



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

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

In Re: 26956092

Date: JUL. 14, 2023

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. 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. Section 203(b)(2)(B)(i) of the Act. 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 record did not establish that the Petitioner's endeavor would have national importance or that on balance, it would benefit the United States to waive the job offer requirement in the exercise of discretion. 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.

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. 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. Section 203(b)(2) of the Act.

Neither the statute nor the pertinent regulations define the term "national interest." *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016) states that after EB-2 eligibility has been established, USCIS may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates that: (1) 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 benefit the United States to waive the requirements of a job offer and thus of a labor certification.

The Petitioner seeks to work as a nurse, healthcare manager, and nursing professor in the United States. The Director found that while the Petitioner qualifies as an advanced degree professional, her proposed

endeavor will not have national importance. On appeal, the Petitioner submits a brief contending that her endeavor will have national importance due to the importance of nursing as a profession and her skills in this area.

When determining whether a proposed endeavor will have national importance, the relevant question is not the importance of the industry or profession where a noncitizen will work, but the specific impact of that proposed endeavor. *Dhanasar*, 26 I&N Dec. at 889-90. An endeavor may have national importance if it has national or global implications within a particular field or if it has significant potential to employ U.S. workers or have other substantial economic effects, particularly in an economically depressed area. *Id.* at 890-91. For the reasons explained below, the Petitioner has not established that her endeavor would have an impact rising to the level of national importance.

In her petition and on appeal, the Petitioner states that her endeavor will be to work as a nurse, healthcare manager, and professor of nursing, and submits lists of the duties and responsibilities of these occupations. Her appeal brief states, among other lines of work, that she will be employed “in healthcare institutions” in obstetrics, neonatology, pediatrics, medical clinics, surgical clinics, intensive care, emergency care, and oncology. It further states that she will audit medical records, manage finances and supplies for health institutions, and assist in unspecified hospital accreditation processes, as well as work as a professor of obstetrics, intensive care, neonatology, pediatrics, and medical and surgical clinical practice. However, she provides no specific information about how she will divide her time between her various proposed occupations or where she will work, beyond stating that it will be in healthcare settings. This does not provide a sufficient basis to evaluate the specific endeavor’s potential national importance. *See generally* 6 *USCIS Policy Manual* F.5(D)(1), <https://www.uscis.gov/policymanual> (“The term ‘endeavor’ is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. For example, while engineering is an occupation, the explanation of the proposed endeavor should describe the specific projects and goals, or the areas of engineering in which the person will work, rather than simply listing the duties and responsibilities of an engineer.”).

We acknowledge the materials provided by the Petitioner about the benefits she would provide to her potential employers and patients as a nurse. However, while nursing is an endeavor of substantial merit, that does not mean that all nursing positions are therefore endeavors with national importance. In *Dhanasar*, the petitioner’s work as a science teacher was found to have substantial merit but did not establish national importance because the evidence did not show how that work would impact the field of science education more broadly. *Dhanasar*, 26 I&N Dec. at 893. While the Petitioner quotes various statistics about the general importance of her profession, she does not specify how her endeavor will impact that profession in a nationally important way.

The Petitioner emphasizes the shortage of nurses in the United States, but it is not apparent from the evidence provided how the Petitioner’s employment as a nurse would, in and of itself, resolve this shortage or impact it on a national level.¹ For example, the Petitioner states that Massachusetts has a

¹ The Department of Labor (DOL) has addressed the shortage of nurses by designating professional nursing as a Schedule A occupation, indicating that there are insufficient U.S. workers able, willing, qualified, and available for professional

shortage of 5,000 nurses but does not specify how, as one nurse, she would impact this shortage on a level rising to national importance. The Petitioner has not submitted sufficient evidence to demonstrate how her proposed endeavor's impact would extend beyond her employer and patients to the field of nursing or the nation as a whole. Similar concerns apply to the Petitioner's contention that her work as a professor of nursing will help increase enrollment in nursing schools since that enrollment is limited by lack of qualified faculty.

Finally, while we acknowledge the statistics the Petitioner provided about the economic benefits of healthcare and nursing as a profession, she has not demonstrated that the specific endeavor she proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation as contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner's proposed endeavor does not meet the first prong of the *Dhanasar* framework.

The Petitioner's descriptions of her endeavor and its importance emphasize her years of professional experience, as well as her skills, training and accomplishments. However, these factors speak to the second prong of the *Dhanasar* test, which is concerned with the Petitioner's ability to advance the proposed endeavor. The Petitioner's abilities as a nurse do not establish that her endeavor's impact would rise to the level of national importance.

Because the Petitioner has not established her eligibility under the first prong of the *Dhanasar* test, we need not address her eligibility under the second² and third prongs, and we hereby reserve these issues. *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). The Petitioner has not established that she should be granted a waiver of the job offer requirement in the exercise of discretion. The petition will remain denied.

ORDER: The appeal is dismissed.

nursing positions. 20 C.F.R. §§ 656.5, 656.15. *See generally* 6 *USCIS Policy Manual*, *supra* at E.7(C). This exempts U.S. employers of noncitizen nurses from having to test the labor market and apply to DOL for a permanent labor certification. 20 C.F.R. § 656.15. However, this is not a waiver of the job offer requirement, and as such does not support a finding that working as a nurse inherently has national importance in the context of a national interest waiver petition.

² We note that the Petitioner has not provided any evidence that she is licensed to practice nursing in the United States. If a nursing license is required to practice her proposed endeavor, the licensure is relevant under prong two of the *Dhanasar* analysis and the Petitioner should present evidence of her nursing license in any future filing.