U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33963736

Date: SEPT. 27, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a physical therapist, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the record does not establish the Petitioner qualifies as a member of the professions holding an advanced degree. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act. If a petitioner demonstrates eligibility for the underlying EB-2 classification, they must then establish that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act.

The sole issue on appeal is whether the Petitioner has established that she qualifies for EB-2 classification as an advanced degree professional.[1] For the reasons discussed below, we agree with the Director's ultimate conclusion that she has not.

An advanced degree is any United States academic or professional degree or a foreign equivalent degree above that of a bachelor's degree. A United States bachelor's degree or foreign equivalent degree followed by five years of progressive experience in the specialty is the equivalent of a master's degree. If a doctoral degree is customarily required for the specialty, the non-citizen must possess a U.S. doctorate or a foreign equivalent degree. 8 C.F.R. § 204.5(k)(2).

[1] The Petitioner does not claim, and the record does not establish, that she qualifies for EB-2 classification as an individual of exceptional ability.

As an initial matter, upon de novo review and contrary to the Director's statements regarding the equivalency of the Petitioner's degree, the record does not establish that the Petitioner holds the foreign equivalent of a U.S. bachelor's degree. In cases involving foreign degrees, USCIS may favorably consider a credentials evaluation performed by an independent credentials evaluator who has provided a credible, logical, and well-documented case for an equivalency determination that is based solely on the individual's foreign degree(s). Opinions rendered that are merely conclusory and do not provide a credible roadmap that clearly lays out the basis for the opinions are not persuasive. *See 6 USCIS Policy Manual* E.9, https://www.uscis.gov/policy-manual/volume-6-part-e-chapter-9.

The Petitioner provided a copy of her foreign diploma and transcripts, along with certified translations, which establish that she *completed a physiotherapy course* at [redacted] Although the Petitioner also provided a credential evaluation stating that she possesses the equivalent of a U.S. bachelor's degree in exercise science, it is insufficient to support such a conclusion. For example, the evaluator, without explanation and without any official document including the term "bachelor," stated that "[s]he majored in Physiotherapy and was awarded a *Bachelor's* (emphasis added) degree from the institute." The evaluator also listed many of the courses taken, concluding that the Petitioner "has satisfied the course work requirements which are substantially similar and equivalent to those required for the completion of a four-year Bachelor's Degree program at an accredited institution of higher education in the United States," but he did not indicate that her coursework was substantially similar to a U.S. bachelor's degree program in physiotherapy (or even exercise science) or, more importantly, sufficiently explain the basis for this conclusion. Although the evaluator lists the Electronic Database for Global Education (EDGE), which we consider a reliable source of information on foreign credential equivalencies, as one of the evaluation resources, he does not specify which credential listed he relied upon and we were unable to find an entry that corresponds with the Petitioner's completion of a physiotherapy course.[2] In addition, the evaluator, an associate professor of supply chain management, has not established his qualifications to opine on the U.S. equivalency of the completed physiotherapy course. For all these reasons, the credential evaluation is not persuasive. *Id.* Where an opinion is not in accord with other information, or is in any way questionable, we may discount or give less weight to that evaluation. *See Matter of Sea, Inc.*, 19 I&N Dec. at 820.

Because the Petitioner has not established that she holds, at a minimum, the foreign equivalent of a U.S. bachelor's degree, she cannot qualify for EB-2 classification as an advanced degree professional. For this reason alone, the petition is not approvable.

Turning to the Director's decision, they concluded that because the minimum educational requirement to be a physical therapist is a Doctor of Physical Therapy (DPT) degree, the Petitioner could not qualify as an advanced degree professional with a bachelor's degree plus five years of progressive experience.

[2] *See* https://www.aacrao.org/edge/country/credentials/brazil. EDGE is a web-based resource for the evaluation of foreign educational credentials created by the American Association of Collegiate Registrars and Admissions Officers (AACRAO). AACRAO is a professional association of higher education admissions and registration professionals who represent academic institutions located in over 40 countries.

On appeal, the Petitioner contends that "as an internationally educated physical therapist, the customary requirements for the petitioner's position within the proposed endeavor differs from U.S. educated physical therapists," and that since she is internationally educated, she is not required to possesses a DPT or a professional degree from a program accredited by the Commission on Accreditation in Physical Therapy Education to become licensed. However, the issue here is not whether the Petitioner is able to obtain a license in the United States. Rather, the issue is whether she meets the definition of advanced degree at 8 C.F.R. § 204.5(k)(2) which states, in pertinent part, that "[i]f a doctoral degree is customarily required by the specialty, the [non-citizen] must have a United States doctorate or a foreign equivalent degree." And according to the *Occupational Outlook Handbook*'s "How to Become a Physical Therapist" section, "[p]hysical therapists entering the profession need a Doctor of Physical Therapy (DPT) degree." Absent evidence that a doctoral degree is not customarily required for physical therapists, we cannot conclude that the Petitioner is exempt from holding the foreign equivalent of a U.S. doctorate.

In light of the above, the Petitioner has not established that she qualifies as a member of the professions holding an advanced degree consistent with section 203(b)(2)(B)(i) of the Act; 8 C.F.R. §§ 204.5(k)(2) and (k)(3)(i).

ORDER: The appeal is dismissed.