . . . [the petitioner's] having presented original research papers . . . at national and international meetings and symposia." The director acknowledged that "the petitioner has conducted scholarly research." The outcome of the decision would not have changed if the director had described the forums at which the petitioner had presented that research.

The record shows that the petitioner trained at in a fellowship program that required fellows to conduct original research. Original research conducted under those conditions does not distinguish the petitioner from her peers, and the record does not show that is unique or distinguished in requiring fellows to conduct research in this way.

Counsel states: "The finding that [the petitioner's] position is essentially one of only local benefit is absolutely in error and ignores a substantial part of the record." Counsel repeats assertions regarding the national reputation of and states the petitioner "renders state-of-the-art clinical services to patients from throughout the United States" at The response to the request for evidence,

however, made it clear that the petitioner would leave upon completion of her fellowship training.

Counsel asserts that "extensive research" has a national impact, and that the director was "fundamentally wrong" to conclude that the petitioner will primarily work as a clinician rather than as a researcher. Counsel states that "the Director fundamentally misunderstands the nature of academic medicine where the research component and the clinical component . . . go hand-in-hand."

The record does not show that intends to employ the petitioner as a researcher or in an academic capacity, or that her clinical work has or will produce benefits that are national in scope (rather than benefiting individual patients). At the time of filing, the petitioner was not employed in a career "academic medicine" position. Rather, she was completing a fellowship, which is a required stage of medical training. The appeal includes some new exhibits, none of which establish that the petitioner continued to perform research after leaving in 2013.

Counsel cites the economic costs incurred by kidney diseases, and stated that the petitioner's research work will produce "national economic benefit" by reducing these costs. Counsel cites figures from 2009 regarding the national costs of kidney diseases and related disorders, but does not provide figures showing that the petitioner's work has, so far, significantly reduced those costs. If the petitioner's past work has not reduced these costs, then it is speculative to claim that "medical research, such as [the petitioner's], may result in cost-saving procedures."

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* at 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.