



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

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

In Re: 27917085

Date: AUG. 8, 2023

Appeal of Nebraska 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 Nebraska Service Center denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, 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. Next, a petitioner must then demonstrate they merit a discretionary waiver of the job offer requirement “in the national interest.” Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) provides that USCIS may, as matter of discretion,<sup>1</sup> grant a national interest waiver if the petitioner shows:

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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 concluded that the Petitioner qualifies as a member of the professions holding an advanced degree. Accordingly, the remaining issue to be determined on appeal is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest.

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

The Petitioner, a nurse, claimed that she intends to “apply for positions in hospitals and health centers to begin familiarizing [herself] with the [U.S.] healthcare system.” She also stated that subsequent to that endeavor, she intends to seek employment as a professor of nursing at the undergraduate level. The Petitioner also claimed that she ultimately intends to pursue a doctorate degree in education as well as perform research in the nursing field.

In a letter of support, she cited to articles and reports from the *Washington Post* and the World Health Organization that discussed the worldwide shortage of nurses as well as the scarcity of nursing professors and caregivers for the elderly. She noted that the statistics cited by these publications were “worrying,” and stated as follows:

[I]t is difficult to imagine that many students who seek admission to nursing programs are rejected simply because they have no one to teach. In this sense, I believe that as a nurse, with a master’s degree in nursing and with 3 years [of] experience in research, I can say that I have the qualifications to be a professor of students in the Nursing Course, in order to contribute to the training of these staff in serious shortage in United States of America.

In summary: There is a real need for nurses to care for the elderly population in the USA; there was an increase in the number of retirements for health professionals and a shortage of professors in nursing courses. Therefore, the existence of teachers is necessary for the training of new nurses. Therefore, the role played by the nursing professor/researcher is considered to be of national importance, since the search for this professional and the importance of this professional covers several areas of health and extends throughout the country, not limited to just one location or specific region of the United States.

The Petitioner also supported the record with letters of recommendation, documentation of her professional achievements, and additional industry articles and reports.

In a request for evidence (RFE), the Director informed the Petitioner that she had not submitted sufficient evidence to demonstrate that her proposed endeavor had national importance. The Director noted the evidence submitted but observed that the Petitioner's proposed endeavor was unclear, as the submitted evidence provided conflicting insight into her endeavor. Specifically, the Director noted that the Petitioner intended to obtain a U.S. nursing license and secure employment as a nurse, as well as teach, conduct research, and attend school to obtain her doctorate degree. The Director determined that based on these conflicting statements, it was unclear what type of work the Petitioner proposed to undertake within the field of nursing. Thus, the Director requested additional evidence that clarified the nature of the proposed endeavor and established that her specific proposed endeavor has national importance, as required.

In response to the Director's RFE, the Petitioner submitted additional evidence in support of her eligibility for a national interest waiver. In a cover letter, the Petitioner stated as follows (verbatim):

I believe [that] my proposed endeavor is for national importance due to the broad approach that this problem (lack of nurse students and new graduates at the healthcare centers) and also consequently the solution (transfer of my skills as a nurse educator, teaching the new generation of nursing students while in clinicals or in the first month of their career willing to decrease the nurse burnout and to increase the number of qualified nurses in the industry), [c]onsidering the importance of the training of new nurses, not only in the academic and professional environment but also in the research field of this sector. This proposed endeavor impacts all kinds of companies, agencies, or sectors. It is a must-required solution to create sustainability and robust results that are capable of mirroring the strong business (protection of the American well-being).

The substantial merit has been evidenced in the fact that this problem (lack of nursing students and new graduates at the healthcare centers) touches the full economy as per not having enough nurses, can lead to nurses burnout perform procedures that can decline the safety and quality of care, causing to hospital get sued per [negligence] and malpractice and-or ended taking away the quality of life of the patients. In this sense, I not only will contribute with my services on the front line of health care, but I will also train other professionals in the field to develop their skills and preparedness for diseases. Therefore, my proposed endeavor has substantial merit because it contributes to the learning of professionals and aspiring professionals, enabling them to be more qualified for healthcare jobs. In all the above contexts, the proposed endeavor has significant potential to employ U.S. workers and has other substantial positive economic effects, and will broadly enhance societal welfare or cultural enrichment.

The Petitioner's professional plan submitted in response to the RFE also discussed the proposed endeavor.

The Petitioner also stated that she has been working as a staff nurse/nurse educator at a skilled nursing center in New York since May 2022. She indicated that in this position, she counsels and educates patients and families regarding treatment plans, directs and supervises nurse assistants and nurse aids, and maintains clinical effectiveness. She also indicated that she evaluates the work of nursing students

performing clinicals at the facility, as well as supervising the internships and research projects of new graduates.

In denying the petition, the Director summarized the Petitioner's proposed endeavor as working in the field of nursing, and determined that her endeavor had substantial merit. However, the Director concluded that the Petitioner had not established the national importance of her proposed endeavor, noting that the record contained insufficient evidence to demonstrate that the Petitioner's work would impact the regional or national population at a level consistent with national importance. The Director determined that the Petitioner did not demonstrate that the benefits of her proposed U.S. employment would reach beyond her patients, employers, or students to affect her field or the United States more broadly.

On appeal, the Petitioner reasserts, almost verbatim, most of the assertions set forth in her RFE response letter. She again asserts that her proposed endeavor has national importance due to the importance of nursing contributions in the health care field and the current shortage of nursing staff in both the United States and around the world.

Preliminarily, we note that the Petitioner proposes to contribute to the nursing industry by applying for nursing positions "at hospitals and health centers to begin familiarizing [herself] with the [U.S.] healthcare system." Her proposed endeavor also includes serving as a nursing professor/instructor for undergraduate nursing students as well as conducting research and potentially pursuing a doctorate degree in education. The Petitioner did not provide a timeline for when she would occupy each of these roles and it is not apparent whether securing a position in any of these areas is the proposed endeavor or whether the proposed endeavor involves the Petitioner performing all of these positions either simultaneously or consecutively. Moreover, she did not clarify whether she intended to retain her current position as a staff nurse with her current employer. Overall, we have insufficient information concerning the proposed endeavor with which to determine whether it has national importance because the Petitioner's proposed endeavor has not been clearly defined. The Petitioner bears the burden to both affirmatively establish eligibility under the *Dhanasar* framework and establish her eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

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." *See 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" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

Although the Petitioner proposed several ideas for work within the field of nursing, the record remains unclear as to whether the Petitioner intends to work as a nurse for hospitals and clinical facilities, as a professor of nursing for a college or university, conduct research, or pursue a doctorate degree in education. We do not know if she intends to perform all the functions she describes or whether she will perform in only the first position she secures. As each of these proposed employment possibilities has the potential to produce a different impact, we conclude that the lack of specificity in the proposed

endeavor inhibits a proper examination of the endeavor's national importance. In addition, we have little clarity on which position, if any, she will obtain. Again, we held in *Dhanasar* that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." *Id.* at 889. While it may include one or more of the job ideas outlined above, for the reasons set forth below we conclude that the Petitioner has not provided a specific or consistent proposed endeavor activity such that we can determine its national importance.

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. To the extent that the Petitioner's proposed endeavor can be understood, we conclude that she has not substantiated how her specific work in the nursing industry will address a nursing shortage or positively impact the economy. Specifically, how one nurse will improve a national shortage or will trigger substantial positive economic impacts has not been explained. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.

Even assuming the Petitioner chooses to pursue her ideas concerning working as a nurse or her academic goals of teaching, which may affect others' careers in addition to her own, she has not provided sufficient information of how her services in these areas would rise to the level of national importance. While such endeavors may impact the individual students, patients or employers that the Petitioner works with, the national importance of this work has not been adequately explained or substantiated. Similarly, 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.

The Petitioner asserts that her proposed endeavor has national importance because the United States faces a significant national and potentially global nursing shortage. In addition, the Petitioner asserts that nurses and the field of nursing are extremely important to the economy, particularly in the aftermath of the COVID-19 pandemic, and that her proposed endeavor will offer substantial positive economic impacts. In support of both her assertions concerning nursing shortages and positive economic impacts, she offered numerous articles about the nursing industry, its economic implications, and the challenges faced by nurses, potential nursing students, and the health care industry. While these articles provide useful background information, they are of limited value in this matter, as the Petitioner's specific proposed endeavor is unclear. Furthermore, 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 also submitted copies of executive orders issued by the White House pertaining to initiatives to expand the health care workforce and address pandemic-related burnout. The Petitioner refers to a recommendation letter from [REDACTED] a professor at the [REDACTED] in New York, who refers to such initiatives and opines that the Petitioner's proposed endeavor aligns with those initiatives. Specifically, [REDACTED] states "[i]t should be emphasized that the [Petitioner's] contribution to the United States as a STEM (science, technology, engineering, and mathematics) professional, having graduated with a Degree in Nursing is aligned with this initiative and will positively affect professionals in the STEM field, as she will be committed to transferring her knowledge." [REDACTED] also stated that because nurses are often in charge of a patient's

day-to-day health and every aspect of healthcare services, the Petitioner's knowledge, training and expertise in the health care industry thus has national importance.

To further illustrate the potential impact of her proposed endeavor, the Petitioner pointed to her past employment experience and her qualifications as a nurse, nurse instructor, and researcher. We reviewed her statements and the letters of recommendation from her professional contacts, including [REDACTED]. While [REDACTED] concludes that the Petitioner's proposed endeavors in the field of nursing align with current White House initiatives to advance health care and thus are indicative of national importance, [REDACTED] does not articulate in detail how her specific proposed endeavor stands to broadly impact the field of nursing. Again, 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 authors of the recommendation letters, including [REDACTED] praise the Petitioner's abilities as a nursing professional, and the personal attributes that make her an asset to her employers, colleagues, patients, and students. While the authors express their high opinion of the Petitioner and her work and recommend her for future nursing and teaching 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." *Id.* at 890. The issue under the first prong is whether the Petitioner has demonstrated the national importance of her proposed work.

The Petitioner also claims that she intends to work in and serve some of the economically distressed communities in the New York City metropolitan area known as opportunity zones, and that such underprivileged areas are considered to be in "Historically Underutilized Zones" known as "HUBZones." Based on this assertion, the Petitioner asserts that her work will have positive impacts on economically depressed areas. While her assertions are acknowledged, the Petitioner provided insufficient evidence demonstrating that she will work in one of these areas in the future or that her proposed work would otherwise impact individuals in these areas. Moreover, the Director determined that she had not sufficiently supported her assertions that her work will otherwise impact the aging population in the United States or healthcare initiatives related to the COVID-19 pandemic. The Petitioner must support her assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

In determining whether an individual qualifies for a national interest waiver, we must rely on the specific proposed endeavor to determine whether it has both substantial merit and national importance. While the Petitioner's evidence suggests that her multiple ideas stand to positively impact her potential employers, patients, and students, she has not provided sufficient information and documentation articulating her specific proposed endeavor, and therefore we cannot conclude that the endeavor has national importance. The Petitioner, therefore, has not met the first prong of the *Dhanasar* precedent decision. Further analysis of her eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

### 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.