



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

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

In Re: 31652787

Date: JUL. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a nurse, seeks employment-based second preference (EB-2) 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 classification. *See* 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 did not establish 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 pursuant to 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 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 establishes eligibility for the underlying EB-2 classification, they must then demonstrate 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, 889 (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 discretion,<sup>1</sup> grant a national interest waiver if the petitioner demonstrates that:

---

<sup>1</sup> *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Ninth, Eleventh, and D.C. Circuit Courts (and Third in an unpublished decision) in concluding that USCIS’ decision to grant or deny a national interest waiver is discretionary in nature).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.

*Dhanasar*, 26 I&N Dec. at 889

## II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

The Petitioner’s proposed endeavor, as described in her professional plan and statement is “to work as a Nurse and assist U.S. hospitals, clinics, and any other medical facilities to treat patients (children, adults, and the elderly) that need [her] specialty to recover their health.” In a supplemental professional plan and statement submitted with the Director’s request for evidence, the Petitioner stated that she had “intimate and first-hand knowledge in the areas of specialized and general nursing, intensive nursing of post-operative patients, neurological and cardiological intensive care, neonatal intensive care, cardiac and respiratory resuscitation, healthcare staff training, and healthcare administration.” She clarified that through her proposed endeavor she would “be an important asset to support the country and the population to fight the current health crisis.”

The first prong of the *Dhanasar* analytical framework, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In denying the petition, the Director determined that this proposed endeavor had substantial merit but concluded that the Petitioner had not established the national importance of the proposed endeavor.<sup>2</sup> For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework. While we do not discuss every piece of evidence, we have reviewed the record in its entirety.

As a preliminary matter, the Petitioner asserts that the Director “did not apply the proper standard of proof in this case, instead imposing a stricter standard, to [her] detriment.” Except where a different standard is specified by law, the “preponderance of the evidence” is the standard of proof governing immigration benefit requests. See *Matter of Chawathe*, 25 I&N Dec. at 375; see also *Matter of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Soo Hoo*, 11 I&N Dec. 151, 152 (BIA 1965). Accordingly, the “preponderance of the evidence” is the standard of proof governing national interest waiver petitions. See 1 *USCIS Policy Manual*, E.4(B), <https://www.uscis.gov/policy-manual>. While the Petitioner asserts that she has provided evidence sufficient to demonstrate her eligibility for the EB-2 classification and a national interest waiver, she does not further explain or identify any specific instance in which the Director applied a standard of proof other than the preponderance of evidence in denying the petition.

---

<sup>2</sup> We note that the Director did not address whether the Petitioner satisfied the second prong of *Dhanasar* but determined that the Petitioner had not established that waiving the job offer requirement would benefit the United States.

The Petitioner further contends on appeal that the Director's denial did not adequately consider her resume, professional plan, letters of recommendation, evidence of her work in the field, and industry articles in the record. Upon review, the Petitioner's resume details her skills and prior work in the field. An expert opinion letter from a professor in the nursing department of the [redacted] described, in part, the Petitioner's academic background and her work experience in the fields of nursing, clinical practice, and general healthcare. Other evidence in the record below, such as certificates of completion in nursing coursework, the Petitioner's North Carolina nursing certificate, and correspondence confirming the Petitioner's work experience in the field of nursing, also describe her skills and prior work experience in the field of nursing. The Petitioner's skills, knowledge, and prior work in her field, however, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Dhanasar*, 26 I&N Dec. at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar*'s first prong.

The Petitioner provided numerous the industry reports and news articles addressing the nursing profession, changes in the healthcare industry, and the important contributions that nurses could make as a result of these changes. For example, one report discusses how including nurses in leadership roles on care teams will contribute to improved outcomes for patients, while another notes that providing increased training to nurses will allow them to provide care for more complicated and costly procedures, thus increasing healthcare revenues. We acknowledge the importance of the field of nursing in contributing to positive health outcomes as well as the Petitioner's arguments that nursing is important for the nation's societal well-being. 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 Petitioner further argues on appeal that she "will be addressing an industry shortage, which cannot be addressed by the U.S. workers as demand exceeds supply." We are not persuaded by the argument that the Petitioner's proposed endeavor has national importance due to the shortage of workers in her field. The Petitioner provided industry reports addressing a labor shortage in the field of nursing. The expert opinion letter from the professor at the [redacted] also discussed the increase in demand for healthcare workers as well as the resulting shortage for workers in that industry. The professor notes that the U.S. has been experiencing a "deficit" in the nursing workforce for some time but that due to "an aging population, the rising incidence of chronic disease, an aging nursing workforce, and the limited capacity of nursing schools," this shortage "is on the cusp of becoming a crisis." The professor states that "nursing is currently one of the fastest-growing occupations in the country,"[d]espite that growth, demand is outpacing supply." However, the Petitioner has not established that her proposed endeavor stands to significantly reduce the claimed national shortage. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Finally, the Petitioner explains on appeal that an "integral" part of her proposed endeavor is "her commitment to training and developing future U.S. nursing professionals." She asserts that "[t]his

commitment extends her impact ... to a broader and systemic level, addressing the need for a skilled and competent nursing workforce in the U.S.” In addition, she argues that “[h]er role in education and mentorship will have a multiplier effect, enhancing the quality of healthcare services across various regions.” To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement we look to evidence documenting the “potential prospective impact” of her work. While the Petitioner’s statements reflect her intention to train and develop future U.S. nurses, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. In *Dhanasar*, we determined that the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude the Petitioner has not shown that her proposed endeavor stands to sufficiently extend beyond her employer or her patients to impact her field, nursing, or the U.S. economy more broadly, at a level commensurate with national importance.

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Because the identified reasons for dismissal are dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve remaining arguments concerning her eligibility under the second and third prongs of 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

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that she has not established she is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reason.

**ORDER:** The appeal is dismissed.