



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

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

In Re: 31112691

Date: JUNE 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a nurse, seeks classification as a member of the professions holding an advanced degree. *See* 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, 8 U.S.C. § 1153(b)(2)(B)(i). 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 Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner 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 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 establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either a member of the professions holding an advanced degree or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the noncitizen's proposed endeavor has both substantial merit and national importance; (2) that the noncitizen is well positioned to advance the proposed

endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *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 first prong, substantial merit and national importance, focuses on the specific endeavor that the noncitizen 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 determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *See Matter of Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

## 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 has established that a waiver of the requirement of a job offer, and thus of a labor certification, would be in the national interest. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

The Petitioner described the endeavor as a plan to “provide high-quality nursing services to the elderly, along with educating future nurses regarding the care of an aging population.” The Petitioner also summarized her qualifications and she referenced copies of publications in the record that provide generalized information regarding nursing and healthcare.

The Director acknowledged that “the proposed endeavor has substantial merit.” However, the Director observed that “the [P]etitioner failed to demonstrate that [her] proposed endeavor has national or even global implications within a particular field or industry,” referencing the first *Dhanasar* prong. *See id.* The Director noted that the Petitioner submitted an opinion letter that asserts the Petitioner's “work is in demand and of national importance to the field of nursing.” However, the Director explained that “the record does not show how [the Petitioner's proposed] endeavor would offer substantial economic benefits to the region where it operates or to the nation as a whole,” again referencing the first *Dhanasar* prong. The Director further observed that the record does not “demonstrate how the endeavor would significantly impact employment levels regionally or nationally,” also referencing the first *Dhanasar* prong. The Director also noted that the record does not establish how the proposed endeavor “will have a broader impact on the field of [g]eriatrics and [g]erontology, outside of her prospective local community,” referencing the first *Dhanasar* prong. Ultimately, the Director concluded that the record does not establish that the proposed endeavor may have national importance, as required by the first *Dhanasar* prong. The Director further concluded that the record does not satisfy the second or third *Dhanasar* prongs. *See id.*

On appeal, the Petitioner asserts that the proposed endeavor “has national importance based on the potential societal health and welfare benefits to the United States (not necessarily economic benefits),” and she references the USCIS Policy Manual. The Petitioner also reiterates information in the record regarding her qualifications, and she reasserts that, by working as a nurse, she will “address a nursing shortage in the economy.” The Petitioner also reiterates that she will “educate and train other professionals in the field by sharing her healthcare methods and strategies developed and applied in

Brazil.” The Petitioner also summarizes copies of publications in the record that provide generalized information regarding nursing and healthcare.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on “the specific endeavor that the [noncitizen] proposes to undertake” and “we consider its potential prospective impact,” looking for “broader implications.” *See Matter of Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having “national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances” or those with “significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area.” *Id.* at 889-90.

We first acknowledge that the Petitioner correctly asserts on appeal that national interest waivers are not necessarily limited to individuals whose proposed endeavors may provide substantial positive economic benefits. *See, e.g., id.* at 889 (“An undertaking may have national importance for example, because it has national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances.”). We withdraw the Director’s statements to the extent that they imply all proposed endeavors must provide substantial positive economic benefits. However, neither second-preference eligibility nor national importance are established merely because an individual proposes to provide some benefit to health or welfare. Second-preference eligibility contemplates, in relevant part, individuals “who because of their exceptional ability in the sciences . . . will *substantially benefit* the national . . . welfare of the United States.” Section 203(b)(2)(A) of the Act (emphasis added). In turn, national interest contemplates, in relevant part, endeavors whose potential prospective impact will have “*national or even global implications within a particular field*, such as those resulting from certain . . . medical advances.” *Matter of Dhanasar*, 26 I&N Dec. at 889 (emphasis added). Without more, providing the same or similar routine services that all other workers in the same occupational category and specialty provide, without the type of national or even global implications within a particular field that would result from medical advances, is not indicative of national importance. *See id.*

We next note that the Petitioner’s references to her qualifications, including her prior academic history, training, and work experience, are material to the second *Dhanasar* prong—whether an individual may be well positioned to advance a proposed endeavor. *See id.* at 888-91. However, an individual’s qualifications are immaterial to determining whether the potential prospective impact of the specific endeavor an individual proposes to undertake may have broader implications indicative of national importance, as required by the first *Dhanasar* prong. *See id.* Because the Petitioner’s references to her qualifications do not address how the potential prospective impact of the specific endeavor she proposes to undertake may have broader implications indicative of national importance, her qualifications do not satisfy the first *Dhanasar* prong and we need not address them further.

In turn, the Petitioner’s references to publications providing generalized information regarding nursing and healthcare are immaterial to determining whether the potential prospective impact of the specific endeavor the Petitioner proposes to undertake may have national importance. As a specific example, the Petitioner references statements from President Biden regarding “the adequacy of a nursing home’s staffing” in general, and she references related U.S. Department of Health and Human Services

reforms. However, a government official's public statement merely related to a particular industry or occupational category is not the type of governmental interest contemplated by *Dhanasar*. In *Dhanasar*, the petitioner submitted detailed evidence "describing U.S Government interest and investment in his research," not merely in that petitioner's industry or occupational category in general. *Id.* at 892 (emphasis added). Because the publications referenced by the Petitioner providing generalized information regarding nursing and healthcare do not address the Petitioner, the specific endeavor she proposes to undertake, and how the proposed endeavor may have the type of broader implications contemplated by the first *Dhanasar* prong, they do not establish how the proposed endeavor may have national importance. *See id.* at 889-90.

Next, the Petitioner's assertion that, by working as a nurse, she will "address a nursing shortage in the economy" is unpersuasive. The record does not establish how the Petitioner, as a single worker in the nursing occupational category, will "address a nursing shortage in the economy" with the type of broader implications indicative of national importance contemplated by the first *Dhanasar* prong. *See id.* Relatedly, the record does not establish how the Petitioner, as a single worker in the nursing occupational category, demonstrates the proposed endeavor may have the type of "significant potential to employ U.S. workers or . . . other substantial positive economic effects, particularly in an economically depressed area," contemplated by the first *Dhanasar* prong. *See id.* The Petitioner's assertion that she will "educate and train other professionals in the field by sharing her healthcare methods and strategies developed and applied in Brazil" is similarly unpersuasive. The record does not establish how the education and training the Petitioner would provide to fellow nurses she encounters differs from the type of education and training other nurses would provide to each other as a routine part of their job performance, nor does it establish how the Petitioner's educational and training efforts would have the type of "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances," contemplated by the first *Dhanasar* prong. *See id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong; therefore, she is not eligible for a national interest waiver. 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) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *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 the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

**ORDER:** The appeal is dismissed.