



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

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

In Re: 27572522

Date: AUG. 31, 2023

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.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national 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. *Dhanasar*, 26 I&N Dec. at 889.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual's education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals. *Id.* at 890.

The third prong requires the petitioner to demonstrate 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. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national's qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national's contributions; and whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate 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. *Id.* at 890-91.

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 has established that waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. The Director concluded that the Petitioner's endeavor has substantial merit but not national importance under the first prong of the *Dhanasar* framework.³ Upon de novo review, we agree with the Director's decision.

The Petitioner's initial professional plan stated that her proposed endeavor is to work as a registered nurse "in surgical centers and emergency care." In response to the Director's request for evidence (RFE), the Petitioner submitted an updated professional plan and described her endeavor as "providing

² The record includes the Petitioner's diploma and academic transcripts from [REDACTED] showing that she earned a bachelor's degree in nursing in December 2008, as well as an academic evaluation stating that this foreign degree is equivalent of a U.S. bachelor's degree in nursing. In addition, employment letters verify her progressive work experience in the nursing field for more than five years after completing her bachelor's degree.

³ The Director also found that the Petitioner did not meet the second or third prong of the *Dhanasar* analytical framework.

nursing care and administrative services to the elderly, and those with special needs and/or mobility impairments, in hospitals, clinics, nursing homes, assisted living facilities, and possibly in homes.” The Petitioner also claimed that she plans to apply her own unique protocol for elderly home care, “Integrated Triad of Health.”

On appeal, the Petitioner reasserts that her proposed endeavor as a nurse has national importance and submits additional articles and reports on the value of geriatric nursing and staffing shortages in U.S. nursing homes, along with fact sheets from the White House’s COVID-19 initiatives on providing equitable health care, investing in health care workers, and improving quality of nursing homes.

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. We also look to evidence documenting the “potential prospective impact” of the proposed endeavor. *Id.* Here, the record does not offer any sufficient, specific information and evidence regarding her proposed endeavor or its prospective impact rising to the level of national importance.

For example, the letters of recommendations describe the Petitioner’s experience, skills, and abilities as a nurse with her previous employers. 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.* at 890. These letters do not address how the Petitioner’s work as a nurse would improve the geriatric nursing in the United States, as contemplated by *Dhanasar*: “[a]n 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.” *Id.* Although the Petitioner has suggested that she has developed a unique protocol for elderly care, the recommendation letters do not refer to the Petitioner’s protocol as having a widespread impact in the nursing field, or that they differ from or improve upon those already available and in use in the United States.

The record also includes an expert opinion letter from [REDACTED] a licensed physician in the state of New York, but the opinion generally praises the Petitioner’s skills and abilities as a nurse in the area of “direct care, emergency care, wound treatment and patient safety protocols” and largely dwells on the importance of the nursing profession without addressing specific impact of her proposed endeavor or methodology. Although the opinion letter claims that the Petitioner’s endeavor will “lead to the prevention of infections, shortened hospital stays, reduced healthcare costs and a higher quality of life,” it does not offer any persuasive detail concerning the endeavor’s impact extending beyond a particular employer or patients that she will serve.

In addition, the Petitioner offered one scholarly journal co-authored with professors of the nursery department at Universidade [REDACTED] entitled “[REDACTED]” [REDACTED] However, the Petitioner does not explain how this study on socio-demographic characteristics of women who gave birth in a specific region of Brazil relates to the Petitioner’s methodology for elderly care or demonstrates her endeavor’s impact on the nursing field.

In *Dhanasar*, we stated that “[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890. The Petitioner has not provided any supporting evidence, aside from claims in her professional plan, that her employment as a nurse stand to provide substantial economic benefits in Florida or the United States. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

On appeal, the Petitioner claims that her endeavor will improve people’s health and strengthen the quality of life for the elderly population in the United States; and as a result, the country will eventually reap economic benefits such as “reduction of hospital expenses, providing increased revenue for hospitals, which will be able to hire more health professionals for their teams” and “the generation and increase of income for several American families, as well as to the increase of tax collection and the growth of the economy.” These economic benefits that the Petitioner claimed depend on numerous factors and are too attenuated to sufficiently show the proposed endeavor’s impact at a level commensurate with national importance. The Petitioner has not offered a sufficiently direct evidentiary tie between her proposed endeavor and the claimed results. Generalized conclusory statements that do not identify a specific impact in the field have little probative value. *See 1756, Inc. v. U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications).

Based on the foregoing, we find that the record does not establish national importance of the Petitioner’s proposed endeavor and the Petitioner does not meet the first prong of *Dhanasar*. As the identified basis for denial is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the Petitioner’s arguments regarding her eligibility under the second prong as well as the third prong of *Dhanasar*. *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 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.