



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

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

In Re: 30041056

Date: NOV. 21, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a dentist, 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 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 Texas 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.

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. If a petitioner demonstrates eligibility for the underlying EB-2 classification, 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 discretion¹, grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;

¹ *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 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 found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined 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. For the reasons discussed below, we conclude that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

With respect to her proposed endeavor, the Petitioner initially indicated that she intends to continue using her “abilities as a dental surgeon to help meet the demand and ameliorate the shortage of dental health professionals in the country, provide highly skilled services to esteemed dental practices, provide educational lectures to empower other professionals in the field, and improve the oral and overall health of U.S. citizens.” She further claimed that her “proposed endeavor is to work in general practice, clinical care, and advanced oral surgery.”

In response to the Director’s request for evidence, the Petitioner asserted that her proposed endeavor involves practicing “advanced oral surgery, general practice, and oral aesthetic surgery.” She further stated:

I will use my solid knowledge in advanced oral surgery, facial bichectomy-lipectomy, dentistry, periodontics, and pediatric dentistry, diagnosing problems in the regions of the dental arches and performing surgeries to improve function or oral appearance.

My solid knowledge of information and techniques will be the differential to diagnose and treat injuries, diseases, and oral deformities, including symptoms, treatment alternatives, drug properties, interactions, and preventative health measures.

Since I have extensive experience in orofacial diagnostics and know the necessary information and techniques, I will diagnose and treat injuries, diseases, and deformities related to oral health.

Furthermore, I will use my skills in conducting procedures such as tooth extractions, gum plastics, bichectomy (facial lipectomy), and impacted and erupted wisdom tooth extraction with open and closed techniques I will use gingival plastic techniques with and without function. Also, I will do scaling and root planning with open and closed procedures and guide professional colleagues on how to proceed with surgeries. I will remove teeth from the hard palate and pull off adjacent tissues in the jaw region.

Also, I will employ my knowledge of the information and techniques necessary to diagnose and treat human injuries, illnesses, and deformities, which includes symptoms, treatment alternatives, drug properties and interactions, and preventative health measures.

The record includes letters of support from K-V-M-A-, F-A-F-O-, M-F-S-, R-A-, and V-T-S-S- discussing the Petitioner's dentistry capabilities and experience. The Petitioner's skills, knowledge, and prior work in her field, however, 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.

In the decision denying the petition, the Director determined that the Petitioner had established her proposed endeavor's substantial merit, but not its national importance. The Director stated that the Petitioner had not demonstrated that her undertaking stands to have broader implications in the field, significant potential to employ U.S. workers, or other substantial positive economic effects.

In her appeal brief, the Petitioner contends that her "proposed endeavor's broader implications . . . rest on the fact that [the Petitioner] is an expert in advanced oral surgery and is able to guide other professionals in surgical procedures," but she has not shown that her proposed instructional work offers broader implications for her field, as opposed to being limited to those individuals who receive her oral surgery guidance. While the Petitioner's plan to guide other dentistry professionals has substantial merit, she has not demonstrated that her instructional activities offer benefits that extend beyond her trainees to impact the fields of dentistry or oral surgery more broadly. Likewise, 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 also asserts that her proposed endeavor has broader implications because "oral health plays a vital role in the physical, mental, social, and economic well-being of individuals and populations." She explains that her work saves lives through treating "severe oral and gum diseases and masticatory disorders, such as oral cancer." In addition, the Petitioner argues that her undertaking stands "to aid the U.S. population to regain well-being and self-esteem, so they are confident and prepared to fully devote themselves to their education and/or employment."

Furthermore, the Petitioner claims that her proposed work involving oral health contributes to government initiatives such as Healthy People 2030 and InsureKidsNow.gov. While the information about these initiatives helps show the substantial merit of her proposed endeavor, it is not sufficient to demonstrate her undertaking's national importance. In determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead we focus on the "the specific endeavor that the foreign national proposes to undertake." *See 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 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.

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 proposed dental, oral surgery, and instructional duties have substantial merit, 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 proposed dentistry work stands to sufficiently extend beyond her future patients and professional trainees to impact the dentistry field, U.S. public health, societal welfare, or our country’s economy more broadly at a level commensurate with national importance.

Furthermore, while the Petitioner contends on appeal that her proposed endeavor stands to “raise the standard of living,” create “a healthy economy,” help U.S. businesses, “create job opportunities,” and reduce the “talent shortage” in her field, she has not demonstrated that her proposed work has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.² Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to her future work, the record does not indicate that the benefits to the regional or national economy resulting from the Petitioner’s undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

For the aforementioned reasons, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework. 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 eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner’s appeal, we decline to reach and hereby reserve the appellate arguments regarding her eligibility under the second and third prongs outlined in *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

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 reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

² Regarding the Petitioner’s “talent shortage” claim, we are not persuaded by the argument that her proposed endeavor has national importance due to the shortage of professionals in her field. Here, the Petitioner has not established that her proposed endeavor stands to impact or significantly reduce the claimed national shortage. Further, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process.