U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43791282

Date: AUG. 28, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a nurse, seeks employment-based second preference (EB-2) 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 classification.[1] *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

USCIS 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 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 qualify for the underlying EB-2 visa classification, a petitioner must establish she is an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

If a petitioner establishes eligibility for the underlying EB-2 classification, she must then demonstrate that she merits 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 the framework for adjudicating national interest waiver petitions. *Dhanasar* states that USCIS may, as matter of discretion,[2] grant a national interest waiver if the petitioner demonstrates that:

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[1] While the Petitioner did not initially claim eligibility for EB-2 classification as an alien of exceptional ability, USCIS' request for evidence (RFE) stated that she met "three of the six criteria" for exceptional ability classification set forth at 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).

[2] *See Flores v. Garland*, 72 F.4th 85, 88 (5th Cir. 2023) (joining the Third, Ninth, Eleventh, and D.C. Circuit Courts of Appeals in concluding that USCIS' decision to grant or deny a national interest waiver is 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 job offer requirement would benefit the United States.

Id.

II. ANALYSIS

A. EB-2 Classification

USCIS' decision stated that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree.[3] In addition, USCIS' RFE concluded that she also qualified for EB-2 classification as an alien of exceptional ability without performing a proper final merits analysis.[4] Based on the record, we are not persuaded that the Petitioner has met either threshold requirement.[5] However, as the record does not establish by a preponderance of the evidence that the Petitioner is eligible for a national interest waiver under the *Dhanasar* analytical framework, which is dispositive of this appeal, we will reserve the issue of the Petitioner's eligibility for the EB-2 classification. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

B. National Interest Waiver

In denying the petition, USCIS determined that the Petitioner had not satisfied any of the three prongs set forth in the *Dhanasar* analytical framework.

At the time of filing, the Petitioner indicated on her Form ETA-9089, Appendix A: Foreign Worker Information, that she was working as a nurse for '[redacted]

[3] The Petitioner received a Bachelor's degree in Nursing from [redacted] (2006) and she has demonstrated more than five years of progressive post-baccalaureate experience in her specialty.

[4] For exceptional ability classification, a petitioner must initially submit documentation she satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F). Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that she is recognized as having the requisite degree of expertise and will substantially benefit the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.

[5] For example, regarding her eligibility for classification as a member of the professions holding an advanced degree, in parts 5 and 6 of the Form I-140, under "Additional Information About the Petitioner" and "Basic Information About the Proposed Employment," the Petitioner listed both her "Occupation" and "Job Title" as "Nurse." In addition to having an advanced degree, the Petitioner must show that her occupation qualifies as a profession. "Profession" is defined as of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. 8 C.F.R. § 204.5(k)(2). Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act. Here, the Petitioner's occupation is not listed in section 101(a)(32) of the Act, nor has she shown that a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into her occupation. Accordingly, she has not demonstrated that she qualifies as a member of the professions pursuant to section 203(b)(2) of the Act.

[redacted] Brazil. With respect to her proposed endeavor, the Petitioner stated:

> As indicated in the enclosed Professional Plan, [the Petitioner] proposes the project entitled "Implement the Nurse-Led Clinical Safety Auditing Model" in hospitals across the United States. The primary purpose of this proposal is to establish a sustainable and proactive system for improving patient safety and clinical quality by implementing nurse-led clinical audits. These audits will directly impact hospital safety, reduce adverse events, and improve operational efficiencies. The model will initially be implemented through partnerships with existing healthcare institutions, with the goal of improving patient safety across a broad range of hospital settings.

The Petitioner's "Professional Plan" indicated that the objectives of her project include establishing preventive clinical auditing to reduce adverse events, training nurses as leaders in safety and quality of care, standardizing indicators and monitoring real-time performance, and promoting a culture of institutional safety and continuous improvement. While the Petitioner asserts that her nursing-led clinical safety auditing model "will initially be implemented through partnerships with existing healthcare institutions," she does not identify any such U.S. institutions with which she has partnered. Unsupported assertions and speculation have no evidentiary value and are insufficient to establish a filing party has satisfied their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 673 (BIA 2022).

In response to USCIS' RFE, the Petitioner provided a supplement to her professional plan further elaborating on her proposed endeavor:

> In the role of Nurse, [the Petitioner] will perform standard care duties and provide high-level services to healthcare institutions in the United States, focusing on the strategic implementation of a proprietary methodology: the "Nursing-Led Clinical Safety Auditing Model." Although her employment falls under the occupational title of nurse, her function transcends basic care routines, characterized by the application of a replicable clinical governance framework derived from 16 years of high-complexity experience in Brazil and specifically designed to address the United States' challenge of preventable adverse events and inconsistent compliance with federal patient-safety standards.
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> Specifically, [the Petitioner] will benefit the U.S. healthcare system by impacting the fields of patient safety and advanced nursing practice through the implementation of a clinical auditing system that bridges the gap between theoretical protocols and bedside reality. Her project aims to empower the nursing workforce as active surveillance agents, utilizing her certified technical expertise validated through formal training, crisis-driven experience during COVID-19, and the demonstrable applicability of her tools in high-demand settings, positions her to deliver a national-impact project that transcends routine nursing care, offering a scalable solution capable of elevating safety, regulatory compliance, and clinical reliability across U.S. healthcare institutions. Her

> contributions will result in the establishment of preventive clinical audits to reduce adverse events, the technical training of teams to lead care quality initiatives, and the standardization of real-time performance indicators for compliance with regulatory agencies.
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> By structuring her model for implementation across hospitals, emergency units, and intensive-care settings, and aligning its auditing components with federal patient-safety benchmarks, [the Petitioner's] endeavor demonstrates scalability, replicability, and capacity for dissemination across multi-state healthcare networks, addressing national concerns . . . .

As discussed below, we conclude the Petitioner has not established eligibility for a national interest waiver under the analytical framework set forth in *Dhanasar*.

1. Substantial Merit and National Importance of the Proposed Endeavor

The first *Dhanasar* prong, substantial merit and national importance, focuses on the specific endeavor that the individual proposes to undertake. *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. *Id.* We agree with USCIS' determination that the Petitioner's proposed endeavor has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Id.* at 889. This consideration may include whether the proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance. *Id.* at 889-90. USCIS determined the Petitioner did not establish the potential prospective impact of her proposed work.[6]

On appeal, the Petitioner argues that her proposed endeavor is "centered on clinical safety auditing, quality management, real-time detection of care risks, implementation of evidence-based protocols, training of frontline nursing personnel in safety governance, and development of standardized clinical performance indicators." She asserts that her undertaking is "not limited to direct patient care but extended to reducing adverse events, improving operational efficiency, standardizing safety practices, promoting data-driven governance, and strengthening institutional safety culture within healthcare settings" and therefore her proposed work has national importance.

In addition to her professional plan and its supplement, the Petitioner provided letters of support from A-K-O-R-, M-P-M-R-, L-F-S-, D-F-C-N-, K-G-S-A-, Dr. M-I-R-, Dr. S-M-R-, K-C-D-A-, E-L-S-, and T-C-V-C- who mainly discuss her nursing skills and experience as well as her capabilities as a

[6] USCIS' decision concluded that the Petitioner had not shown that the implications of her endeavor "would be to the extent that the proposed work holds national importance." It also stated that she had not demonstrated that her proposed endeavor stands to have national or global implications in her field, to offer significant potential to employ U.S. workers, to provide substantial positive economic effects, to broadly enhance societal welfare, or to impact a matter that a government entity has described as having national importance or is the subject of national initiatives.

patient safety trainer at [redacted]. The Petitioner's skills, knowledge, and prior work in her field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that she proposes to undertake has national importance under *Dhanasar's* first prong.

Regarding the Petitioner's proposed endeavor's prospective impact, Dr. S-M-R-, a surgeon and Coordinator of the Orthopedic Service at [redacted] asserted that the Petitioner's proposed work to implement a nursing-led clinical safety audit model "is a project with high potential impact on U.S. healthcare systems, as it proposes structured actions to reduce adverse events, train nurses as leaders in quality of care, standardize clinical indicators, and promote an institutional culture of safety." He further indicated that "[t]hese objectives are extremely relevant in any modern hospital system, especially in the current context, which demands sustainable, replicable solutions focused on risk prevention" and that the Petitioner stands "to contribute directly to the advancement of nursing practice and hospital safety in the United States."

In addition, T-C-V-C-, a nurse who served with the Petitioner at [redacted] stated that the Petitioner's proposed work "presents potential for replication across different institutional contexts and concrete contribution to national initiatives aimed at improving quality of care and patient safety, with economic implications related to the sustainability of healthcare systems." T-C-V-C- also asserted that the Petitioner's undertaking "is expected to contribute to the strengthening of hospital quality policies and to integration with federal initiatives related to patient safety, service organization, and standardization of care practices."

The Petitioner states on appeal the letters of support explain that her proposed "endeavor would operate through replicable auditing routines, standardized compliance tools, workforce qualification, and monitoring systems intended to improve institutional reliability and patient safety beyond a single instance of direct care." She asserts that her "safety and governance work could be carried out in the United States with broader institutional implications." While the Petitioner's proposed endeavor is aimed at implementing a nursing-led clinical safety auditing model, she has not provided evidence demonstrating that her proposed work would affect the nursing field or healthcare networks at a level indicative of national importance. It is insufficient to claim an endeavor has national importance or would create a broad impact without providing evidence to substantiate such claims. The letters from A-K-O-R-, M-P-M-R-, L-F-S-, D-F-C-N-, K-G-S-A-, Dr. M-I-R-, Dr. S-M-R-, K-C-D-A-, E-L-S-, and T-C-V-C- do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Petitioner's specific proposed work offers broader implications in the nursing field or the healthcare industry or substantial positive economic effects for our nation that rise to the level of national importance.

Furthermore, the Petitioner presented an "Expert Opinion Letter" from Dr. J-L-F-, a physician and a professor at the [redacted], in support of her national interest waiver. Dr. J-L-F- asserted that the Petitioner's proposed endeavor offers broader global implications in hospital safety and advanced nursing practice, has significant potential to employ U.S. workers in Texas, will attract investment and promote economic growth, provides public health and safety improvements, offers education contributions and community benefits, and aligns with federal healthcare initiatives. The Petitioner,

[7] While we discuss a sampling of these letters, we have reviewed and considered each one.

however, has not shown that her specific proposed work stands to affect hospital care and nursing practices in meaningful ways, or to otherwise offer broader implications in her field or substantial positive economic effects at a level indicative of national importance. While Dr. J-L-F-'s advisory opinion cites to publicly available information from sources such as the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, the World Health Organization, and the American Hospital Association to establish the importance of her endeavor, his letter does not demonstrate how the Petitioner's day-to-day nursing work and her proposed nursing-led clinical safety auditing model rise to a level of 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. While the Petitioner's statements reflect her intention to implement a nursing-led clinical safety auditing model, she has not offered sufficient information and evidence to demonstrate that the prospective impact of her proposed endeavor rises to the level of national importance. 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. Here, we conclude the Petitioner has not shown that her specific proposed endeavor stands to sufficiently extend beyond the hospital where she will work and her nursing projects to impact her field, U.S. public health, federal healthcare initiatives, societal welfare, or our nation's economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner 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. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not show that benefits to the regional or national economy resulting from the Petitioner's nursing-led clinical safety auditing model would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

The Petitioner has not established that her proposed endeavor has significant potential to employ U.S. workers (particularly in an economically depressed area), has other substantial positive economic effects, has national or even global implications within the field, or has other broader implications indicating national importance.

2. The Remaining *Dhanasar* Prongs

Because the documentation in the record does not establish the national importance of her proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated her eligibility for a national interest waiver. As this issue is dispositive of the Petitioner's appeal, we need not reach, and therefore reserve, determination of her eligibility under the second and third prongs of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. at 25.

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.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.