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Office: NEBRASKA SERVICE CENTER

Date:

**MAR 06 2009**

IN RE:

Petitioner:

Beneficiary:

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the sciences, or as a member of the professions holding an advanced degree. At the time she filed the petition, the petitioner was a doctoral student at Temple University, Philadelphia, Pennsylvania. As of this writing in February 2009, the petitioner is a postdoctoral researcher at Northwestern University, Evanston, Illinois. 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 the classification sought, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a lengthy statement, disputing the stated grounds for denial.

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 AAO will discuss this issue later in this decision. The sole stated basis for denial 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 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 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.

*Matter of New York State Dept. of Transportation*, 22 I&N Dec. 215 (Commr. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

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

We also note that the 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.

In a statement accompanying the initial filing of the petition, the petitioner described her work:

I helped develop a drug called Angiocidin, which . . . targets specific molecules on the vasculature that prevents the growth of microvessels. . . . [T]he drug targets molecules that are only expressed on the growing vasculature of the tumor and not on normal cells. My work was pivotal in identifying the molecule that angiocidin binds on endothelial

cells. The molecule is a specific integrin-adhesion molecule, which enables the endothelial cells to bind to the matrix material that surrounds the growing vessels. This material called the extracellular matrix (ECM) is unique to the growing tumor and is an excellent target for development of cancer therapeutics. My work has shown that angiocidin binds to specific components of the extracellular matrix as well as important integrin-cellular receptors that help the endothelial cells attach to the ECM. . . .

My research on developing a prognostic marker for early detection of hepatocellular carcinoma resulted in significant discoveries that could help find a new marker to detect hepatocellular cancer. I discovered that angiocidin, a novel-tumor associated protein is found elevated in patients with worsening stage and intra-hepatic metastasis.

The petitioner asserts that, as a nonimmigrant, she has difficulty securing her own grant funding to support her research, and that her research is of such an urgent nature that her further work should not be delayed by the labor certification process. The petitioner did not explain why she could not conduct her research while an application for labor certification is pending, in the same way that she is already conducting research in the United States.

The petitioner submitted eight witness letters, half of which are from researchers and officials at Temple University. [REDACTED], who supervised the petitioner's doctoral studies, did not confirm the petitioner's claim to have "helped develop a drug called Angiocidin." Rather, [REDACTED] stated that his research group discovered angiocidin in 1993, nearly a decade before the petitioner's arrival at Temple. Regarding the petitioner's role in the angiocidin project, [REDACTED] stated:

[The petitioner's] very first project in our laboratory as a master's student was to develop an angiocidin enzyme-linked immunoabsorbant assay (ELISA), a biochemical test to measure levels of angiocidin in biological fluids. . . . She found that angiocidin levels were elevated in the sera of patients suffering from many cancers. . . . In the liver cancer patients her results indicated that blood levels of angiocidin correlated with the worsening stage of the disease as well as being an early blood marker for predicting the presence of disease. . . .

[The petitioner's] second project involved modifying her ELISA assay to measure angiocidin protein binding to potential co-receptors. She found that angiocidin was able to bind to protein chains attached to polypeptide chains of ubiquitin, an important regulator of protein degradation. . . .

[The petitioner's] third project identified the cell receptor for angiocidin. . . . [S]he found that angiocidin bound a cell surface receptor known as the integrin alpha2beta1 protein. This is a seminal discovery because this class of receptor proteins has never before been shown to play a direct role in cancer progression.

Others at Temple praised the petitioner in more general terms. [REDACTED] stated she “has a great potential to make major contributions with a high impact,” and [REDACTED] stated that her “work in early detection and development of an anti-angiogenic therapy in the field of Cancer Research is of great national impact.” [REDACTED], Dean of Temple University School of Medicine, asserted that the petitioner’s “research results on identification of a cell surface receptor protein have achieved significant recognition.”

[REDACTED] of Drexel University, who served on the petitioner’s doctoral thesis committee, stated that the petitioner “has developed a cancer test and identified a novel cancer cell receptor that can be targeted for development of novel cancer therapeutics. These cancer therapies and tests can only be developed in the United States under [the petitioner’s] supervision and guidance.”

Because a number of witnesses, such as [REDACTED], have directly linked the petitioner’s waiver claim to her research in [REDACTED]’s laboratory, it is worth noting that the petitioner left Temple University a few months after she filed her petition. The record does not indicate whether or not Prof. [REDACTED] group ceased its efforts to develop “[t]hese cancer therapies and tests” upon the petitioner’s departure.

Furthermore, the petitioner’s initial submission included a letter from [REDACTED] of Targeted Cancer Therapeutics, Inc. (TCTI), Hopkinton, Massachusetts. Mr. [REDACTED] stated:

I am pleased to offer [the petitioner] a research position in our biopharmaceutical Company. . . . [The petitioner] has been highly recommended for this position by our Chief Scientific Officer, [REDACTED]. . . . [The petitioner’s] expertise and research is ideally suited for TCTI’s goals and will afford [her] the opportunity to further develop the work she started with [REDACTED]

The petitioner’s subsequent employment history demonstrates that she did not accept TCTI’s offer of employment. The record therefore establishes that, given the opportunity “to further develop the work she started with [REDACTED]” which forms the whole basis for her waiver claim, the petitioner opted instead to seek other employment. USCIS records show that the petitioner instead worked at Thomas Jefferson University in Philadelphia for less than a year, before moving to Northwestern University in the Chicago area.

The remaining witnesses are not located at Temple, but each of them has collaborated with Prof. [REDACTED] in the past. [REDACTED] of Oncology Research at Cephalon, Inc., West Chester, Pennsylvania, stated:

[REDACTED]. was my colleague when I worked in the [REDACTED] at MCP-Hahnemann University. . . .

I was delighted to find out that [the petitioner] has completed three studies relating to the protein angiocidin. . . . She has made considerable progress in understanding how

angiocidin inhibits angiogenesis and how it can be used as a serum tumor marker. [The petitioner] discovered a cell surface docking protein (alpha2beta1 integrin) for angiocidin and a specific test . . . to measure the amounts of angiocidin in the blood of cancer patients. . . . I am very impressed with these stellar accomplishments of such a young student, who should have a very promising career as a research scientist.

[REDACTED] of Baylor College of Medicine, Houston, Texas, stated:

I received my residency training at MCP-Hahnemann University and my Ph.D. under the mentorship of [REDACTED], who is currently [the petitioner's] thesis advisor. . . .

Although I have not met [the petitioner], I have avidly read her papers. Additionally, I have been collaborating with her mentor on a number of studies including a study to evaluate the significance of angiocidin in the serum of cancer patients. [The petitioner] is working on pioneering research in the field of angiogenesis in cancer research.

[REDACTED] of the University of Hong Kong stated:

I first met [the petitioner] . . . in the Spring of 2005 when she presented a poster on the work that she had done in collaboration with myself and her advisor. . . . [The petitioner's] results are highly significant because they indicate that the immunoassay [she] developed can be used as a blood test for liver cancer and may help physicians like myself choose the appropriate therapy for my patients.

The petitioner submitted substantial quantities of background evidence concerning cancer research in general, and antiangiogenesis research in particular. These materials establish the intrinsic merit and national scope of her work, but they do not establish that the petitioner has had, or is likely to continue to have, an impact in this field that exceeds that of other qualified workers in the same specialty.

The petitioner also submitted copies of her published and presented work. This material establishes that the petitioner has been productive in her field but does not, by its very existence, establish the petitioner's eligibility for the waiver. Witnesses asserted that the petitioner's writings have been influential, but all of those witnesses have demonstrable ties to the petitioner or to Prof. Tuszynski. If the petitioner's work has been widely cited, then documentary evidence must exist of those citations.

On January 22, 2008, the director instructed the petitioner to "submit any available documentary evidence that, as of the petition priority date, you had a degree of influence on your field that distinguishes you from other scientists with comparable academic/professional qualifications." The director mentioned independent citations as one form of acceptable evidence.

In response, the petitioner stated:

I am a Cancer Researcher in the Department of Molecular Pharmacology and Biological Sciences, Northwestern University, Chicago, IL. Presently, I am independently spearheading a research project characterizing the functional role and mechanism of action of Prostate-Derived Ets Factor (PDEF) in both prostate and breast cancer progression and metastasis. With a **Ph.D.** degree in Biology . . . and Postdoctoral training in a Proteomics Laboratory, I have a strong theoretical and technical research experience, and I have already acquired significant achievements in my area of research in a very short span of time.

The petitioner discussed details of her work at Northwestern, as well as her work at Thomas Jefferson University in 2007 and early 2008. The beneficiary of an immigrant visa petition must be eligible based on his or her qualifications at the time of filing. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). The petitioner filed the present petition on November 20, 2006. We will consider the petitioner's post-2006 work only insofar as it confirms that the petitioner continues to be involved in cancer research. Also, this information demonstrates that the petitioner no longer works on the specific angiocidin projects previously cited as being central to the waiver claim. If the waiver claim is based in large part on the assertion that the petitioner is indispensable to a specific research project, we cannot ignore the petitioner's subsequent departure from that project for reasons unrelated to immigration considerations.

Extending even further past the petition's filing date, the petitioner stated: "After completion of my postdoctoral research training at Northwestern University, I would be superior to my colleagues who have received the same doctoral degree because of my technical expertise and strong cancer research theoretical background." Pursuant to *Katigbak*, we cannot find that the petitioner was eligible for the waiver as of November 2006 because, more than a year later, the petitioner asserted that she would eventually complete training that would make her "superior to [her] colleagues."

The petitioner submitted documentation showing eight citations of her work, six of which are self-citations by the petitioner and/or her co-authors, particularly [REDACTED]. One of the two articles to independently cite the petitioner's work was submitted for publication in September 2007, meaning only one documented independent citation existed as of the petition's November 2006 filing date.

Four new letters accompanied the petitioner's response to the request for evidence. [REDACTED], in his second letter, asserted that the petitioner "was the strongest of the 8 graduate students who have completed a PhD within my group over the last 35 years." [REDACTED] stated that the petitioner's "work has been cited by numerous investigators," but as discussed above, nearly all the citations of the petitioner's work appear in articles co-authored by [REDACTED] himself. Self-citation and citation of colleagues are certainly accepted practices in academia, and indeed are to be expected as researchers follow up on their own prior work. Nevertheless, such citations are not strong evidence of the petitioner's impact and influence outside of her own research groups.

[REDACTED] at Sanofi-Aventis, Bridgewater, New Jersey, previously "worked with [the petitioner] closely for 3 years" in [REDACTED] laboratory. [REDACTED] stated

that the petitioner “received international recognition” for “developing an angiocidin ELISA assay,” but did not specify the nature of this recognition or provide any first-hand evidence thereof.

The remaining two letters are from faculty members of Thomas Jefferson University, describing work that the petitioner conducted there. As noted previously, activities that the petitioner undertook after the petition’s filing date cannot retroactively establish that she was already eligible when she filed the petition. The witnesses do not indicate that the petitioner continued her past work with angiocidin. Rather, they indicate that the petitioner acquainted herself with previously unfamiliar biology and laboratory equipment in order to work on new projects there.

The director denied the petition on April 23, 2008, stating that the petitioner’s “achievements do not establish the petitioner has reached a degree of accomplishment that is substantially greater than her colleagues.” On appeal, the petitioner contends that the director did not give sufficient consideration to her contributions and recognition in the field. We have already discussed the petitioner’s prior submissions and need not repeat that discussion here. Pursuant to section 291 of the Act, the burden of proof is on the party seeking immigration benefits. The petitioner, therefore, must establish the significance of what she has submitted; the director is not required to put forth a point-by-point rebuttal of the petitioner’s claims and evidence.

The petitioner asserts that she submitted several “supporting letters from . . . *independent appraisers*” (the petitioner’s emphasis). All of those witnesses, however, are either Temple officials or ██████████’s collaborators. The witness distribution, along with the citation pattern of her published work, indicates that the petitioner’s reputation was largely confined to ██████████ professional orbit at the time she filed the petition.

The petitioner asserts that her achievements as a postdoctoral trainee should be taken into consideration. For reasons already explained, the petitioner’s work after the filing date cannot retroactively establish eligibility. Such work can only be considered in the context of a new petition, filed after the activities took place. The AAO takes no position, here, as to whether or not those activities would qualify her for a national interest waiver.

The petitioner protests: “The labor certification process is lengthy and employer-oriented. . . . Most importantly in this unsettled economy, most employers are reluctant to sponsor me . . . because I am a foreign national.” Nothing in the legislative history suggests that the national interest waiver was intended simply as a means for employers (or self-petitioning aliens) to avoid the inconvenience of the labor certification process. *Matter of New York State Dept. of Transportation* at 223. Also, these general assertions arguably apply to all aliens in the petitioner’s field, and thus do not demonstrate that the petitioner, as an individual, merits a waiver. Congress created no blanket waiver for alien researchers, and therefore such general arguments regarding the state of the petitioner’s field carry little weight in this proceeding.

The record demonstrates that the petitioner is a productive and dedicated cancer researcher, who has earned the respect and admiration of her collaborators and mentors. Assertions regarding the promise

of her work may yet bear fruit, but as of the November 2006 filing date, the petition was at best premature. The AAO will, therefore, dismiss the appeal.

Review of the record reveals a factor of concern beyond the decision of the director. The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) (“On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO’s *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The petitioner has more than one indicated that she seeks classification as “[a] member of the professions holding an advanced degree or an alien of exceptional ability.” The petitioner has not specified which of these two distinct classification she seeks. Review of the record does not lead the AAO to conclude that she qualified for either classification as of the petition’s filing date.

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) includes the following definition:

*Advanced degree* means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

8 C.F.R. § 204.5(k)(3)(i) states that, to show that the alien is a professional holding an advanced degree, the petition must be accompanied by:

(A) An official academic record showing that the alien has an United States advanced degree or a foreign equivalent degree; or

(B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

At the time she filed the petition, the petitioner did not hold, or claim to hold, any academic degree higher than a baccalaureate degree from Bharathiar University in India. Therefore, the petitioner did not hold an advanced degree as of November 2006. That she received her Ph.D. a few months later is irrelevant for our purposes; it remains that she did not hold it yet when she filed the petition, and the regulations make no allowance for imminent degrees. The evidence submitted must establish eligibility as of the date of filing. *See* 8 C.F.R. § 103.2(b)(12); *also Matter of Katigbak*, 14 I&N 49.

Next, we must consider whether the petitioner possessed the required post-baccalaureate experience that the regulations require in lieu of an actual advanced degree. With respect to the petitioner's degree from India, the petitioner did not submit any documentary evidence to show that this degree (which the petitioner earned in three years) is equivalent to a United States baccalaureate degree (which is typically a four-year degree). There is no presumption that the words "bachelor" or "baccalaureate" on a foreign degree establish equivalence with a United States degree by the same name. A United States baccalaureate degree is generally found to require four years of education. *Matter of Shah*, 17 I&N Dec. 244 (Reg. Comm. 1977). Without evidence to show that the petitioner's baccalaureate degree is equivalent to a United States baccalaureate degree, none of her subsequent work experience can be considered "post-baccalaureate" as the regulations contemplate that term.

With respect to the petitioner's post-collegiate experience, a letter from Hi-Tech Clinical Laboratory at Rathna Medical Centre, Coimbatore, India, indicates that the petitioner "is employed in our organization from 28<sup>th</sup> June 1998 as Junior Research Assistant." The letter is dated July 29, 2000, and therefore the letter documents 25 months of employment. Another employment letter refers to work the petitioner performed in 1997, before she completed her first degree, and therefore such employment cannot be regarded as "post-baccalaureate" in any sense of the term.

The record is silent regarding the petitioner's activities from August 2000 to August 2002. Thereafter, the petitioner was a graduate student at Temple University. The AAO does not consider graduate study to be post-baccalaureate experience in lieu of a degree. For purposes of immigrant classification, graduate study is credited to the petitioner upon completion of such study and the awarding of a degree. The alternative clause defined at 8 C.F.R. §§ 204.5(k)(2) and (3)(i)(B) refers to employment experience pursued in lieu of an advanced degree, rather than to unfinished graduate studies involving part-time ancillary duties. For this reason, the AAO does not consider that the petitioner's doctoral studies, which were incomplete as of November 2006, constitute progressive post-baccalaureate experience in the specialty. Rather, those studies constitute required training in that specialty. We note the requirement in 8 C.F.R. § 204.5(k)(2) that if a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree. The petitioner now holds a United States doctorate, conferred in January 2007, but this was not the case at the time of filing.

For the reasons discussed above, the AAO finds that the petitioner did not hold an advanced degree or its defined equivalent at the time she filed the petition. Next, we must consider the petitioner's eligibility as an alien of exceptional ability in the sciences.

The regulation at 8 C.F.R. § 204.5(k)(3)(ii) sets forth six criteria, at least three of which an alien must meet in order to qualify as an alien of exceptional ability in the sciences, the arts, or business. We note that the 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. Therefore, evidence submitted to establish exceptional ability must somehow place the alien above others in the field in order to fulfill the criteria below. Qualifications possessed by all or most workers in a given field cannot demonstrate "a degree of expertise significantly above that ordinarily encountered." For

example, every qualified physician has a college degree and a license or certification, but it defies logic to claim that every physician therefore shows “exceptional” traits.

*An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability.*

As noted above, when she filed the petition, the petitioner’s only college degree was a three-year baccalaureate. The record indicates that such a degree does not establish a degree of expertise significantly above that ordinarily encountered among cancer researchers. The petitioner’s then-unfinished doctoral studies cannot count as a degree in this regard. The petitioner did not meet this criterion as of the filing date.

*Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought.*

The petitioner does not meet this criterion. As noted previously, the petitioner has not even established five years of experience in her specialty, let alone ten years of full-time experience in her intended occupation.

*A license to practice the profession or certification for a particular profession or occupation.*

This criterion does not appear to apply to the petitioner’s intended field of endeavor.

*Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability.*

The petitioner submitted no evidence to allow a meaningful comparison between her compensation and the remuneration paid to others in the field.

*Evidence of membership in professional associations.*

The petitioner is an associate member of the American Association for Cancer Research. According to an application form in the record, “Associate membership is open to graduate students, medical students and residents, and clinical postdoctoral fellows who are enrolled in educational or training programs that could lead to careers in cancer research.” This level of membership does not demonstrate exceptional ability; it is, rather, consistent with unfinished training “that could lead to careers in cancer research” at some future time.

*Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.*

Arguably the petitioner's strongest evidence relates to this criterion. The record shows that the petitioner twice won second place in the Margulies Outstanding Research Award Competition, an annual event held by Temple University's Thrombosis Center. While the reputation of this award outside of Temple University is not clear, the regulation does not require the recognition to be national or international in scope. The award, however, does not meet the regulatory threshold that requires the petitioner to satisfy at least three of the six criteria set forth at 8 C.F.R. § 204.5(k)(3)(ii).

We conclude that the petitioner has not shown that she qualified for the classification sought, either as a member of the professions holding an advanced degree or as an alien of exceptional ability in the sciences, when she filed the petition in 2006.

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 appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

This denial is without prejudice to the filing of a new petition by a United States employer accompanied by a labor certification issued by the Department of Labor, appropriate supporting evidence and fee.

**ORDER:** The appeal is dismissed.