



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

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

In Re: 27032668

Date: JUL. 07, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pediatrician who intends to work in the United States as a registered nurse, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability in the arts, sciences or business. In addition, she seeks a national interest waiver of the job offer requirement attached to the EB-2 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 record did not establish the Petitioner's eligibility for a national interest waiver under the *Dhanasar* framework. 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, 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:

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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 determined that the Petitioner is eligible for EB-2 classification as a member of the professions holding an advanced degree.<sup>2</sup> The remaining issue to be determined is whether the Petitioner qualifies for a national interest waiver under the *Dhanasar* framework.

Prior to her admission to the United States in 2018, the Petitioner worked as a pediatric resident and pediatrician in Brazil for over 15 years. The Petitioner's proposed endeavor, as described in her statements and a five-year personal plan, is to work as a registered nurse in pediatric healthcare settings.<sup>3</sup> She also indicates her intent to enroll in a master's program which would allow her to obtain certification as a pediatric nurse practitioner. The Petitioner stated that she will "focus on pediatric nursing, providing nursing training, and providing high-quality healthcare services to the Latin population."

The Director concluded that, although the Petitioner established the substantial merit of her proposed endeavor, she had not demonstrated its national importance, that she is well-positioned to advance her proposed endeavor, or that, on balance, it would be beneficial to the United States to waive the requirements of a job offer, and thus of the labor certification.

On appeal, the Petitioner asserts that the Director ignored or mischaracterized credible and probative evidence, misapplied established legal standards for adjudicating national interest waiver petitions, and inflated the standard of review above the preponderance of the evidence standard. For the reasons provided below, we agree with the Director's determination that the Petitioner did not establish the national importance of her proposed endeavor. While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

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 determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We determined in *Dhanasar* that the petitioner's teaching activities did not rise

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<sup>2</sup> Because the Director found the Petitioner eligible for classification as a member of the professions possessing an advanced degree, the decision does not evaluate the Petitioner's alternative claim that she also qualifies for EB-2 classification as an individual of exceptional ability. The record demonstrates that the Petitioner earned a medical degree (*Titulação de Medico*) from a Brazilian university that is the foreign equivalent of a U.S. advanced degree. See 8 C.F.R. § 204.5(k)(3)(i)(A).

<sup>3</sup> At the time of filing in June 2021, the Petitioner was qualified as a Certified Nursing Assistant in Utah and enrolled in a bachelor's program for nursing, which she completed in August 2022. She received her registered nurse professional license in November 2022.

to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. We also 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.

In addressing the national importance of her endeavor, the Petitioner stated in her personal plan that she “will contribute to the improvement of the Hospitals Industry in the U.S., as nursing is considered such an important component of a functional healthcare system.” In this regard, she notes that her engagement as a nurse at U.S. hospitals and other settings will have numerous benefits including “an increase in the number of patients putting their confidence in the institution, increased patient loyalty and improved patient relationships.” The Petitioner has also emphasized that most full-time nurses see “three or more patients per hour” and thus a single nurse can “potentially impact millions of Americans in need of care.”

The Petitioner provided numerous industry reports and articles addressing the nursing and nurse practitioner occupations, the pediatrics field, the healthcare industry, and labor shortages in the industry. The Petitioner also submitted an expert opinion letter from a professor at the [REDACTED] [REDACTED] who similarly discusses the healthcare industry as a driver of the U.S. economy, the growing demand for nurses, and their critical role in the industry. Further, the professor states that due to the national shortage of healthcare workers, a situation which the COVID-19 pandemic has exacerbated, the Petitioner’s proposed endeavor is nationally important. We recognize that the COVID-19 pandemic and a pre-existing nursing shortage places the Petitioner’s nursing work in high demand. We further acknowledge the Petitioner’s arguments that nursing is important for the nation’s quality of life, productivity, societal well-being, and the U.S. economy. 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.” *Dhanasar*, 26 I&N Dec. at 889.

While we agree with the Director that the Petitioner established the substantial merit of her proposed endeavor, she did not elaborate on how her proposed employment as a nurse providing patient care would have broader implications for the field of nursing, how it would specifically contribute to the improvement of the “the Hospitals Industry,” or how it would impact the U.S. healthcare field more broadly. She has not suggested that her work will resolve the national nursing shortage, nor has she explained what specific impact her work would have on reducing such a shortage. Her suggestion that she could broadly impact the field by single-handedly providing clinical nursing care for “millions of Americans” is not adequately supported in the record. The Petitioner has not submitted sufficient evidence to demonstrate how her proposed endeavor’s impact would extend beyond her workplaces and patients to the broader field of nursing or the healthcare industry.

The Petitioner has indicated that, in addition to her clinical duties, she would be involved in training other nurses and providing workshops and educational classes for parents to improve their healthcare literacy. However, she did not sufficiently elaborate on these aspects of her endeavor in her personal statements or five-year personal plan. She also indicates that she would be “leading by example regarding the adoption of new methodologies that will be reflected in the increased efficiency and quality of patient nursing care.” The submitted advisory opinion letter similarly refers to the Petitioner’s “significant potential to teach and train other U.S. professionals in the field” and to

“implement her healthcare methods and strategies to . . . healthcare facilities.” However, the submitted evidence offers no additional insight into the Petitioner’s “new methodologies” or “health care methods and strategies,” how she proposes to implement them, or how they would have benefits or other implications for the broader nursing or healthcare field. Accordingly, the record does not establish that she will be transferring clinical knowledge or innovative methods on a scale that would have the potential for national implications in the field of nursing or otherwise rise to the level of national importance.

On appeal, the Petitioner contends that the Director placed undue focus on whether her proposed endeavor would have “substantial positive economic effects,” noting that job creation and other direct economic impacts are only one factor that should be considered in weighing the national importance of a proposed endeavor. Despite downplaying the importance of economic factors, the Petitioner emphasizes that she will “contribute to promoting America’s prosperity, noting that “[n]ursing has a tremendous potential to generate economic growth in the U.S” and that she will be “operating in a key sector of the economy.” Although the Petitioner stresses the healthcare industry’s importance to the economy, she has not sufficiently identified the potential economic impacts of her proposal to work as a registered nurse or nurse practitioner in clinical settings. Therefore, while we agree with her assertion that other factors, including non-economic factors, must also be considered, the record supports the Director’s determination that she has not shown that the benefits to the regional or national economy resulting from her endeavor would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. 26 I&N Dec. at 890.

The Petitioner maintains that she provided sufficient evidence to show that her proposed endeavor “will affect a large population of children in underserved areas of Utah, which are designated as Health Professional Shortage Areas (HPSA),” and as such will enhance societal welfare. While the Petitioner indicated in her five-year personal plan that her clinical placement locations to date have been in Utah hospitals and healthcare facilities, she did not identify the specific geographic locations. She generally indicates her intent to work at “U.S. hospitals” and indicates her interest in working with Portuguese and Spanish speaking populations, but she did not previously state an intent to work within federally designated HPSAs in Utah. While working in an area of designated need for primary care providers might relate to the substantial merit of her proposed endeavor, the shortage of providers in certain Utah counties or in the United States does not render the Petitioner’s potential employment as a nurse nationally important under the *Dhanasar* framework.

The Petitioner, referring to previously submitted articles, further contends that nurses, particularly those who are bi-lingual, can play a vital role in improving health outcomes of children in minority communities who cannot obtain basic healthcare due to financial, geographic and language barriers. The Petitioner maintains that her work with these communities will have an “impact on matters of national importance designated by the government.” She refers to a January 2021 White House Executive Order on “Advancing Racial Equity and Support for Underserved Communities Through the Federal government” which called for the federal government to develop plans to address barriers that limit full and equal participation of underserved communities and individuals seeking to enroll in or access Federal benefits, services, or programs.

While the executive order indicates the importance of engagement with members of underserved communities to advance racial equity and support, its focus is on the U.S. government’s role in doing

so; it does not specifically show the government's interest in the Petitioner's proposed endeavor or similar endeavors. In evaluating national importance under the first prong of the *Dhanasar* framework, we will consider evidence demonstrating how a specific proposed endeavor impacts a matter that a government entity has described as having national importance or a matter that is the subject of national initiatives. However, pursuing employment in an area that is adjacent to the subject of national initiatives is not sufficient, in and of itself, to establish the national importance of a specific endeavor. The Petitioner must still demonstrate the potential prospective impact of her specific proposed endeavor in that area.

Finally, to illustrate the potential impact of her proposed endeavor, the Petitioner pointed to her past employment experience and her qualifications as a pediatrician and registered nurse. We reviewed her statements and the letters of recommendation from her employers and professional contacts. The authors of the letters praise the Petitioner's abilities as a healthcare professional, and the personal attributes that make her an asset to her employers, colleagues, and patients. While the authors express their high opinion of the Petitioner and her work and recommend her for future nursing positions in the United States, they do not discuss her specific proposed endeavor or explain why it has national importance. As such, the letters are not probative of the Petitioner's eligibility under the first prong of *Dhanasar*. Furthermore, we note that the Petitioner's knowledge, skills, education, and experience are considerations under *Dhanasar*'s second prong, which "shifts the focus from the proposed endeavor to the foreign national." 26 I&N Dec at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of her proposed work.

While the Petitioner's evidence establishes how her endeavor stands to positively impact her employers, her patients and their families, the evidence does not persuasively establish how her endeavor will have a broader impact consistent with national importance. Accordingly, the Petitioner has not established that her proposed endeavor meets the first prong of the *Dhanasar* framework.

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.