



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

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

In Re: 29698292

Date: FEB. 01, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a nurse, 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 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that she had not established that a waiver of the required job offer, and thus of the labor certification, would be 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 visa 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, 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. While neither the statute nor the pertinent regulations define the term “national interest,” *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion¹, grant a national interest waiver if the petitioner demonstrates that:

¹ *See also Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 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 the proposed endeavor; and
- On balance, waiving the requirements of a job offer and a labor certification would benefit the United States.

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree.² The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework. Under the *Dhanasar*'s first prong, the Director concluded that the Petitioner had not sufficiently established the substantial merit of her proposed endeavor but did not conclusively determine whether her endeavor is of national importance. The Director further concluded that the Petitioner did not meet the second or third prong of the *Dhanasar*'s analytical framework.

The Petitioner's initial description of the proposed endeavor does not provide any other details beyond her intention to work as a nurse in the United States. In response to the Director's request for evidence (RFE), the Petitioner submitted a professional plan which describes her endeavor as "working as a Registered Nurse in the U.S., specializing in providing intensive care" and proposed the following activities as part of her endeavor:

1. January 2023 – Pass the NCLEX-RN exam (the National Council Licensure Examination for Registered Nurses) in Florida, become a Registered Nurse in Montana, and request the endorsement of her registration to Florida as well, thus being able to work as a Registered Nurse in both states
2. March 2023 – Start serving as a Registered Nurse in Florida in intensive care settings
3. September 2023 – Start the Doctor of Nursing Practice (DNP) Program at the
4. 2024 – Start serving as a Nurse Educator, providing training to healthcare professionals
5. 2025 – Start working as a Travel Nurse, as she will have completed one year of experience working as a Nurse in the U.S.
6. 2026 – Start serving as a Nurse Coordinator at a large hospital in the U.S.

In addition, the Petitioner submitted numerous articles and reports on the socioeconomic importance of the healthcare professionals and nursing shortage in the United States and worldwide.

Upon de novo review, we find that the Petitioner demonstrated substantial merit of her endeavor with the articles and reports on record discussing the value of the nursing profession. In *Dhanasar*, the endeavor's merit may be demonstrated in a range of areas such as business, entrepreneurialism,

² The Director made this determination in the RFE issued on September 30, 2022.

science, technology, culture, health, or education. *Dhanasar*, 26 I&N Dec. at 889. Thus, we withdraw the portion of the Director’s decision in finding that the proposed endeavor did not meet the substantial merit element under the first prong of *Dhanasar*.

However, the evidence does not establish that the Petitioner’s endeavor meets the national importance element in *Dhanasar*. In determining whether the proposed endeavor has national importance, we focus on the specific endeavor that the foreign national proposes to undertake and consider its potential prospective impact. *Id.*

While we look to evidence documenting the “potential prospective impact” of the proposed endeavor, the Petitioner has not offered sufficient evidence linking her nursing work to having a broader reach that rises to national importance. In *Dhanasar*, 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.* Here, the record does not elaborate on how her proposed employment as a nurse extends beyond her prospective patients or the hospitals or clinics that would employ her services to affect the field of nursing or healthcare industry more broadly. The Petitioner also has not explained how her work can resolve the national nursing shortage or what specific impact her work would have on reducing such a shortage.

The Petitioner has also indicated that, in addition to her clinical duties, she would be involved in training and educating other healthcare professionals. However, she did not sufficiently elaborate on these aspects of her endeavor. The submitted evidence offers no additional insight into the Petitioner’s training contents or methodologies, how she proposes to implement them, or how they would have benefits or other implications for the broader nursing or healthcare field.

Instead, the Petitioner has only offered generalized claims about her endeavor’s national importance. For instance, the Petitioner stated that her endeavor will “accelerate the expansion of healthcare, greater societal welfare, and an improved healthcare system for the American population,” “exponentially help the US national economy and every single facet of US society, as it is paramount to . . . improve the quality of healthcare and productivity,” and “help alleviate nursing shortages nationwide both by working as a travel nurse and by training other nurses who will help the US overcome this national security crisis.” However, the Petitioner does not meaningfully explain how a single nurse can produce the prospective impact rising to the level of national importance as defined in *Dhanasar* or provide independent and objective evidence to substantiate her claims. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

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. *Dhanasar*, 26 I&N Dec. at 890. Here, the Petitioner has not provided any substantive and corroborative evidence of the endeavor’s significant potential for job creation or other substantial economic effects in an economically depressed area.

The Petitioner also submitted various recommendation letters, but they only describe the Petitioner’s experience, skills, and abilities as a nurse in her prior employment settings and not the specific impact

of her proposed endeavor. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*. Furthermore, this type of evidence relates to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.*

On appeal, the Petitioner reasserts that her proposed endeavor as a nurse has national importance and submits the same or similar articles and reports discussing the value of the nursing profession and nursing shortage. However, 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 "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. The industry reports and articles on record do not discuss the specific impact of the Petitioner's proposed endeavor but only address the nursing field in general. As such, the evidence does not persuasively establish how her endeavor will have a broader impact consistent with national importance.

For reasons discussed above, the petition will remain denied as the record does not demonstrate that the Petitioner meets the first prong of *Dhanasar*. Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve remaining arguments concerning eligibility under the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "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 alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework and therefore does not merit a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.