



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

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

In Re: 27970841

Date: OCT. 02, 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 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 although the Petitioner established her eligibility for EB-2 classification as a member of the professions holding an advanced degree, she did not demonstrate 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, under section 203(b)(2) 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. 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 that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,¹ grant a national interest waiver if the petitioner shows:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and

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).

- On balance, waiving the job offer requirement would benefit the United States.²

II. ANALYSIS

The Director determined that the Petitioner qualifies as a member of the professions holding an advanced degree. Therefore, the sole issue to be addressed is whether the Petitioner has established that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. In denying the petition, the Director addressed all three prongs of the *Dhanasar* analytical framework, and concluded that the Petitioner did not demonstrate that she meets the first and third prongs.

On appeal, the Petitioner maintains that the evidence was sufficient to demonstrate that she meets all three prongs under the *Dhanasar* framework and otherwise warrants a national interest waiver as a matter of discretion. For the reasons discussed below, we agree with the Director's conclusion that the Petitioner has not sufficiently demonstrated the national importance of her proposed endeavor under the first prong of the *Dhanasar* analytical framework.

A. The Proposed Endeavor

The Petitioner provides that she worked as a dentist and dental surgeon in Brazil between 1985 and May 2021. On Part 6 of the petition, the Petitioner indicates her intended occupation as "Dentists, General," and provided a job description and Standard Occupational Classification Code corresponding to that profession.

In her business plan and statement submitted at the time of filing, and her updated professional plan submitted in response to the RFE, the Petitioner indicated she intends to open her own dental clinic or network of clinics, [REDACTED] Florida, where she "will offer affordable dental treatment and prevention services to children, adolescents, and adults from areas and populations that lack dental care." She noted that her proposed endeavor would start in Florida, and by its fifth year "will open clinics in the States of California and New York, generating significant benefits to the country," with each clinic creating direct and indirect jobs.

Her business plan included industry and market analyses, business strategies, financial forecasts and projections, and a description of the company's proposed service offerings and personnel. With respect to future staffing, the plan projects that the Petitioner's dental business would hire 89 employees in the first five years of operations, generating \$3,681,100 in tax revenue and achieving over \$675,000 in net income by its fifth year.

The Petitioner did not claim or provide evidence that she is licensed to practice dentistry in the United States but stated her intention to "take all the necessary steps to be able to work in the field of Dentistry," such as completing an advanced standing program for internationally trained dentists leading to a dental degree, and passing the applicable state licensing examination/s. The Petitioner did not provide a timeline for licensure in her chosen specialty.

² See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

B. Substantial Merit and National Importance

To satisfy the first prong under the *Dhanasar* analytical framework, the Petitioner must demonstrate that her proposed endeavor has both substantial merit and national importance. This prong of the *Dhanasar* framework 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. The record supports the Director's determination that the Petitioner's proposed endeavor, which aims to improve the oral health of U.S. patients, has substantial merit.

In determining whether the proposed endeavor has national importance, we consider its potential prospective impact. *Dhanasar*, 26 I&N Dec. at 889. Before the Director and on appeal, the Petitioner provided published articles from professional, industry, and government publications in support of her claim that she can satisfy the first prong of the *Dhanasar* analytical framework. The articles address the lack of affordable dental care in the United States, nationwide and regional labor shortages in the dental health profession, inequalities in the availability of dental care across different demographic populations, and serious health outcomes that can be linked to a lack of adequate dental care.

This evidence provides support for the Petitioner's claim that her proposed work has substantial merit. However, in evaluating 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." 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.*

While the Petitioner's statements reflect her intention to provide dental services to her clients, 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 endeavor stands to sufficiently extend beyond her own proposed practice and its patients to impact the oral health field or the U.S. economy more broadly at a level commensurate with national importance.

Based on her business plan and updated professional plan, the Petitioner has not shown how the dental services she intends to provide to her clients would have broader implications in the dental field. The Petitioner emphasized that her clinic "will provide oral health services and treatments to patients in underserved areas" and its "professionals will be committed to performing social dentistry and oral disease prevention services on American citizens, promoting better working conditions, oral health, and overall wellness." She maintains that the endeavor will impact both the U.S. economy as well as other national and social interests by promoting oral healthcare across underserved regions for socially underserved people, and will help to alleviate a lack of affordable dental care.

The record supports a determination that oral health is important to the overall health of the population and that the United States has many underserved communities that lack access to adequate dental care.

However, the record does not establish that the work of one dentist or dental surgeon would have a nationally significant impact in this field. The record contains statistics intended to show that there is a shortage of dentists in the United States, but this shortage is likewise insufficient to demonstrate the national importance of any clinic or clinics that the Petitioner may eventually establish, pending completion of her future studies and licensure.

A shortage of qualified professionals alone does not render the work of an individual dentist nationally important under the *Dhanasar* precedent decision. Several of the Petitioner's claims of national importance could reasonably apply to any dental practice, but Congress did not provide a blanket exemption for dentists with respect to the job offer and labor certification requirement.³ Foreign dentists are typically subject to this requirement and therefore the intrinsic benefits of operating a clinic are not presumptive grounds for waiving that requirement.

The Petitioner further claims that her clinic or clinics will have substantial positive economic effects. We stated in *Dhanasar* 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. The job creation and revenue projections included in the Petitioner's business plan are not supported by details showing their basis or an explanation of how those projections will be realized.

Even if the Petitioner had established a sufficient basis for these projections, they would not establish the national importance of the proposed endeavor. While the projected income statement indicates that the Petitioner's dental business has growth potential, it does not demonstrate that the benefits to the regional or national economy resulting from her undertaking would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890. In addition, the Petitioner has not offered sufficient evidence identifying that the area where her company will operate is economically depressed; that her company would employ a significant population of workers in that area; or that her endeavor would offer the region or its population a substantial economic benefit through employment levels or business activity.

Without this information, she has not adequately supported her claims regarding direct and indirect job creation and the expected direct and indirect economic benefits of operating one or more dental clinics. As such, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's proposed endeavor would reach the level of “substantial positive economic effects” as contemplated by *Dhanasar*.

Further, the Petitioner has emphasized the importance of her industry or profession, her long career as a dental surgeon in Brazil, and her expected leadership role in her own future practice; however, these factors do not sufficiently establish the national importance of the proposed endeavor. Although the Petitioner's professional qualifications and prior employment are important and are documented in the record, the Petitioner's expertise acquired through her education, training, and employment relates to the second prong of the *Dhanasar* framework, which “shifts the focus from the proposed endeavor to

³ The U.S. Department of Labor addresses shortages of qualified workers through the labor certification process. A determination as to whether the benefits inherent in the labor certification process are outweighed by other favorable factors relates to the balancing analysis set forth under the third prong of the *Dhanasar* analytical framework.

the foreign national.” *Id.* The issue here is whether the specific endeavor the Petitioner proposes to undertake has national importance under *Dhanasar*’s first prong.

Finally, we acknowledge that the Petitioner provided an expert opinion letter from an associate professor at the University [redacted] School of Dental Medicine. In offering her expert opinion regarding the national importance aspect of the Petitioner’s proposed endeavor, the professor provides that the Petitioner’s business will “improve oral health aesthetically and functionally,” and that many organizations recognize the importance of oral health. She states that according to the U.S. Bureau of Labor Statistics, the overall employment of dentists is projected grow 3 percent from 2019 to 2029. In addition, according to Dentistrytoday.com 10,716 more practitioners are needed to fill dental health care professional shortages in the country. The professor concludes that the proposed endeavor has “potential positive impact on the United States” and “[the Petitioner’s] experiences have national merit.”

The input of any professionals in the relevant field or industry is respected and valuable in assessing a claim of a national interest waiver. However, the expert opinion letter does not sufficiently demonstrate that the Petitioner’s proposed endeavor has significant potential to employ U.S. workers or otherwise offers “substantial positive economic effects” for our nation contemplated by *Dhanasar*. *Id.* at 890. For example, the professor has not offered sufficient evidence that the Petitioner’s dental services through her company would employ a significant population of workers in an economically depressed area, or that her endeavor would offer a particular U.S. region or its population a substantial economic benefit through employment levels or business activity. Further, although the professor indicates that there are shortages of dental health care professionals which the Petitioner’s company will address, she has not suggested that the Petitioner’s proposed endeavor would lessen the demand for dentists on a scale rising to the level of national importance.

For the reasons discussed, the Petitioner has not demonstrated that her proposed endeavor would be of national importance, and she therefore does not meet the requirements of the first prong of the *Dhanasar* analytical framework. The Director also concluded that the Petitioner met the requirements of the second *Dhanasar* prong but did not establish that she is eligible under the third *Dhanasar* prong. However, a discussion of the remaining prongs cannot change the outcome of this appeal. Therefore, we reserve those issues and will dismiss the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions 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

Because the Petitioner has not met the required first prong of the *Dhanasar* analytical framework, we conclude that she has not established eligibility for a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.