



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 25692359

Date: APR. 14, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a pharmacist, seeks classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the evidence did not establish that a waiver of the job offer requirement, and thus of a labor certification, is in the national interest. 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.

## I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 immigrant classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(B)(i) of the Act.

Once a petitioner demonstrates eligibility as either a member of the professions holding an advanced degree or an individual of exceptional ability, the petitioner must then establish eligibility for a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. While neither statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as a matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

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<sup>1</sup> *See also Poursina v. USCIS*, 936 F.3d 868 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

## II. ANALYSIS

The Director did not make a finding in the decision as to the threshold question of the Petitioner’s eligibility for the underlying EB-2 immigrant classification, however the Director stated in a request for evidence (RFE) that the Petitioner qualifies for the classification as an advanced degree professional. Based upon her Doctor of Pharmacy degree from the University of [REDACTED] Texas, we agree. The issue on appeal is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, is in the national interest.

The Petitioner intends to work as a pharmacist providing “telepharmacy and medication delivery innovations.” The Petitioner defines telepharmacy as a subspecialty of telemedicine that uses “telecommunications in delivering pharmaceutical services to patients living far from traditional services.” The Petitioner submitted job offer letters from two pharmacies offering part-time employment to the Petitioner as a pharmacy consultant as evidence of the specific endeavor that she would pursue. In response to the Director’s RFE, she also submitted evidence relating to her project [REDACTED] a proposed telepharmacy consulting service. The Petitioner states that she “will continue to take an innovative approach that revolutionizes the pharmaceutical industry while amplifying health justice goals.”

The Director found that the Petitioner established her eligibility under the second prong of the *Dhanasar* analytical framework—that she is well-positioned to advance her proposed endeavor. However, the Director found that the record did not establish either the substantial merit or the national importance of the proposed endeavor, as required by the first prong, or that, on balance, a waiver of the job offer requirement would be in the national interest, as required by the third prong.

Before we turn to the merits of the Petitioner’s eligibility for a national interest waiver under the *Dhanasar* framework, we note two general claims the Petitioner raises on appeal.

First, the Petitioner claims that the Director did not give proper or full consideration to the evidence in the record, that the decision “failed to cite to several documents” in the record, and that the specific references the Director did make to the evidence were “vague and generic, making it difficult to understand why specific pieces of evidence were insufficient . . . .” The Petitioner asserts that, as a result, the denial is not in compliance with 8 C.F.R. § 103.3(a)(1)(i), which requires that when a petition is denied, an officer “explain in writing the specific reasons for denial.”

We acknowledge that the Director’s decision does not directly discuss every piece of evidence the Petitioner submitted and is brief in its analysis of the specific deficiencies in the evidence. However, the regulation that the Petitioner cites to does not require that a decision discuss every piece of evidence in the record to be sufficient, nor does the Petitioner cite to any other law or policy which makes this a requirement. Following review, we conclude that the decision is sufficient and specific enough to provide the Petitioner a fair opportunity to contest the decision and the AAO an opportunity

for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Moreover, we note that the remedy that the Petitioner seeks based upon this claimed deficiency is that USCIS reconsider the evidence, or in the alternative “the AAO . . . apply a de novo review.” We have conducted a de novo review and considered the evidence in the record in full. While we may not discuss each piece of evidence in the record in our decision, we have reviewed and considered each one.

Second, the Petitioner claims that the Director improperly applied a more stringent standard than the preponderance of the evidence in adjudicating the petition. *Matter of Chawathe*, 25 I&N Dec. at 375-76. The Petitioner asserts that she provided prima facie evidence of her eligibility and that the evidence was “voluminous and certainly meets the ‘greater than 50 percent probability of something occurring’” standard. But the volume of the evidence submitted is not indicative of eligibility; eligibility for the benefit sought is not determined by the quantity of evidence alone but also the quality. *Id.* at 376 (citing *Matter of E-M-*, 20 I&N Dec. 77, 80 (Comm’r 1989)). Other than referring to the volume of the evidence, the Petitioner does not support this assertion with specificity as to the record and how it demonstrates her eligibility under the specific prongs, and her unsupported assertion alone does not establish error in the Director’s decision nor eligibility for a national interest waiver.

#### A. Substantial Merit of the Proposed Endeavor

We turn now to the Petitioner’s specific claims of eligibility under each of the requisite *Dhanasar* prongs, beginning with whether she has established the substantial merit of her proposed endeavor. The Director found the evidence was insufficient to establish the proposed endeavor’s substantial merit because, as he stated, the evidence did not demonstrate that the endeavor has “the potential to create a significant economic impact, or that it has the potential to create a significant cultural impact.” Further, the Director found that, if the endeavor relates to research or the pursuit of knowledge, “the record contains no evidence that the beneficiary’s work served as an impetus for progress.”

We disagree with the Director’s characterization that a petitioner must establish the potential for either a significant economic or significant cultural impact to demonstrate the substantial merit of a proposed endeavor. These are not the only two areas in which an endeavor may have substantial merit. A petitioner may demonstrate their proposed endeavor’s substantial merit “in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education.” *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor’s potential to create significant economic impact may be favorable but is not required. *Id.* Additionally, we disagree that the Petitioner here must show that her research has already “served as an impetus for progress” to establish substantial merit.

The Petitioner contends on appeal that she has established the substantial merit of her proposed endeavor by providing “detailed evidence illustrating how health disparities represent a significant financial burden to the [United States], as well as how pharmacy, telepharmacy, and medication delivery innovations play a critical role in mitigating health disparity in the United States . . . .” The Petitioner cites to the studies and reports submitted that document the economic burden of health disparities and the benefits that telepharmacy can provide to rural and underserved communities. Based upon the Petitioner’s persuasive evidence of the potential myriad benefits of increased access

to telepharmacy, we agree with the Petitioner that she has demonstrated the substantial merit of her proposed endeavor.

We withdraw the Director's finding that the proposed endeavor lacks substantial merit and conclude that the Petitioner has established this requirement.

#### B. National Importance of the Proposed Endeavor

We turn next to whether the Petitioner has established that the proposed endeavor has national importance. In making this determination, we consider the proposed endeavor's potential prospective impact. *Matter of Dhanasar*, 26 I&N Dec. at 889. An endeavor that has national or global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances, may have national importance. *Id.* Additionally, an endeavor that is regionally focused may nevertheless have national importance, such as an endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area. *Id.* at 890.

The Director found the Petitioner did not demonstrate this requirement because she did not show that the proposed endeavor "stands to sufficiently extend beyond the individuals the [Petitioner] would serve, to impact the industry or field more broadly."

On appeal, the Petitioner asserts that she has provided "extensive evidence of the national importance of telepharmacy and medication delivery innovations . . . to purposefully improve access to medical treatments [for] rural and underserved communities in the United States." She highlights the articles and studies submitted that discuss the impact of telepharmacy on health outcomes for those in rural and underserved communities and the benefits to the economy of the telepharmacy model. The Petitioner asserts that this evidence establishes that, "by ensuring proper pharmaceutical assistance in underserved areas, the adoption of telepharmacy can mitigate health disparity" in the United States. The evidence is in fact persuasive of the potential health and economic benefits of increased access to telepharmacy services. But the studies and articles in the record do not discuss the Petitioner or her proposed endeavor specifically. Rather, the evidence relates to the telepharmacy industry overall, not to the Petitioner's proposed endeavor of starting a consulting business and offering telepharmacy consulting services to two pharmacies. The Petitioner must establish the national importance of her proposed endeavor, not the field of "telepharmacy and medication delivery innovations" in general. In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "specific endeavor that the [noncitizen] proposes to undertake." *See Matter of Dhanasar*, 26 I&N Dec. at 889. As such, we conclude that the articles and studies in the record do not establish that the Petitioner's specific proposed endeavor has national importance.

The Petitioner also asserts on appeal that her project '[redacted]' has national importance, which she claims is established by the impact analysis report that discusses this project. The report describes the '[redacted]' project as "a program that focuses on providing consultative and training services to emerging pharmacies and community organizations interested in introducing telepharmacy services and innovative delivery methods to low-income communities with limited access to medical services." The report states that the project will use a website and other

digital tools to do this. The report estimates that the anticipated revenue for this project in its first year is \$175,040, which appears to be based upon the Petitioner's individual anticipated earnings. The report estimates an anticipated revenue of \$120,000 to \$275,000 per "pharmacy or hospital partnership," but the report does not explain the basis for this estimate nor make a projection as to how many partnerships the project will have, and in what timeframe. The only two named potential partners are the pharmacies from which the Petitioner submitted job offer letters. The report does not estimate any other potential economic impacts, such as a potential number of jobs created. We conclude that the estimated revenue amounts do not rise to the level of a "substantial positive economic effect" that would be commensurate with national importance. *Matter of Dhanasar*, 26 I&N Dec. at 890. Additionally, the report does not estimate an anticipated number of patients that may be reached, telepharmacy services that may be implemented, pharmacists that may be trained, nor otherwise quantify the potential health-related impacts of the project. As such, we are not able to evaluate whether the health-related impacts of the project may rise to the level of national importance. Therefore, we conclude that the impact analysis report does not establish the national importance of the Petitioner's proposed endeavor of offering telepharmacy consulting services to two or more pharmacies.

The Petitioner also claims that the Director improperly dismissed the expert letters in the record without full consideration and, further, that these letters establish the national importance of the proposed endeavor. Related to this claim, the Petitioner also asserts that the letters align with the USCIS Policy Manual's guidance relating to evidence that may be used in support of a national interest waiver petition, because she has included letters from government agencies and quasi-governmental entities.<sup>2</sup> We agree that letters of support from interested government agencies and quasi-governmental entities that are detailed, persuasive, and credible as to their interest in the proposed endeavor and its potential impact are favorable evidence in establishing the national importance of a proposed endeavor. *See generally 6 USCIS Policy Manual F.5(D)(3)*, <https://www.uscis.gov/policy-manual>, which cites the example of federally funded research and development centers as interested government agencies. However, the submission of letters from individuals in government or quasi-governmental entities does not by itself establish eligibility. We have reviewed each of the Petitioner's letters of support and conclude that the letters do not persuasively establish that the Petitioner's endeavor is of national importance.

The record contains several letters of support that describe the Petitioner as effective at providing telepharmacy services in the [redacted] Texas area, including a letter from [redacted] County Public Health Department. Attorney [redacted] states that the Petitioner has done "impactful pharmaceutical work with underserved communities" in [redacted] Texas and has trained other pharmacists to "harness effective communication and creative service models" to reach vulnerable communities. Similarly, [redacted] University and the [redacted] School of Public Health writes that the Petitioner is "uniquely contributing to the advancement of health accessibility in the [redacted] TX area" and that she is qualified to continue "advancing the pharmaceutical industry through innovating new delivery methods and other highly honorable means." [redacted] Pharmaceutical states that the Petitioner has "successfully worked

<sup>2</sup> The Petitioner makes other claims on appeal related to how the evidence submitted aligns with the USCIS Policy Manual. Primarily, this relates to evidence that may establish that a petitioner is well-positioned to advance their proposed endeavor. Because the Director found that the Petitioner established this requirement, it is not at issue on appeal, and we need not address those arguments here.

with patients' insurance plan providers to obtain their needed drug therapies within the parameters of their insurance plans and develop the most cost-effective, evidence-based therapy plans for patients." [redacted] of the University of [redacted] College of Pharmacy notes that the Petitioner is a "Pharmacist Preceptor certified by the Texas State Board of Pharmacy which positions her to assist in the training of future pharmacist[s]."

Although these letters describe the Petitioner's work as "disruptive" and "innovative," these assertions are not supported by the letter writers themselves, nor are they established by the other evidence in the record. For example, the letter writers do not describe nor explain what the Petitioner's "creative service model" is or what her innovative "new delivery methods" are, other than using a telepharmacy model. Additionally, although one of the letters discusses the Petitioner's preceptorship, the evidence in the record does not discuss the extent of the Petitioner's training activities, nor establish the impact that those activities would have.

Several of the support letters describe the Petitioner's past research projects relating to telepharmacy care. The support letter from [redacted] discusses two residency projects by the Petitioner, one of which [redacted] claims "revolutionized" care for patients with heart failure by using her drug expertise in a way that "optimized patient care and reduced costs associated with hospitalizations . . . ." The support letter from [redacted] University states that through a research project the Petitioner "developed prominent responses to address minority healthcare issues using pharmaceuticals and innovative pharmacy service delivery advancements." [redacted] also states that one of the Petitioner's research projects, relating to telephonic pharmacy consultations, "was excellent and enabled her to increase access leading to better patient outcomes." The support letter from [redacted] discusses a similar project relating to diabetes care.

Although these letters refer to the Petitioner's past research projects as evidence of the national importance of her proposed endeavor, the letters lack sufficient detail related to these research projects. For example, the letters do not describe the Petitioner's "innovative pharmacy service delivery enhancements," nor do they provide support for the claim that the Petitioner has "revolutionized" heart failure care. The letters do not describe, nor does the other evidence in the record establish, a specific innovation or method related to telepharmacy that the Petitioner has researched, developed, and now proposes to implement on a broad scale that would be commensurate with national importance. Additionally, the Petitioner has not submitted other documentation related to these research projects. Thus, we are unable to evaluate the weight of these claims. Moreover, the Petitioner's stated endeavor is to provide telepharmacy services through her consulting business and part-time work with two pharmacies, not to engage in research related to the development of telepharmacy care.

Primarily, the support letters discuss the Petitioner's pharmaceutical knowledge and past achievements. To the extent that the letters discuss the Petitioner's skills, knowledge, and record of success, this evidence generally relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the [noncitizen]" and whether she is well-positioned to advance it. *Matter of Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the Petitioner's specific endeavor—to be employed as a consultant at two pharmacies and to establish a telepharmacy consulting business—has national importance under *Dhanasar's* first prong. But other than stating the Petitioner's intent to continue providing telepharmacy services, the letters do not describe the

Petitioner's specific proposed endeavor in detail. Notably, none of the letter writers discuss the Petitioner's "[redacted]" project. Moreover, the letters do not provide a persuasive explanation for how the Petitioner's work will have national or global implications within the telepharmacy field. *Matter of Dhanasar*, 26 I&N Dec. at 889.

We acknowledge the authors of the recommendation letters are experts in the pharmacy or healthcare field, and we have carefully considered each one. As a matter of discretion, we may use opinion statements submitted by the Petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought; the submission of expert letters is not presumptive of eligibility. *Id.* Although the recommendation letters carry persuasive weight as to whether the Petitioner is well-positioned to advance her proposed endeavor, for the reasons stated above, we conclude that they do not establish that the proposed endeavor has national importance.

Finally, the Petitioner contends on appeal that she has established the national importance of her endeavor because the analytical framework in *Dhanasar* "moved away from the geographic importance" of the "national in scope" requirement of the prior framework. Instead, the Petitioner claims, USCIS "should evaluate the importance of the problems one tackles which could be important on a local level" and then consider the "potential prospective impact of the undertaking if applied geographically across the nation."

We disagree with the Petitioner's characterization of the national importance requirement here. The Petitioner is correct that the analytical framework introduced in *Dhanasar* sought to reduce the focus on the geographic impact of an endeavor. *See Matter of Dhanasar*, 26 I&N Dec. at 887. But nevertheless, *Dhanasar* still requires that a proposed endeavor have national importance based on its "national or global implications" within a particular field. *Id.* at 889. Although an endeavor that is regionally focused may have national importance, it must still have a broad impact. *Id.*

Although the Petitioner asserts that "what [she] does in the [redacted] . . . can easily be replicated in other areas of the country," the evidence in the record does not establish that the Petitioner has a particular telepharmacy service model or methodology that is replicable and that she intends to disseminate through the field on a scale that would be commensurate with national importance. Rather, the Petitioner simply describes her plan to continue to provide telepharmacy and telepharmacy consulting services. In *Dhanasar*, we gave as examples of nationally important endeavors those that might result in improved manufacturing processes or medical advances. *Id.* Although the Petitioner claims that she will provide "medication delivery innovations," she has not offered sufficient information or evidence to establish that her telepharmacy consulting activities have the potential to result in the type of broad impact that a medical advancement would.

For the reasons stated above, we conclude that the Petitioner has not demonstrated the national importance of her proposed endeavor, and thus she has not established her eligibility under the first prong of the *Dhanasar* framework.

### C. Whether, on Balance, Waiving the Job Offer Requirement Would Benefit the United States

As stated above, the Director found that the Petitioner satisfied the second prong of the *Dhanasar* analytical framework. Therefore, the next issue is whether the Petitioner has established the third prong—that, on balance, waiving the job offer requirement would benefit the United States. *Matter of Dhanasar*, 26 I&N Dec. at 890-91. Because the Petitioner has not established that her proposed endeavor meets the national importance requirement of the first prong, we need not address whether she has established her eligibility under the third *Dhanasar* prong. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).

### III. CONCLUSION

Because the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework related to national importance, we conclude that the Petitioner has not established that she is eligible for or otherwise merits a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.