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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B2

[redacted]

FILE: LIN 07 148 52158 Office: NEBRASKA SERVICE CENTER Date: SEP 21 2009

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

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

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

On appeal, counsel submits a brief and an additional exhibit. Counsel asserts in general that the director erred in considering the petitioner as a "medical scientist in the field of Pediatric Gastroenterology" and comparing her achievements with other "researchers." Counsel asserts that the petitioner is actually a "professor" and "practicing pediatric gastroenterologist" who has "an interest in scientific research." While counsel asserts that it is rare for a practicing physician to engage in research in Brazil, she does not assert that it is rare for professors of medicine to do so. Counsel appears to be requesting that we accord significance to the petitioner's research accomplishments by comparing her only to non-researchers.

Counsel is not persuasive. On Parts 5 and 6 of the petition, the petitioner lists her current occupation and proposed employment as "medical scientist." We cannot conclude that the director erred in reiterating the occupation listed on the petition, signed by both the petitioner certifying the truth of the information and counsel as the preparer.

On the first page of counsel's initial brief, counsel characterized the petitioner as "one of the most promising research scientists." On the first page of counsel's brief in response to the request for additional evidence, counsel asserted that the petitioner "was the world's **first** researcher to study" a specific infection in germ free animals. (Emphasis in original.) We also note certain language in a letter from [redacted] Director of the Medical School of the Federal University of Minas Gerais (UFMG) in Brazil where the petitioner is employed. Specifically, asserts that after returning to Brazil in 2000, the petitioner "has concentrated on clinical research." The letters submitted in response to the director's request for additional evidence all purport to explain the significance of the petitioner's publications and research. Counsel does not explain why the director erred in using counsel's own terminology and the terminology of the petitioner's references. In fact, counsel's request that the petitioner not be considered as a medical scientist or researcher (albeit a clinical researcher) constitutes a material change from the initial submission. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to U.S. Citizenship and Immigration Services (USCIS) requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r. 1998).

Moreover, the record contains no evidence that the petitioner is admissible as a graduate of a foreign medical school seeking to perform services as a member of the medical profession under section 212(a)(5)(B) of the Act. Thus, it would appear that the petitioner cannot be seeking to enter the

United States to continue in her area of expertise pursuant to section 203(b)(1)(A)(ii) of the Act if she defines that area as practicing medicine rather than research.

Regardless, for the reasons discussed above and below, the petitioner has not demonstrated the necessary national or international acclaim as a physician, professor or a researcher. We reach this decision based on a consideration of the evidence under the regulatory criteria and in the aggregate.

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

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
>
> (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
>
> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
>
> (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

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

As stated above, according to Part 6 of the petition signed by the petitioner and counsel, this petition seeks to classify the petitioner as an alien with extraordinary ability as a "medical scientist." The petitioner received her medical degree from UFMG in 1977. Since 1980, the petitioner has worked as a professor at UFMG although she also continued her education during this time, receiving her Ph.D. in Gastroenterology in 1997. She performed postdoctoral training as a visiting professor at

North Carolina State University (NC State) and the University of North Carolina (UNC) from 1998 through 2000.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, she claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).[1]

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

The record contains no awards issued to the petitioner as a practicing physician. Rather, counsel initially asserted that the petitioner meets this criterion based on recognition as a professor from UFMG, scholarships and research grants including a Coordination of Improvement of Higher Education (CAPES) grant to support the petitioner's Master's thesis and what counsel references as a 1999 "Wyeth Nutritional International Award." The unsupported assertions of counsel do not constitute evidence. *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). In support of the above assertions, the petitioner originally submitted a 1999 "Wyeth Nutritionals Int. Award" issued by the Karolinska Institutet, host of the XIII International Symposium on Gnotobiology, and graduation programs for UFMG listing the petitioner as an honored professor. Regarding counsel's assertion that the petitioner has been "awarded" research grants, counsel acknowledges on appeal that the petitioner has not submitted evidence that she is a primary investigator.

In response to the director's request for additional evidence of the significance of the petitioner's awards, the petitioner submitted a letter from [redacted], an associate professor at the Karolinska Institutet, asserting that the petitioner was selected to present an abstract at the XIII International Symposium on Gnotobiology in 1999. [redacted] continues:

> "Also, because of the importance of the work [the petitioner] had done within Gnotobiology and the area of parasite infections, we decided to honor her extraordinary accomplishments by choosing her as the recipient of the Wyeth Nutritional Award Stipendium of 1999 during the Symposium."

does not provide any information about the pool of competitors for the award, such as whether it was limited to clinical researchers presenting abstracts at this single symposium. [redacted] also fails to confirm counsel's assertion that the stipend was $1,000.

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[1] The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

In addition, the petitioner submitted information about Wyeth Nutrition from its website. Nothing in this information addresses awards issued by Wyeth Nutrition. Rather, the information is about the company itself and awards and recognition it has received. Moreover, the petitioner's award certificate does not contain Wyeth Nutrition's logo. Rather, it contains the name of the symposium and the name, address and logo of the Karolinska Institutet. The certificate is signed by [redacted] The certificate also indicates that the name of the award is "Wyeth Nutrition*als* Int." (Emphasis added.) Thus, the record does not establish that Wyeth Nutrition issued the award such that it judged the competitors and selected the winner.

The petitioner also submitted a list of proceedings of the International Symposiums on Gnotobiology ending in 1996 (before the petitioner received the 1999 award) purportedly from the website www.gnotobiotics.org, the website of the Association for Gnotobiotics. The petitioner also submitted materials about this association, none of which address awards issued by the association, if any.

In addition, the petitioner submitted information about CAPES and their joint scholarships with Fulbright. The goals for CAPES are to assess postgraduate "strict sense," access and disseminate scientific literature, invest in *training* of high-level resources and promote scientific cooperation. CAPES/Fulbright scholarships are designed for "candidates of proven academic performance, with projects that can not be made wholly or partially in Brazil, and to turn to North American institutions of excellence." The goal of these scholarships is to "*train* doctors in areas where there is [a] lack of consolidated groups in Brazil." (Emphasis added.) The record, however, contains no evidence that the petitioner actually received a CAPES/Fulbright scholarship. Rather, she submitted her application for a 2006-2007 Fulbright Visiting Scholar Application on which she indicated that she had not previously received a Fulbright grant. While the petitioner also submitted a job offer from the host institution identified on the Fulbright application, Georgetown University, the letter makes no mention of a Fulbright scholarship. Rather, the letter references a $250 per semester fee for visiting researchers.

The director concluded that grants fund future research and are not prizes or awards for excellence, that the petitioner's recognition as a professor was limited to a single university and that the letter from Dr. [redacted] was insufficient to establish the significance of the award issued by the Karolinska Institutet. On appeal, counsel notes that the petitioner submitted materials about Wyeth Nutrition and the Association for Gnotobiotics. Counsel notes the international nature of the symposiums and concludes:

> Logic would suggest that the honor of having your abstract discussed at an *international* symposium held once every three years in various locations around the world and receiving an award called the Wyeth Nutrition *International* Award that is sponsored by a research-based pharmaceutical and healthcare company that spans the globe, whose previous honorees come from around the world is an award that is internationally recognized.

Counsel is not persuasive. First, acceptance of an abstract for presentation at a conference, even an international conference, is not an award or prize. Rather, it is comparable to the publication of

scholarly articles pursuant to 8 C.F.R. § 204.5(h)(3)(vi), discussed below. Moreover, the use of the word "international" in the name of an award or even the international pool of candidates does not create a presumption of international or national *recognition.* According to the Internet materials submitted, neither Wyeth Nutrition nor the Association for Gnotobiotics touts this award on their websites or lists recent winners. While the division of Wyeth Pharmaceuticals is Wyeth Nutrition, the certificate names the award as the "Wyeth Nutritionals Int. Award," suggesting the company may have had a minimal role in issuing the award, if any. The award certificate bears the address and logo of the Karolinska Institutet and the signature of an official of this institute. Thus, the award appears to be issued by the institute. As stated above, [redacted] does not indicate the basis for this award. For example, she does not specify whether the award is a life-time achievement award or essentially a "best abstract" designation. She also does not indicate the number of awards issued, the amount of the "stipendium," or any restrictions on the use of those funds. If the funds are a "stipend," it is not known whether their use is limited to funding future work. While counsel asserts that no media coverage of the award from 1999 remains, at issue for this criterion is the significance of the award itself. The petitioner did not submit media coverage of more recent awardees. Thus, the petitioner has not established that the Wyeth Internationals Int. Award is nationally or internationally recognized.

Counsel further asserts on appeal that the petitioner received a $24,000 Fulbright Scholarship to North Carolina State University. As stated above, the unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena,* 19 I&N Dec. at 534 n.2; *Matter of Laureano,* 19 I&N Dec. at 3 n.2; *Matter of Ramirez-Sanchez,* 17 I&N Dec. at 506. The petitioner was a "postdoctoral trainee" at this institution and the UNC in 1998 through 2000 according to [redacted] Director of the Immunology Graduate Program at NC State. The record contains no evidence that her time there was pursuant to a Fulbright Scholarship. Specifically, the grant letter is not part of the record and neither [redacted] nor [redacted] (in his April 21, 1999 letter requesting an extension of the petitioner's visit) mentions a Fulbright Scholarship. The petitioner's application for a 2006-2007 Fulbright Visiting Scholarship indicates she had not previously received a Fulbright grant and there is no evidence that this later application was approved. Regardless, while competitive, Fulbright scholarships primarily fund training opportunities for individuals with leadership potential. The petitioner has not demonstrated that the most experienced and renowned medical researchers seek these scholarships.

Finally, counsel asserts that the petitioner received a $20,000 grant from the Center of Gastrointestinal Biology and Diseases (CGIBD) at the UNC. The record contains evidence that CGIBD is a National Institutes of Health (NIH) funded program at the UNC and NC State. [redacted] asserts that the petitioner collaborated with members of the center but does not suggest that she personally received a $20,000 grant from the center. In fact, counsel contradicts herself on this point on the previous page (page 2) of the appellate brief, asserting that the petitioner did not submit evidence that she is "recognized as a primary investigator" because she "is not currently an investigator." As primary investigators are the recipients of grant funds, counsel has not explained this contradiction or the contradiction between the claim that the petitioner is not currently an investigator and [redacted] assertion that she has continued in clinical research since returning to Brazil in 2000.

Regardless, research grants simply fund a scientist's work. Every successful scientist engaged in research, of which there are hundreds of thousands, receives funding from somewhere. Obviously the past achievements of the principal investigator are a factor in grant proposals. The funding institution has to be assured that the investigator is capable of performing the proposed research. Nevertheless, a research grant is principally designed to fund future research, and not to honor or recognize past achievement.

Finally, counsel does not challenge the director's conclusion that the petitioner's recognition by her own employer cannot serve to meet this criterion and we concur with the director. Such recognition is not indicative of or consistent with sustained national or international acclaim beyond the petitioner's own employer.

In light of the above, the petitioner has not established that she meets this criterion as a practicing physician, professor, medical scientist or researcher.

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

Initially, counsel asserted that the petitioner meets this criterion through her membership in the "Pediatrics Society of Mineira," the Association of Gnotobiotics and the Brazilian Society of Pediatrics. The petitioner submitted declarations confirming her membership in the Pediatrics Society of Minas Gerais and the Brazilian Society of Pediatrics and what purports to be a directory of members for the Association for Gnotobiotics listing only the petitioner.

In response to the director's request for additional evidence of the criteria for membership of these societies and associations, the petitioner submitted evidence that the Brazilian Society of Pediatrics is the largest medical specialty society in Brazil and the third largest pediatrics society in the world with over 20,000 members. A declaration of the society confirms that the petitioner is certified in pediatrics. The declaration indicates that the "public criteria" for certification include 10 years of experience in pediatrics or completion of a pediatrics residency. The declaration continues that the "criterion for approval" according to the "published requirements" include unspecified academic education, an "analysis of academic titles, and awards issued by the medical societies," history of pediatric assistance and administration positions, publications and teaching positions.

A second declaration from the society confirms that the petitioner is certified in pediatric gastroenterology based on meeting two of the six following requirements: (1) a Master's or doctoral degree or employment as a tenure-track professor, (2) position as a professor, (3) appointment as an advisor professor who has supervised at least five master dissertations or three doctoral dissertations, (4) five scientific publications, (5) 10 years experience, and (6) membership of the "Department/Committee of the Brazilian Society of Pediatrics [SBP] for at least three previous board of directors' meeting, before the actual board of directors." Counsel asserted that "the level of intellect,

study and commitment associated with holding a Doctor of Medicine degree, in and of itself, is an outstanding achievement." The minimum education requirement for membership in the Brazilian Society of Pediatrics, however, is a Master's degree. Moreover, at issue is not whether the petitioner stands apart from the general population, but whether she stands apart from others in her field. Counsel does not explain how the requirement for an advanced degree is an outstanding achievement for a medical doctor, professor or researcher in a profession which typically requires advanced education to enter the field. Counsel further asserts that the required test for certification in pediatric medicine is a significant accomplishment. It is not clear from the declarations, however, whether a written test was required prior to 2003. These declarations appear to represent medical specialty licensure rather than association membership. A license is only evidence of exceptional ability pursuant to the lesser classification set forth at section 203(b)(2) of the Act. 8 C.F.R. § 204.5(k)(3)(ii)(C). Regardless, for the reasons discussed below, the requirements are not qualifying under this criterion, set forth at 8 C.F.R. § 204.5(h)(3)(ii).

The petitioner also submitted materials about the Brazilian Medical Association from *Wikipedia*. With regard to information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited internet site.[2] *See Lamilem Badasa v. Michael Mukasey,* 540 F.3d 909 (8th Cir. 2008). As stated above, the petitioner also submitted materials about the Association of Association for Gnotobiotics from its website. This information does not address its membership requirements. While the website includes a link for the association's bylaws, which would likely indicate the membership requirements, the petitioner did not provide those bylaws.

The director concluded that the petitioner's memberships were "commensurate" with the petitioner's vocation. On appeal, counsel asserts that the director erred in reaching this conclusion because the director "incorrectly" considered the petitioner's occupation to be that of a researcher. First, as discussed above, we concur with the director's characterization of the petitioner as researcher, albeit a clinical researcher. Second, the two associations for which the petitioner submitted certification requirements are medical associations rather than research associations. Thus, it is not clear the director would have reached a different decision if he had considered the petitioner a physician.

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[2] Online content from *Wikipedia* is subject to the following general disclaimer:

> WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on August 26, 2009, a copy of which is incorporated into the record of proceeding.

Counsel further reiterates her previous assertions that the education and exam requirements are outstanding achievements. We are not persuaded that a specific number of years of experience or advanced degrees are outstanding achievements, especially when an advanced degree is typical in the field. Rather, 10 years of experience and a degree can serve as evidence of exceptional ability pursuant to the lesser classification set forth at section 203(b)(2) of the Act. 8 C.F.R. §§ 204.5(k)(ii)(A), (B). As addressed above, it is not clear that a written exam was required prior to 2003. Even if the petitioner was required to pass an examination, such an examination merely demonstrates eligibility for certification/licensure in a specialty rather than an outstanding achievement in the field. By way of analogy, we are not persuaded that the bar examination required for bar membership in the legal profession is an outstanding achievement or that the Certified Public Accountant examination is an outstanding achievement for an accountant.

Finally, the petitioner's role with the above societies, such as serving on a review committee, is more relevant to the judging and leading role criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (viii), discussed below. These roles do not relate to the plain language of this criterion, set forth at 8 C.F.R. § 204.5(h)(3)(ii), which requires evidence of membership in an association that requires outstanding achievements of all its members regardless of their role.

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

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

The petitioner did not originally claim to meet this criterion although she did submit a list of articles that cite her own articles. The director's request for additional evidence advised that citations could not serve to meet this criterion as the citing articles are about the author's own work or recent trends in the field and not about the petitioner relating to her work. In response, the petitioner submitted articles regarding the sufficiency of breast milk during a baby's first six months that quotes the petitioner, recommendations for nursing listing the petitioner as a source, an article about sudden infant death syndrome that quotes the petitioner and an article in a regional publication about a tennis player's achievements indicating that the player's mother, the petitioner, "is doing research at N.C. State."

The director did not specifically address this evidence and counsel reiterates that the petitioner meets this criterion on appeal. While the director should have addressed this evidence, we find that it cannot serve to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). That regulation requires that the published material be "about the alien" relating to her work. As stated above, the articles which cite the petitioner are about the work of the authors. The remaining articles cannot be credibly asserted to be "about" the petitioner. They are about medical issues and cite her as the source of medical advice on those issues. They do not constitute journalistic coverage of her. In fact, they do not even appear to constitute coverage of her own "work" as they are not primarily reporting on the

petitioner's research results in pediatric gastroenterology or gnotobiotics or her accomplishments as a professor or physician. Rather, the petitioner is simply the source of the medical consensus on the broad issues being discussed.

In light of the above, the petitioner has not submitted evidence that meets the plain language requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) and, thus, does not meet this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

Counsel initially asserted that the petitioner meets this criterion through her peer review of abstracts for the *Jornal Pediatria*, participation in the committee to select full professors and fellows at UFMG, and her review of Master and doctoral dissertations. The petitioner submitted certifications of her participation in the selection of substituted professors for the Pediatric Department at UFMG in 1996, the selection of students for the medical school at UFMG and the examination of graduate dissertations at UFMG. The petitioner also submitted foreign language certificates from *Jornal de Pediatria* without complete certified translations, or any translations, as required by 8 C.F.R. § 103.2(b)(3).

In response to the director's request for additional evidence of the selection criteria for the above review committees, the petitioner submitted letters from [redacted] Editor of the *Jornal de Pediatria* and [redacted] Coordinator of the Post Graduate Program at UFMG. [redacted] asserts that the journal "receives curricula vitae to select professionals that work in areas related to pediatrics to act as reviewers." [redacted] further explains that the curriculum vitae are evaluated based on the candidate's degrees (preferably a Ph.D.), "Curriculo Lattes" registered on the National Counsel of Technological and Scientific Development (CNPq) and articles published in relevant journals. [redacted] confirms that the petitioner has performed many reviews for the journal since 2000. The petitioner submitted materials indicating that CNPq is an agency involved in the promotion of scientific and technological research and the results of a search for the petitioner's name on the agency's database. The materials do not reveal how many names are contained in this database or the criteria for inclusion in the database.

[redacted] explains that dissertation committees include the student's advisor, one or two "intern" members of UFMG and one or two members from outside UFMG. According to the advisor submits a list of names to the "collegiate program," which can accept the proposed members or suggest other names. The members must have a Ph.D. and "extensive knowledge in the field demonstrated by the number or quality of [her] publications in the scientific literature." The director concluded that the petitioner's review responsibilities did not set her apart from others in her field.

On appeal, counsel asserts that the regulation at 8 C.F.R. § 204.5(h)(3)(iv) does not require evidence that the petitioner has reviewed a large number of manuscripts or served as an editor and that the evidence submitted does set the petitioner apart from others in her field. Counsel asserts that not all professors at UFMG participate on dissertation review committees, notes that members must have

"extensive knowledge" in the field and asserts that *Jornal de Pediatria* is within the top 25 percent of medical journals in the world.

The evidence submitted to meet this criterion, or any criterion, must be indicative of or consistent with sustained national or international acclaim. *Accord Yasar v. DHS,* 2006 WL 778623 *9 (S.D. Tex. March 24, 2006); *All Pro Cleaning Services v. DOL et al.,* 2005 WL 4045866 *11 (S.D. Tex. Aug. 26, 2005). We concur with the director that scientific journals are peer reviewed and rely on many scientists to review submitted articles. Thus, peer review is routine in the field and, by itself, is not indicative of or consistent with sustained national or international acclaim. We note that the director only provided examples of evidence that might set the petitioner apart from others in the field and did not suggest that such evidence was the only evidence that might meet this criterion. We concur with the director that without evidence that sets the petitioner apart from others in her field, *including but not limited to* evidence that she has reviewed manuscripts for a journal that credits a small, elite group of referees, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the petitioner meets this criterion.

We acknowledge that the petitioner did submit evidence in addition to peer review for a journal. Specifically, she submitted evidence that she served on review panels within UFMG where she was employed. In contrast to the wider recognition that might, on a case-by-case basis, be indicated by the type of external review referenced in [redacted] letter, the petitioner served only as an internal reviewer at UFMG. We are not persuaded that a professor's participation on a dissertation review committee at her own institution is indicative of or consistent with any recognition beyond her employer, let alone national or international acclaim.

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

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

Initially, counsel relied on letters from the petitioner's close colleagues and collaborators to meet this criterion. Counsel also asserted that the petitioner had authored published abstracts, articles and book chapters, that the petitioner's work has been cited and that the petitioner has received grants and the 1999 award. In response to the director's request for additional evidence, counsel asserted that the petitioner has "greatly impacted the field of gastroenterology." Counsel noted that the petitioner has published her work in internationally distributed journals and that the petitioner has received job offers from the University of Kentucky and the University of Georgetown. Counsel asserts that the job offers are evidence that "many leading experts in gastroenterology have sought the [petitioner's] collaboration and expertise." The petitioner submitted the letter from [redacted] of the Graduate School of Arts and Sciences at Georgetown University, advising that the petitioner has been accepted as a visiting researcher with a fee of $250 per semester. The petitioner also submitted electronic mail correspondence between the petitioner and the University of Kentucky attempting to arrange a job interview as requested by the petitioner. The record contains no evidence that the University of

Kentucky sought out the petitioner as a job applicant independent of the petitioner's own inquiry or that the university ultimately offered the petitioner a job. Regardless, all of the correspondence with the University of Kentucky postdates the filing of the petition and cannot be considered. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg'l. Comm'r. 1971). The petitioner also submitted new letters from close collaborators and colleagues.

The director concluded that the record did not demonstrate that the petitioner's work "has influenced, or has been recognized by, others in her field to such a degree that it could be considered contributions of major significance." On appeal, counsel reiterates the statements in the petitioner's reference letters and notes that she presented abstracts at academic symposia, published articles in high ranking journals, authored book chapters, has been cited, and participated as a peer reviewer.

The regulations contain a separate criterion regarding the authorship of published articles, 8 C.F.R. § 204.5(h)(3)(vi), to be addressed below. We will not presume, however, that evidence relating to or even meeting the scholarly articles criterion is presumptive evidence that the petitioner also meets this criterion. To hold otherwise would render meaningless the statutory requirement for extensive evidence or the regulatory requirement that a petitioner meet at least three separate criteria. The petitioner previously submitted evidence of the impact factor of the journals that have published her articles and information in *Wikepedia* about the significance of a journal's "impact factor." As stated above, there are no assurances about the reliability of the content from this open, user-edited internet site.[3] *See Badasa,* 540 F.3d at 909. Even if we considered the *Wikipedia* materials, under the heading "Misuse," the materials state that the impact factor "is often misused to predict the importance of an individual publication based on where it was published. This does not work well since a small number of publications are cited much more than the majority." Even without this information provided by the petitioner, we will not presume the influence of a given article based on the journal in which it appeared. Rather, it is the petitioner's burden to demonstrate the influence of the individual article.

Similarly, awards are also considered under a separate criterion set forth at 8 C.F.R. § 204.5(h)(3)(i). For the reasons discussed above, the petitioner has not demonstrated that she meets that criterion. We will not presume that evidence insufficient to meet that criterion is presumptive evidence to meet the contributions criterion set forth at 8 C.F.R. § 204.5(h)(3)(v).

Regardless of the petitioner's position as a professor and experience as a medical practitioner, the contributions claimed are clinical research contributions. There would be little point in publishing clinical research that did not add to the general pool of knowledge in the field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of

[3] Online content from *Wikipedia* is subject to the general disclaimer set forth in footnote 2 of this decision. *See* http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on August 26, 2009, a copy of which is incorporated into the record of proceeding.

medical science/clinical research, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. 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 evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *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)).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through her reputation and who have applied her work are the most persuasive. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

The petitioner submitted several letters from colleagues at the institutions where she has worked. Dr. [redacted] explains that Giardia was a very prevalent protozoan in Brazil, provoking a malabsorption syndrome in some children but no symptoms in others. The petitioner investigated the hypothesis that the type and number of the intestinal microbiota determine the clinical manifestation of the disease through the "original idea" of using germ-free animals and a strain of *Giardia lamblia.* [redacted] discusses the skills the petitioner had to master and the challenges of transporting the strains. [redacted] further explains that the only germ-free facility in South America is at the laboratory of [redacted] at UFMG. [redacted] affirms that the petitioner's study was the first time that Giardia was studied in a germ-free animal and the first time that the role of microbiota in gnotexenic mice infected with Giardia was studied. [redacted] explains that the petitioner demonstrated that Giardia needs the presence of the microbiota to become a pathogen and that the severity of the disease in mice is different depending on the number and type of bacteria inoculated. [redacted] does not explain how this work has impacted the study of Giardia or the use of germ-free animals in research.

Finally, [redacted] asserts that the petitioner's clinical research upon returning to Brazil after her time in North Carolina focused on constipation in children. [redacted] asserts that during this time, the petitioner authored "five original, ground-breaking research projects on constipation which

investigated many aspects of chronic functional constipation from prevalence through long follow-ups of these children to study the emotional profile of the mothers of chronically constipated children." [redacted] does not explain the impact of this work.

In a subsequent letter, [redacted] asserts that the petitioner "has made a **ground-breaking** scientific contribution in which she studied the pathogenesis of Giardia in germ-free animals with the objective to better understand the recurrent giardiasis in childhood." (Emphasis in original.) He confirms that the petitioner conducted all of the experiments and praises her leadership capacity, innovative personality, and ability to overcome obstacles. While he asserts that the petitioner showed for the first time in literature the relationship between the protozoa and the intestinal microbiota, he does not explain how these results have impacted the field. As stated above, the petitioner must demonstrate that her work was not merely original, but also of major significance. 8 C.F.R. § 204.5(h)(3)(v).

In a third letter, asserts that the petitioner "is one of the pioneering researchers in constipation in Brazil and nowadays, she is considered a worldwide expert in this field." He notes that she is one of several coauthors of a 1983 book chapter and a 2005 book chapter in a book that "became one of the major references for Pediatricians and medical studies in many medical schools in our country." Similar assertions are contained in a letter from [redacted], Professor Emeritus at UFMG. The record contains several book chapters authored by the petitioner. Although the 2005 chapter is in a foreign language, we note that of the 18 references listed at the end of the chapter, none of them represent work published by the petitioner. Thus, while the petitioner may have coauthored a chapter in this reference text, the research referenced in the chapter does not appear to be her own. Thus, this chapter cannot demonstrate the impact of her own research. Rather, the petitioner's book chapters are best considered under the scholarly articles criterion, 8 C.F.R. § 204.5(h)(3)(vi), discussed below.

[redacted], an associate professor at UFMG, asserts that she has collaborated with the petitioner and reviewed her published work. [redacted] further asserts generally that the petitioner's "contributions for the work and for the publications have been of invaluable help for improving and assisting the Gastroenterology Center, specifically the ambulatory for constipated children and adolescents." [redacted] concludes that the petitioner's contribution to the study of constipation "is recognized in our institution and around the whole of Brazil." [redacted] provides no examples of the petitioner's impact, such as new treatment methods or other studies using the petitioner's work as their foundation.

[redacted], a professor at UFMG, asserts that he knew the petitioner as a graduate student and collaborator. [redacted] explains that the petitioner's Master of Science thesis compared experimental infection in germfree and conventional mice, demonstrating that indigenous microbiota is indispensable for the pathogenesis of *Giardia duodenalis* but not for its multiplication in the digestive tract. [redacted] further explains that the petitioner's doctoral research involved the isolation of specific components of the indigenous microbiota responsible for the stimulation of *G. duodenalis* pathogenesis and study of the humoral immunological response during the experimental

infection in both germ-free and conventional mice. concludes that the petitioner has experience in parasitology, immunology, and microbiology "in terms of basic and experimental knowledge" and recommends her for "any postgraduate program or position in a Research Institute."

asserts that the petitioner joined his laboratory in the early 1990's under the guidance of and . Dr. explains that the petitioner used the laboratory's gnotobiology facilities to carry out a project on giardiasis in germ-free mice, generating her graduate theses and several publications. Dr. concludes that the petitioner demonstrated "competence, intelligence, honesty, diligence, and a strong drive to research." The petitioner also provided a similar general letter from Dr.

None of the Brazilian references explain how the petitioner's work with Giardia or constipation has impacted either field. For example, they do not reference new treatments or research that has originated from the petitioner's work. While the petitioner published the results of this work, only one of her articles coauthored with the above references is cited by more than one independent research team. While one article regarding Giardia had been cited seven times by independent research teams as of the date of filing, the petitioner has not demonstrated that this citation level is significant. In addition, while the petitioner presented the abstract of her work with Giardia at a symposium where she was recognized with an award, for the reasons discussed above, the petitioner has not demonstrated the significance of this award. The petitioner has also not demonstrated the significance of presenting her work as an abstract rather than as a full oral presentation.

In response to the director's request for additional evidence, the petitioner submitted a letter from Dr. , an associate professor at Georgetown University. asserts that he has followed the petitioner's work and that "[k]nowing about her work led to my own studies into the effects of bacteria on the ability of this parasite to infect some animals and not others." He further asserts that he and the petitioner have jointly developed research proposals. does not specifically explain how his work was impacted by the petitioner or explain what he has added to her results. does not claim to have cited the petitioner's work or provide examples of his own articles for which the petitioner's work served as the foundation.

asserts that her collaboration with at the UNC involves the study of irritable bowel diseases (IBD) in germ-free rodents and that they were fortunate to have the petitioner join the group because of her experience working with germ-free animals. According to , the petitioner worked with a rodent model developed by another researcher. Dr. explains that the petitioner evaluated "the levels of messenger RNA for an array of critical cytokines that are expressed in either inflamed or non-inflamed colonic tissue." Dr. asserts that the petitioner's work was "an integral part" of the team's subsequent publication for which the petitioner is a listed coauthor. asserts that this worked for the basis for new research published by the team after the petitioner's return to Brazil but does not assert that it has impacted independent research laboratories.

[redacted] notes that the UNC has a unique Gnotobiotic Rodent Facility in which rodents can be colonized with specific intestinal bacteria, allowing "an elegant way to precisely manipulate the intestinal microbial environment." [redacted] concludes that the petitioner "has developed an in-depth understanding of how to use this unique gnotobiotic facility to study genetically engineered transgenic rats." [redacted] does not explain how the petitioner's results in his laboratory have impacted the field.

While the petitioner's research is no doubt of value and has earned her the respect of her immediate circle of colleagues, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any thesis or other research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole.

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

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

The petitioner has authored several abstracts, published articles, and book chapters. The Department of Labor's Occupational Outlook Handbook, 2008-2009 (accessed at www.bls.gov/oco on August 26 2009 and incorporated into the record of proceedings), provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. *See* www.bls.gov/oco/ocos066.htm. The handbook expressly states that faculty members are pressured to perform research and publish their work and that the professor's research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.* This information reveals that original published research does not set a professor apart from other faculty. Nevertheless, two of the petitioner's articles have been moderately cited and the petitioner's references confirm that the books to which she has contributed are common medical texts in Brazilian medical schools. Thus, we are persuaded that the petitioner meets this criterion.

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

Counsel relies on the petitioner's participation with several committees at UFMG coordinating courses, revising curricula and evaluating prospective students and professors. The petitioner also served as a member of the "board of the Commission for Didactic Coordination."

The director concluded that the petitioner had not demonstrated that her roles set her apart from senior faculty. On appeal, counsel asserts that the director failed to consider the evidence of record, including

assertion that the petitioner was a "member of the Board of Administrators" and a "residency advisor" and the petitioner's recognition at UFMG graduation events. Finally, counsel addresses the petitioner's research while working at UFMG and in North Carolina.

The petitioner's alleged research contributions have already been considered above. At issue for this criterion are the roles the petitioner was selected to fill and the reputation of the entity that selected her. In other words, the nature of the roles must be such that selection for the roles must be indicative of or consistent with national or international acclaim. We do not question the distinguished reputation enjoyed by UFMG. The record contains a 2007 publication that lists the hierarchy of UFMG. The hierarchy includes a "reitor," vice "reitora," director and vice director of the faculty of medicine, a coordinator and vice coordinator of the postgraduate program, a chief of the Department of Pediatrics and another coordinator and vice coordinator. The petitioner is not listed as filling any of these positions. The record does not establish that her participation on various committees at UFMG sets her apart from the remaining faculty. [redacted] does not explain the nature of the "Board of Administrators" or where it fits in the hierarchy of UFMG. While the petitioner submitted several declarations from UFMG affirming her role on various committees, none of them mention a "Board of Administrators."

Without additional evidence explaining the nature of the committees and an organizational chart demonstrating the petitioner's position within the university's hierarchy, we cannot conclude that the petitioner meets this criterion.

Finally, the conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. The petitioner, a professor, relies on research grants, an award from the host of an international symposium with undocumented significance, medical licensure, publication record, service as a peer reviewer, service on various university committees at the institution where she is employed, and the praise of her immediate circle of peers. [redacted] is the director of the medical school at UFMG and an editor of several journals. [redacted] was Head of the Biochemistry and Immunology Department at UFMG and has edited several books. [redacted] is the Director of the National Gnotobiotic Rodent Resource Center, served as Chair of the Grants Review Committee of the Crohn's and Colitis Foundation of America and served as an editor for two journals. [redacted] is director of the Immunology Graduate Program at NC State. Thus, it appears that the highest level of the petitioner's field is far above the level she has attained.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as a medical scientist to such an extent that she may be said to have achieved sustained national or

international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner shows talent as a medical scientist/clinical researcher, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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

ORDER: The appeal is dismissed.