

Stopping Immigration Services Scams

A Tool for Advocates and Lawmakers



AMERICAN UNIVERSITY
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WASHINGTON
COLLEGE OF LAW



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.

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EXECUTIVE SUMMARY

Many immigrants seek the assistance of professionals to help them navigate the complex U.S. immigration legal system. Unfortunately, some immigrants have fallen prey to unauthorized practitioners of immigration law, sometimes known as *notarios* or *notarios públicos*, who have created a public safety crisis in many communities. Typically these people have little or no training in immigration law and procedures and often charge exorbitant fees for unnecessary or substandard work, refuse to return documents to clients and threaten to report their clients' immigration status to authorities. Some states allow non-attorneys, often referred to as immigration consultants or immigration service providers, to offer limited services such as filling out forms and translating documents. However, like *notarios*, they lack the legal training and skills to provide quality services to the public. Their actions can cause immigrants to spend thousands of dollars, lose potential opportunities for immigration benefits or even be deported.

The U.S. Department of Justice grants licenses to specially trained non-attorneys, known as accredited representatives, who work for nonprofit organizations to provide immigration legal services to low income clients. However, the regulation of the legal profession and local business that provide non-legal services to consumers mainly rests on the states. Although some states have enacted laws to protect immigrants from deceptive business practices by regulating non-legal immigration services, others have failed to address the problem. All 50 states have consumer protection laws against deceptive and predatory business practices. However, most state laws do not apply to transactions involving immigration services.¹ Prohibiting non-attorney immigration services (other than those allowed by federal law) would help strengthen protections for consumers so that they can more easily identify qualified professionals. It would also set high standards for providers and would preserve the ethics and integrity of the legal profession. This report will help policymakers and advocates at the state and local levels who wish to create or further strengthen laws to combat the unauthorized practice of immigration law.

KEY RECOMMENDATIONS

1

States should enact legislation targeting the unauthorized practice of immigration law to protect vulnerable immigrants, who are often deceived into paying for incompetent, unnecessary and harmful services.

2

States should enact criminal penalties, civil penalties and injunctive relief for violations of laws regulating immigration services, and should provide that these laws can be enforced by state officials and allow victims to sue perpetrators in private action.

3

States should limit immigration services to only attorneys and Department of Justice accredited representatives, and repeal laws that allow immigration consultants to offer assistance on these matters.

4

States should prohibit notaries from using the terms *notario* and *notario publico*, unless they are licensed attorneys, and require them to use the term “notary public” when advertising their services.

5

States should adopt more comprehensive laws to address the misuse of the term “notary public” in languages other than English.

6

States should mandate that unauthorized immigration services providers such as notaries state on their signs and advertisements that the service provider is not an attorney and cannot provide legal advice.

INTRODUCTION

United States Citizenship and Immigration Services receives approximately 6 million applications annually from individuals and businesses seeking an immigration benefit, humanitarian relief or naturalization.² Many people will seek the help of a lawyer or an expert who can assist them in determining eligibility, filling out their immigration application forms, translating documents, gathering evidence and representing them before an immigration judge.³

Unfortunately, immigrants are at risk of being defrauded by unscrupulous people who falsely claim to have influence with immigration authorities, who mislead their clients into believing they are lawyers or who charge them for worthless services.⁴ Their unlawful actions: cost immigrants thousands of dollars; cause many to fall out of legal status or miss opportunities to obtain a visa; and place people at risk for deportation. For example, a man who is not an attorney or accredited representative, defrauded an immigrant couple in Maryland. The couple paid him \$2,000 to help them apply for their green cards. The man filed the petition, and it was later determined that the couple was not eligible. Because of his actions, the couple lost \$2,000 and could be exposed to potential legal consequences, including deportation.⁵ In New York, consumers paid thousands of dollars to hire another man to help them file their immigration applications. The man, who advertised himself to the public as someone with more than 30 years of experience, improperly filed petitions. In some cases, he filed nothing at all and refused to refund victims their money. He was later caught and ordered to serve six months in jail and pay more than \$34,000 in restitution.⁶

Immigrants often fall prey to immigration services fraud because they have difficulty communicating in English or have difficulty identifying qualified providers due to cultural assumptions. However, immigrants are not the only victims of such fraud. U.S. citizens and lawful permanent residents who are seeking assistance with sponsoring family members are also vulnerable, because they too may be unfamiliar with U.S. immigration procedures. Many hesitate to report fraud out of fear of jeopardizing their relatives' immigration status.⁷

The Catholic Legal Immigration Network, Inc. conducted a nationwide survey (UPIL survey) of more than 100 immigration practitioners to gather information on the types of immigration services scams their clients are exposed to and how effective their state laws are in combating such scams. Nearly 70 percent of the survey respondents said that either they or others in their organization had provided services to a victim of immigration fraud. Respondents reported the common types of scams are: accepting payment but not performing services; applying for an immigration benefit for which the client was not eligible; misrepresenting oneself as an attorney or someone authorized to provide the immigration services; and using the wrong forms to apply for benefits. More than 40 percent said that the victims did not report the incidents to authorities because they feared that doing so would jeopardize their immigration status or because they did not know they could report such fraud. Forty-eight percent of survey respondents said that they were unaware of any efforts by state or local authorities to prosecute perpetrators of such fraud.

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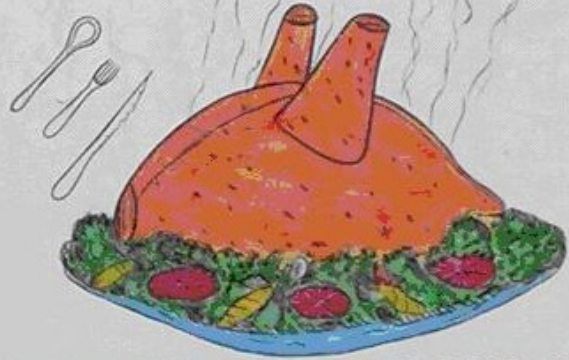
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These types of fraud—referred to throughout this report as the unauthorized practice of immigration law, or UPIL—can be prevented through state legislation and federal programs regulating immigration services, establishing penalties for those who violate these laws and providing incentives for immigrants to report fraud.

Recognizing there are not enough attorneys to provide quality services to low-income immigrants nationwide, the U.S. Department of Justice created the Recognition and Accreditation Program, or R&A, to regulate non-lawyers who wish to represent immigrants before the Department of Homeland Security, the Executive Office for Immigration Review and the Board of Immigration Appeals, or BIA.⁸ The BIA initially had authority to recognize organizations and approve accreditation for individuals to provide legal services to immigrants. However, on Jan. 18, 2017, that authority transferred to the Department of Justice, Office of Legal Access Programs, with the revised rule to govern the program.⁹ Under this recently strengthened R&A rule, non-profit organizations that wish to provide immigration legal services must apply for recognition of their organization and accreditation of their non-attorney representatives.¹⁰ To qualify as an accredited representative, an applicant must: work or volunteer on behalf of the recognized organization that provides immigration legal services to low-income and indigent clients; have broad knowledge and adequate experience in immigration law and procedure; and prove fitness and good character. As proof of knowledge and experience, the organization must provide documentation of the applicant's formal training on immigration law, procedure and practice.¹¹ Accredited representatives who engage in criminal, unethical or unprofessional conduct may be disciplined through suspension and other penalties.¹²

Some states have also enacted legislation to address UPIL. As explained in this report, 34 states and the District of Columbia have such laws, but these states differ in their approach. Some states' laws are more comprehensive than others. This report analyzes key components of states' UPIL laws and concludes with a series of recommendations to improve and strengthen existing state laws, while calling for the 16 states that have yet to enact such legislation to do so.

I. ANALYSIS OF STATE LAWS REGULATING THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

All 50 states and the District of Columbia have general unauthorized practice of law statutes that can penalize non-lawyers who offer legal services, or who falsely portray themselves as lawyers. In addition, 34 states and the District of Columbia have laws that address fraud by those offering assistance in immigration proceedings, including non-legal services such as translating and gathering documents.¹³

A. STATES THAT EXPLICITLY ADDRESS THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

The District of Columbia and the following 34 states have laws explicitly prohibiting UPIL: Arizona; Arkansas; California; Colorado; Connecticut; Georgia; Illinois; Indiana; Iowa; Kansas; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Montana; Nebraska; New Jersey; New Mexico; New York; North Carolina; North Dakota; Oklahoma; Oregon; Pennsylvania; South Carolina; Tennessee; Texas; Utah; Virginia; Washington; West Virginia and Wisconsin. Results from the UPIL survey showed that nearly half of the immigration practitioners who responded are uncertain about whether their state regulates non-attorneys who provide immigration services.

Some of these states address the issue by regulating the types of services that may be provided by a non-attorney who is not DOJ accredited. They prohibit deceptive practices that might lead immigrants to pay high fees for incompetent or unnecessary work.

For example, California provides that:

It is unlawful for any person, for compensation, other than persons authorized to practice law or authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services, to engage in the business or act in the capacity of an immigration consultant within this state except as provided by this chapter.

Cal. Bus. & Prof. Code § 22440.

The California statute defines “immigration consultant” as a person who “gives non-legal assistance or advice on an immigration matter,” such as filing forms, translating documents and making referrals to other lawyers. Cal. Bus. & Prof. Code § 22441(a). The law requires immigration consultants to provide clients with a written contract translated into the client’s native language, see Cal. Bus. & Prof. Code § 22442, and mandates that immigration consultants post signs in English and in the clientele’s native languages. The signs must include the consultant’s name, address, compliance with the bonding requirement and a statement that the consultant is not an attorney. Cal. Bus. & Prof. Code § 22442.2. California also bars the deceptive use or translation of the term “notary public,” “attorney,” “lawyer,” or any other term that implies a non-attorney is an attorney. Cal. Bus.

No notary public, except those who are licensed attorneys or otherwise authorized by law to represent persons on immigration or citizenship matters, shall hold himself or herself out as having expertise in providing legal advice on any proceeding, filing, or action affecting the immigration or citizenship status of another person.

Okla. Stat. tit. 49, § 6.

The law requires a notary public who provides non-legal assistance in immigration matters to provide the following notice: “I am not a licensed attorney or representative of any government agency with authority over immigration or citizenship and, therefore, cannot offer legal advice about immigration or any other legal matter.” *Id.* The statute also prohibits literal translation of “notary public” as *notario público*. However, the Oklahoma statute does not require that an immigration services provider translate contracts into a client’s native language or post signs explaining the limits on the provider’s ability to offer non-legal assistance in immigration matters, nor does it prohibit disclosing information about the client to immigration officials without the client’s permission. A violation is a misdemeanor and there is no private right of action.

C. STATES THAT DO NOT EXPLICITLY ADDRESS THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

The following 16 states have not enacted laws explicitly addressing the unauthorized practice of immigration law: Alabama; Alaska; Delaware; Florida; Hawaii; Idaho; Kentucky; Louisiana; Missouri; Nevada; New Hampshire; Ohio; Rhode Island; South Dakota; Vermont and Wyoming. Nonetheless, these states have statutes that bar non-lawyers from presenting themselves as lawyers or providing legal services, as well as consumer protection laws, which can also be used to target some types of immigration services fraud.

Alabama’s unauthorized practice of law statute is typical of those states that do not explicitly protect against the unauthorized practice of immigration law. Alabama Code 34-3-1 makes it a misdemeanor for any person to “practice or assume to act or hold himself or herself out to the public as a person qualified to practice or carry on the calling of a lawyer” if that person is not licensed to practice law. There is no reference to *notario público* or immigration consultants, and no reference to immigration proceedings. A violation of Alabama’s statute can be punished by a fine of no more than \$500 or a sentence of no more than six months.

While general unauthorized practice of law statutes penalize non-attorneys for offering legal advice or services without a license, they do not address many types of immigration fraud, or prevent non-attorneys from misleading immigrants to believe they are authorized to advise on immigration legal matters. For example, Alabama’s statute likely would not apply to a non-lawyer who obtains a license to become a notary public and then advertises in Spanish that he or she is a *notario público* who can help with the documentation required to obtain legal status. Although arguably this person is representing himself or herself as a lawyer by using the term *notario público*—which is often misunderstood by native Spanish speakers to mean “lawyer”—the violation is hard to prosecute because there is no explicit provision barring the use of the term or addressing assistance in immigration proceedings specifically.

Some states’ consumer protection laws also do not regulate businesses transactions involving immigration services. For example, Florida’s statute makes it unlawful to engage in “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” Fla. Stat. Ann. § 501.204. Section 501.203 defines “trade or commerce” as “the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. Trade or

commerce shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity.”

Similarly, Ohio’s consumer protection code prohibits an “unfair or deceptive act or practice in connection with a consumer transaction.” Ohio Rev. Code Ann. § 1345. The statute defines consumer transaction as “a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things.” *Id.*

These laws do not address the specific type of exploitation immigrants may suffer when perpetrators engage in the unauthorized practice of law, such as making false promises about an immigrant’s chances of obtaining an immigration benefit or threats to disclose confidential information to immigration officials. Such fraud can easily escape penalty under general consumer protection laws.

Furthermore, results from the UPIL survey show that these types of fraud are pervasive. Of the 70 percent of respondents who said that they had worked with victims of UPIL, 76 percent reported that victims had paid for services that were never provided. A similar number of respondents said that the perpetrator had applied for benefits for which clients were not eligible. Other cases involved someone charging clients for immigration forms that are free to the public, missing key deadlines or making significant mistakes in applications. Not all of these types of fraud are addressed by generalized unauthorized practice of law or consumer protection statutes.

II. STATES LAWS THAT REGULATE THE TERM “NOTARY PUBLIC”

A. PURPOSE OF REGULATING THE TERM NOTARY PUBLIC

Many states regulate the use of the term "notary public" and its translation into other languages to protect consumers who may erroneously assume that a notary public is a lawyer or has special expertise in immigration law. The risk of confusion and the potential for fraud is particularly high when the term is translated into Spanish as *notario público*. In most Latin American countries, the term *notario público* applies to attorneys who are licensed to practice law.¹⁴ Once a *notario público* receives this title in a Latin American country,¹⁵ he or she gains the power to serve as a mediator in disputes, issue judicial opinions and intervene in judicial proceedings.¹⁶ In the U.S., a notary public's primary role is to certify documents and administer oaths.¹⁷

Several states address this problem by enacting laws prohibiting the translation of the phrase notary public into any language other than English. Some states explicitly prohibit use of the terms *notario público* and *notario* to avoid confusion.

Thirty-two states and the District of Columbia enacted laws that prohibit a literal translation of the term "notary public" into Spanish as *notario público* or *notario*. In addition, most states prohibit notaries public from advertising or misrepresenting services to convey that a notary public has the same authority as an attorney.

B. STATES THAT PROHIBIT A LITERAL TRANSLATION OF THE TERM NOTARY PUBLIC

The District of Columbia and the following 32 states have laws that explicitly prohibit notaries publics from using a literal translation of the phrase “notary public,” into any language other than English: Arkansas; California; Colorado; Connecticut; Florida; Georgia; Illinois; Indiana; Iowa; Kansas; Louisiana; Maine; Massachusetts; Michigan; Minnesota; Mississippi; Montana; Nebraska; Nevada; New Mexico; New York; North Dakota; Oklahoma; Oregon; Pennsylvania; South Carolina; Texas; Utah; Virginia; Washington; West Virginia and Wisconsin.

Although Florida does not have a statute specifically addressing UPIL, it does regulate the use of the term “notary public.” Florida law provides that “[l]iteral translation of the phrase ‘Notary Public’ into a language other than English is prohibited in an advertisement for notarial services.” Fla. Stat. Ann. § 117.05 (10). The statute also requires notaries public, who are not attorneys, to include the following statement in written advertisements: “I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF FLORIDA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.” *Id* at § 117.05 (11).

Other states also address this issue by prohibiting translation of the term “notary public” in a way that would mislead consumers to believe that the notary public is an attorney. For example, the law in Massachusetts provides that:

The Georgia statute provides that:

A person engaged in providing immigration assistance that is not exempted pursuant this Code section as a licensed attorney shall not . . . [r]epresent or advertise, in conjunction with immigration assistance, other titles or credentials, including but not limited to “notary public” or “immigration consultant,” that could cause a client to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided, however, that a certified notary public may use the term “notary public” if the use is accompanied by the statement that the person is not an attorney and the term “notary public” is not translated to another language.

Ga. Code Ann. § 43-20A-6.

C. STATES THAT EXPLICITLY PROHIBIT USE OF THE TERM NOTARIO OR NOTARIO PÚBLICO

The District of Columbia and the following 25 states have laws that explicitly prohibit use of the terms *notario* or *notario público*. These states are: Arkansas; California; Colorado; Connecticut; Illinois; Indiana; Iowa; Kansas; Maine; Massachusetts; Mississippi; Montana; Nebraska; Nevada; New Mexico; North Dakota; Oklahoma; Oregon; Pennsylvania; South Carolina; Texas; Virginia; Washington; West Virginia and Wisconsin.

For example, Washington law provides that:

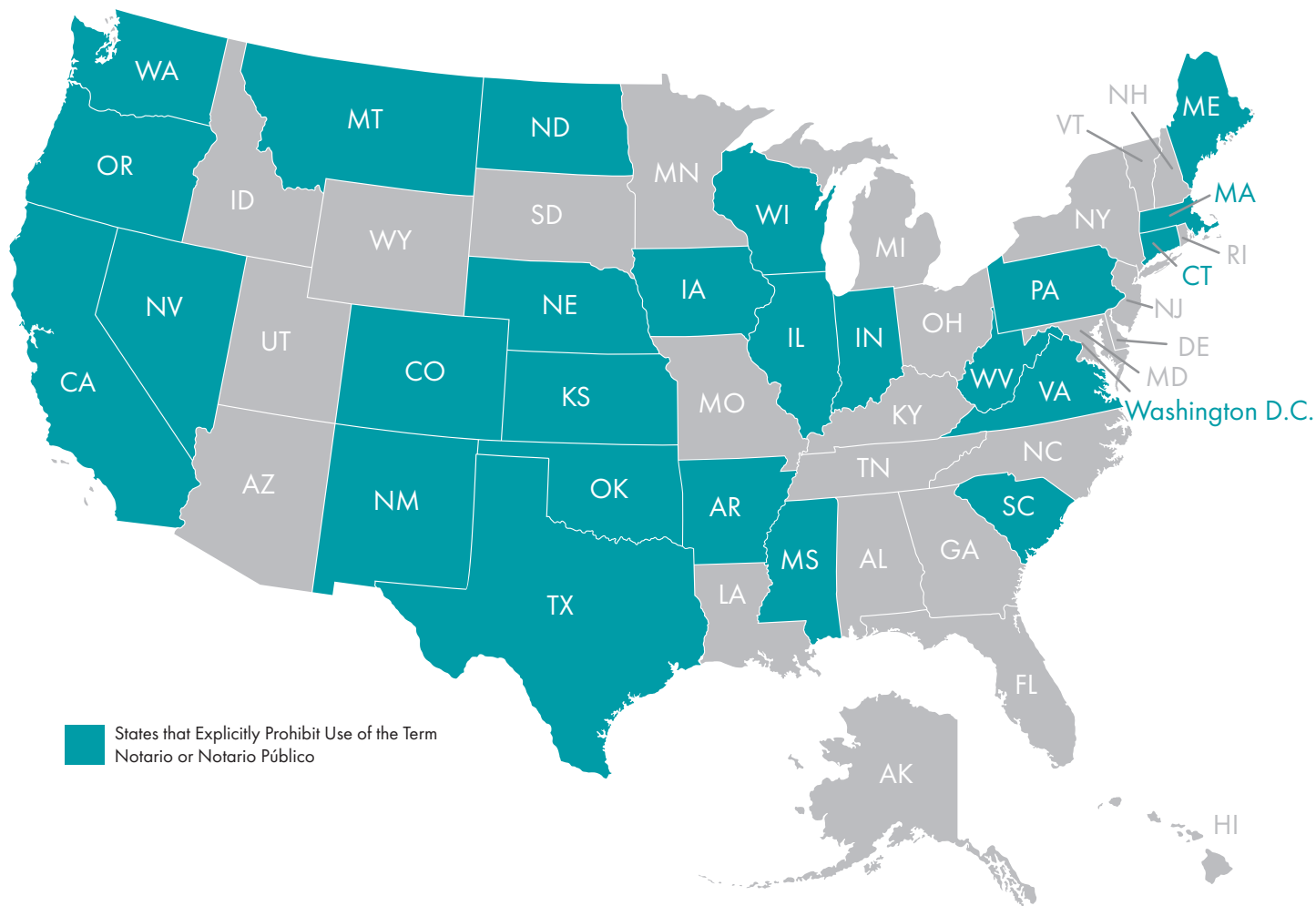
[P]ersons licensed as a notary public under chapter 42.44 RCW who do not hold an active license to practice law issued by the Washington state bar association shall not use the term *notario público*, *notario*, immigration assistant, immigration consultant, immigration specialist, or any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services in the conduct of their business.

Wash. Rev. Code Ann. § 19.154.060 (emphasis added).

Similarly, Colorado law provides that:

A notary public who is not a licensed attorney in the state of Colorado shall not represent or advertise himself or herself as an immigration consultant or an expert in immigration matters. (b) A notary public who is not an attorney licensed to practice law in Colorado is prohibited from: (I) Providing any service that constitutes the unauthorized practice of law; (II) Stating or implying that he or she is an attorney licensed to practice law in this state; (III) Soliciting or accepting compensation to prepare documents for or otherwise represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States, United States citizenship, or related matters; (IV) Soliciting or accepting compensation to obtain relief of any kind on behalf of another from any officer, agency, or employee of the state of Colorado or of the United States; (V) Using the phrase *notario* or *notario público* to advertise the services of a notary public, whether by sign, pamphlet, stationery, or other written communication or by radio, television, or other non-written communication; or (VI) Engaging in conduct that constitutes a deceptive trade practice pursuant to section 6-1-727, C.R.S.(4) Knowing and willful violation of the provisions of this section shall constitute a deceptive trade practice pursuant to section 6-1-105, C.R.S., and shall also constitute official misconduct pursuant to section 12-55-116.

States that Explicitly Prohibit Use of the Term Notario or Notario Público



Colo. Rev. Stat. Ann. § 12-55-110.3.

D. STATES THAT DO NOT REGULATE THE ENGLISH TERM NOTARY PUBLIC

The following 18 states do not regulate use of the term notary public and do not explicitly prohibit the translation of the term into any language: Alabama; Alaska; Arizona; Delaware; Hawaii; Idaho; Kentucky; Maryland; Missouri; New Hampshire; New Jersey; North Carolina; Ohio; Rhode Island; South Dakota; Tennessee; Vermont and Wyoming.

Although these states do not specifically address the confusing use of the title “notary public,” many have broader statutes that bar misrepresentation, fraud or using other deceptive practices to mislead consumers into believing someone is licensed to practice law.

For example, Rhode Island law provides that:

No person, except a duly admitted member of the bar of this state, whose authority as a member to

practice law is in full force and effect, shall assume to be an attorney or counselor at law or hold himself or herself out in any manner to the public or to another person as being competent, qualified, authorized, or entitled to practice law in this state.

11 R.I. Gen. Laws Ann. § 11-27-12 (emphasis added).

The Rhode Island statute defines “hold himself or herself out” as:

the assumption, use, or advertisement of the title of lawyer, attorney, attorney at law, counselor, counselor at law, solicitor, or any term or terms conveying the idea that the person in connection with whose name they or any of them are used is competent, qualified, authorized, or entitled to practice law, or the use of any kind of sign, token, symbol, card, letterhead, envelope, stationery, circular, or other writing, printing, or painting, or any representation by word or act, the purpose or tendency of which is to convey that idea.

11 R.I. Gen. Laws Ann. § 11-27-1.

III. IMMIGRATION CONSULTANTS AND IMMIGRATION SERVICE PROVIDERS

As explained above, 34 states and the District of Columbia have statutes to address fraud in the provision of services related to immigration proceedings. Twenty-three of these states and the District of Columbia explicitly regulate *who* can assist non-citizens and *what* they can do. Some state statutes label providers of non-legal assistance to immigrants as “immigration consultants” or “immigration service providers” and then regulate their fees, advertisements, contract formation and other activities. Conversely, the majority of state statutes regulating immigration assistance do not use specific terms or titles.

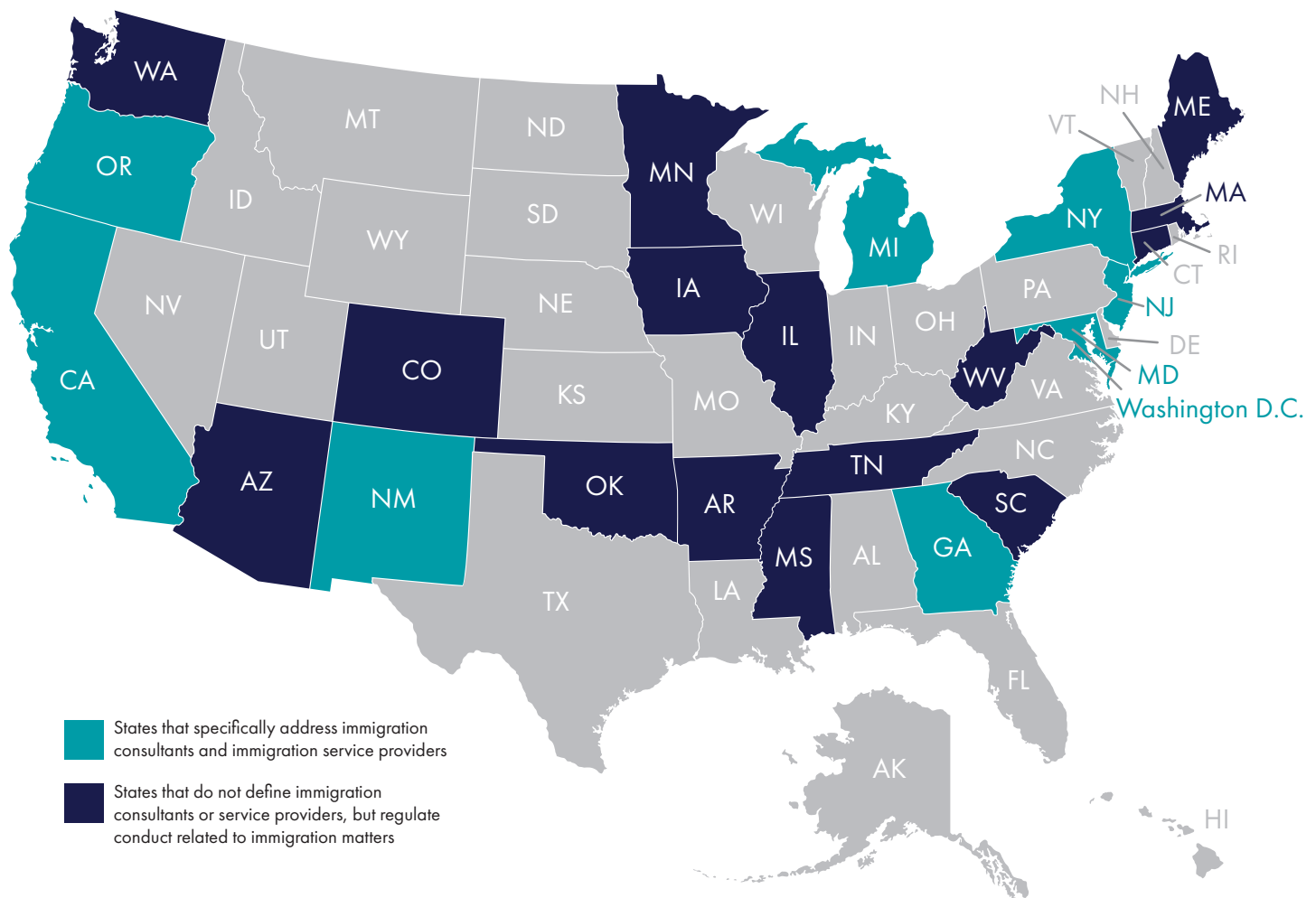
A. STATES THAT SPECIFICALLY ADDRESS IMMIGRATION CONSULTANTS AND IMMIGRATION SERVICE PROVIDERS

Eight of the 23 states and the District of Columbia that regulate immigration assistance either define this support or give those who assist in immigration matters the title of immigration consultant, immigration service provider or immigration assistance provider. Those states are: California; Georgia; Maryland; Michigan; New Jersey; New Mexico; New York and Oregon.

California's statute has been in effect since 1986, making it the oldest state law to designate non-attorneys who assist with immigration matters as immigration consultants. California's law explains that “[a] person engages in the business or acts in the capacity of an immigration consultant when that person gives non-legal assistance or advice on an immigration matter.” Cal. Bus. & Prof. Code § 22441(a). California requires that every immigration consultant go through a background check to ensure that he or she has not been convicted of a felony or a “disqualifying” misdemeanor in which fewer than ten years has passed since the individual completed probation. Id. § 22441.1(a)-(c). California also requires immigration consultants to obtain a bond of \$100,000. Id. § 22443.1(a)(1). The statute allows “completing a form provided by a federal or state agency but not advising a person as to their answers on those forms...translating a person's answers to questions posed in those forms... [and] securing for a person supporting documents such as birth certificates, which may be necessary to complete those forms.” Id. § 22441(a)(1)-(3). Immigration consultants must post a sign in both English and the language of the clientele that explains that the immigration consultant is not an attorney and that the immigration consultant has the required bond. Id. § 22442.2(a).

Georgia's law labels individuals permitted to assist noncitizens with immigration matters as “Immigration Assistance Providers,” and requires that these individuals obtain a license from the state. Ga. Code Ann. § 43-20A-2(a)(8). Immigration assistance is defined as “any service provided to clients for compensation related to immigration matters, but shall not include legal advice, recommending a specific course of legal action, or providing any other assistance that requires legal analysis, legal judgment, or the interpretation of the law.” Id. § 43-20A-2(a)(7). To become a registered Immigration Assistance Provider, the individual must apply for a license with the secretary of state. Id. § 43-20A-4(b). The person must submit a name and address under which he or she intends to conduct business, the place or places the business will be conducted and any other information the secretary of state deems necessary. Id. § 43-20A-4(b)(1)-(3). The Immigration Assistance Provider must be at least 18 years old, must be a U.S. citizen or have lawful status in the United States, no

Immigration Consultants and Immigration Service Providers



criminal convictions in the past five years, and have a \$5,000 bond. *Id.* § 43-20A-4(d)(1)-(5).

New York uses the label “immigration service provider” for those providing non-legal services in immigration proceedings. The statute excludes attorneys and people working under the supervision of attorneys, non-profit organizations, DOJ recognized organizations, authorized agencies under the New York social services law and individuals providing representation established under federal law or regulations. N.Y. Gen. Bus. Law § 460-a(2). Any other person providing immigrant assistance is considered an immigration assistance provider. *Id.* § 460-a(1)-(2). New York also prohibits immigration service providers from taking certain actions detrimental to their clients, such as “threaten[ing] to report the customer to immigration . . . authorities or threaten[ing] to undermine in any way the customer’s immigration status or attempt to secure lawful status. *Id.* § 460-d(4).

As it stands, the laws prohibit consultants from providing legal advice on immigration matters. However, completing even basic immigration application forms, in many cases, require the provision of legal advice at various stages. As a result, many consultants often go beyond what the statutes allow and give legal advice, which can lead to potential legal consequences for their clients. Recognizing this, lawmakers in California proposed legislation during the 2017 state legislative session to repeal the state's immigration consultant law.¹⁸

B. STATES THAT DO NOT DEFINE IMMIGRATION CONSULTANTS OR SERVICE PROVIDERS, BUT THAT REGULATE CONDUCT RELATED TO IMMIGRATION MATTERS

Fifteen states also regulate individuals providing non-legal assistance in immigration matters but do not use labels such as “immigration consultant” to define this category of work. Those states are: Arizona; Arkansas; Colorado; Connecticut; Illinois; Iowa; Maine; Massachusetts; Minnesota; Mississippi; Oklahoma; South Carolina; Tennessee; Washington and West Virginia. These states regulate what individuals providing immigration assistance may or may not do. Many states have provisions listing permitted acts and another provision stating the prohibited acts.

For example, Illinois’s Immigration Services statute states:

Any person who provides or offers to provide immigration assistance service may perform *only* the following services: completing a government agency form, requested by the customer and appropriate to the customer’s needs, *only* if the completion of that form does not involve a legal judgment for that particular matter . . . translating documents from a foreign language into English . . . notarizing signatures on government agency forms, *if* the person performing the service is a notary public of the State of Illinois.

815 Ill. Comp. Stat. 505/2AA(b)(1), (5)-(6) (emphasis added).

Washington state also lists what a private individual may and may not do. Except for attorneys or those under the supervision of attorneys or an accredited representative, private individuals are prohibited from “advising or assisting another person in determining the person’s legal or illegal status for the purpose of an immigration matter. . . soliciting to prepare documents for, or otherwise representing the interests of, another in a judicial or administrative proceeding in an immigration matter.” Wash. Rev. Code. Ann. § 19.154.060(2)(a), (d). In 2017, legislators enacted a new law to ban notaries from acting as immigration consultants and from providing legal assistance to anyone on immigration matters. S.B.5081, 65th Leg., Reg. Sess. (Wa. 2017). Importantly, Washington does not prohibit translation services, including translating words on a government form or “translating a person’s words from another language to English.” Id. § 19.154.060(4)(b).

Some states regulate individuals by stating that they should not act as immigration consultants, but do not define that term. For example, Iowa Code Ann. § 9B.25 prohibits notaries public from providing certain services. One of those prohibited services is to “act as an immigration consultant or an expert in immigration matters.” However, Iowa law does not define the term “immigration consultant” in its code of regulations.

Similarly, Mississippi law states that notaries public are not licensed attorneys and are “prohibited from representing or advertising that the notary public is an immigration consultant, immigration paralegal, or expert in immigration matters” unless the notary is an accredited representative recognized by the [Department of Justice]. Miss. Code Ann. § 25-33-27. Neither the term “immigration consultant” nor “immigration paralegal” is defined in Mississippi law or regulations.

IV. ANALYSIS OF STATE LAWS REGULATING ADVERTISING OF IMMIGRATION SERVICES

A. STATES THAT COMPREHENSIVELY REGULATE ADVERTISING OF IMMIGRATION SERVICES

The District of Columbia and the following states comprehensively regulate the advertisement of immigration services: California; Minnesota; Michigan; Maine; Illinois and Georgia. For example, California law provides:

- (a) An immigration consultant shall conspicuously display in his or her office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the immigration consultant's clientele that contains the following information:
 - (1) The full name, address and evidence of compliance with any applicable bonding requirement including the bond number, if any.
 - (2) A statement that the immigration consultant is not an attorney.
 - (3) The services that the immigration consultant provides and the current and total fee for each service.
 - (4) The name of each immigration consultant employed at each location.
- (b) Prior to providing any services, an immigration consultant shall provide the client with a written disclosure in the native language of the client that shall include the following information:
 - (1) The immigration consultant's name, address and telephone number.
 - (2) The immigration consultant's agent for service of process.
 - (3) The legal name of the employee who consulted with the client, if different from the immigration consultant.
 - (4) Evidence of compliance with any applicable bonding requirement, including the bond number, if any.
- (c)(i) Except as provided in paragraph (2) or (3), an immigration consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as an immigration consultant, within the meaning of Section 22441, shall include in that advertisement a clear and conspicuous statement that the immigration consultant is not an attorney.

Cal. Bus. & Prof. Code § 22442.2.

B. STATES THAT REGULATE ADVERTISEMENTS BY NOTARIES PUBLIC AND IMMIGRATION SERVICE PROVIDERS

The following 21 states regulate advertisements by notaries public, some of which specifically regulate advertisement of immigration services: Arkansas; Arizona; Colorado; Florida; Indiana; Iowa; Kansas; Massachusetts; Mississippi; Montana; Nebraska; Nevada; North Carolina; Oklahoma; Tennessee; Texas; Utah; West Virginia; Pennsylvania; New York and Wisconsin. These state laws share the following characteristics:

- a. Notaries public that advertise in a language other than English must also list the limited services that notaries are permitted to provide. A few states provide that a small desk plaque does not trigger the requirement to provide additional information.
- b. Posted notices are required in the place of business. The required size of the sign and the font vary among the states; however, they share the same intent, which is to make the signs conspicuous.
- c. The notices that notaries public must display when advertising their services in a non-English language vary slightly. For example, Mississippi's law requires notices such as:

I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF MISSISSIPPI, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.

Miss. Code. Ann. § 25-33-25.

Some states also regulate immigration service providers separately from notaries. States such as South Carolina, Maryland and New York require a posted notice informing the public that the immigration service providers are not attorneys. The notice must be in English and in the language of the commercial advertisement. Maryland also requires that all providers of immigration services post a notice stating that they are not attorneys. However, the notice only has to be in English.

C. STATES THAT ONLY REGULATE THE USE OF THE TERM NOTARIO PÚBLICO WITHOUT REGULATING ADVERTISING OF IMMIGRATION SERVICES

A final group of states prohibits or limits the use of the term *notario público* specifically, but otherwise do not regulate the advertisement of immigration services. Notaries public in Connecticut and North Dakota can only use the terms *notario público* and *notario* if: (1) they are a licensed attorneys or (2) if they include a disclosure stating that they are not licensed attorneys. Virginia only allows attorneys to use the terms *notario* and *notario público*. New Mexico and Washington prevent all notaries public from using the terms *notario* and *notario público* in advertisements.

V. CRIMINAL AND CIVIL PENALTIES FOR THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

State penalties for UPIL violations vary. All of the states that explicitly prohibit UPIL make violation a crime, punishable by fines and jail time. Twenty-seven states and the District of Columbia create civil liability for violation of UPIL laws, allowing state officials to obtain injunctions and collect money damages. Some of those states also grant a private right of action that permits individuals who are harmed by violations of UPIL law to sue for compensation.

A. CRIMINAL PENALTIES

1. State Laws that Punish UPIL as a Misdemeanor

The District of Columbia and the following states impose misdemeanor criminal sanctions for UPIL: Arkansas, California, Colorado, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia and Wisconsin. These states punish violations by fines under \$10,000 and the possibility of imprisonment for up to one year.

For example, the District of Columbia's provides that:

(a) any person who violates any provision of this chapter, shall, upon conviction, be guilty of misdemeanor, and shall be fined not more than the amount set forth in § 22-3571.01, or imprisoned for not more than one year, or both.

D.C. Act 21-603.

2. State Laws that Punish UPIL as a Felony

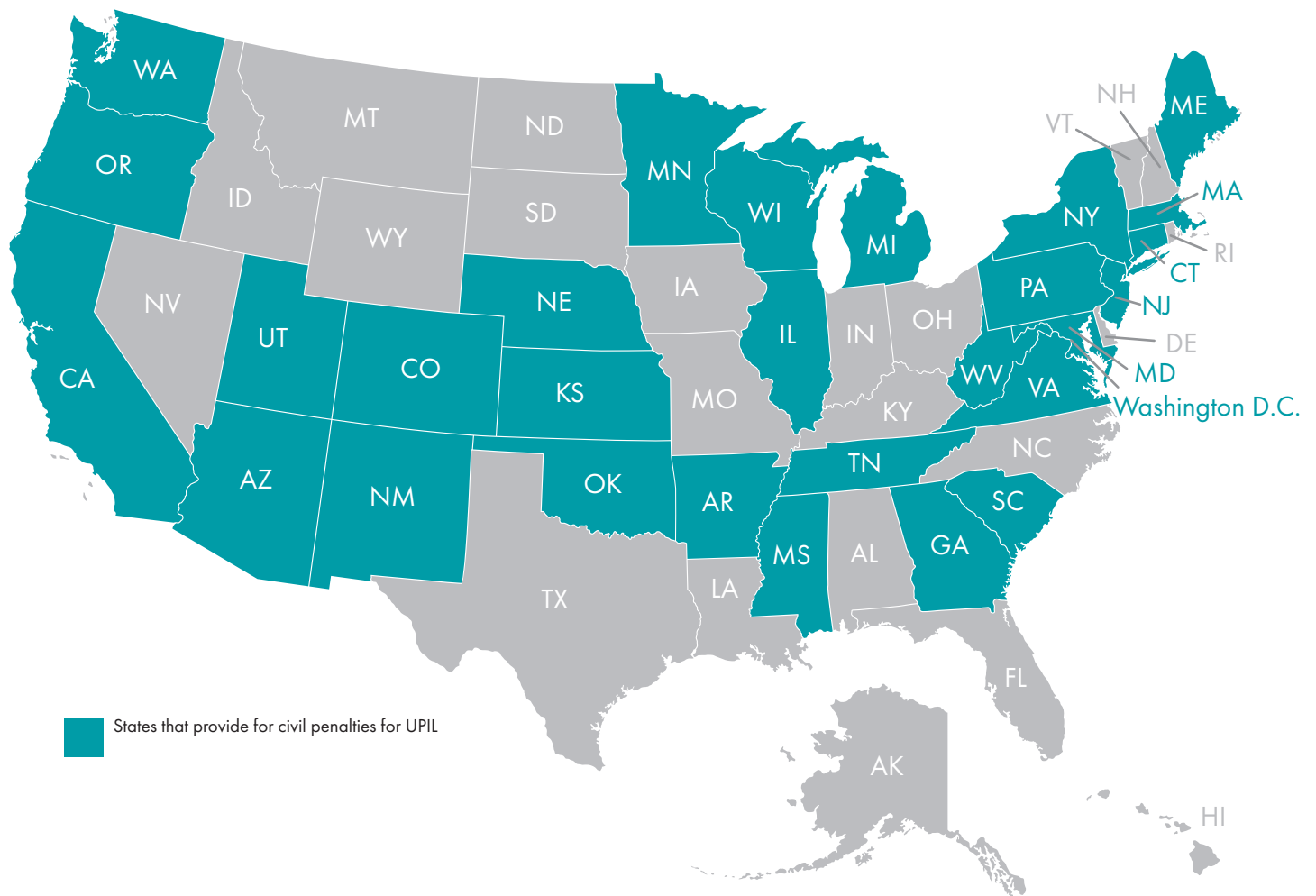
Arizona, Connecticut, Michigan and South Carolina penalize even a single violation of their UPIL laws as a felony. In certain circumstances, New York also punishes immigration assistance services fraud as a class E felony.

California, Colorado, Illinois, Kansas, Texas and Wisconsin make the first or minor UPIL violations a misdemeanor, but make recurring violations a felony, punishable by escalating fines and longer prison sentences.

For example, California law provides that:

...a violation of this chapter is a misdemeanor punishable by fine of not less than two thousand dollars (\$2,000) or more than ten thousand dollars (\$10,000), as to each client with respect to whom a violation occurs, or imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

States that impose a fine or allow private right of action for UPIL



The attorney general or a district attorney may bring a civil action on behalf of the state to seek the imposition of civil penalties as follows: (a) Any person who violates or causes another to violate any provision of this article shall forfeit and pay to the general fund of this state a civil penalty of not more than two thousand dollars for each such violation. For purposes of this paragraph (a), a violation of any provision shall constitute a separate violation with respect to each consumer or transaction involved; except that the maximum civil penalty shall not exceed five thousand hundred dollars for any related series of violations.

Colo. Rev. Stat. Ann. § 6-1-112.

Similarly, California law provides:

A person who violates this chapter shall be subject to a civil penalty not to exceed one hundred thousand dollars (\$100,000) for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney. An action brought in the name of the people of the State of California shall not preclude an action being brought by an injured person.

Cal. Bus. & Prof. Code § 22445(a)(1).

2. State Laws Conferring a Private Right of Action for Victims of UPIL

The District of Columbia and the following states have enacted UPIL laws that create a private right of action for immigration fraud: Arkansas; Arizona; California; Connecticut; Colorado; Illinois; Kansas; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Nebraska; New Jersey; New Mexico; New York; Oregon; Pennsylvania; South Carolina; Tennessee; Texas; Utah; Virginia; Washington; West Virginia and Wisconsin. Some of these states grant private rights of action to victims of fraud by explicitly including a provision in its specialized immigration consultant statute, notary public law, or by citing to another state law that confers that private of action, typically a consumer protection statute.

For example, Maine law provides that:

In addition to any other remedy that may be available, a customer who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If the court finds a violation of this section, the court may award to the customer: A. An amount equal to actual damages sustained by the customer as a result of the violation; B. An amount equal to 3 times the actual damages; and C. The costs of the action together with reasonable attorney's fees as determined by the court.

Me. Rev. Stat. tit. 4, § 807-B.

In contrast, the District of Columbia law provides that:

In addition to the criminal penalty set forth in subsection (a) of this section, failure to comply with the requirements of this chapter shall be an unlawful practice under § 28-3904.

D.C. ACT 21-603.

The District of Columbia's general consumer protection law, which prohibits a wide variety of deceptive and unconscionable business practices, known as the Consumer Protection Procedures Act, or CPPA. It is codified at D.C. Official Code §§ 28-3901 to 28-3913. The CPPA provides for a private right of action: a consumer who is harmed by an unlawful trade practice may sue for treble damages (or \$1,500 per violation, if greater), punitive damages and attorney's fees, as well as an injunction against the unlawful trade practice. The private right of action is codified at D.C. Official Code § 28-3905(k)(1).

VI. REPORTING THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

In efforts to combat immigration service fraud, several states provide multiple ways for victims to report fraud to their state’s consumer protection agency or the attorney general’s office online, by mailing in their complaint or by calling a general toll-free number. Some states, however, have gone further by creating hotlines specifically for reporting incidents. These states include California, Illinois, New York and Washington.

For example, New York law requires providers to post a sign in an area where it is visible to customers with the following information in at least 60-point type:

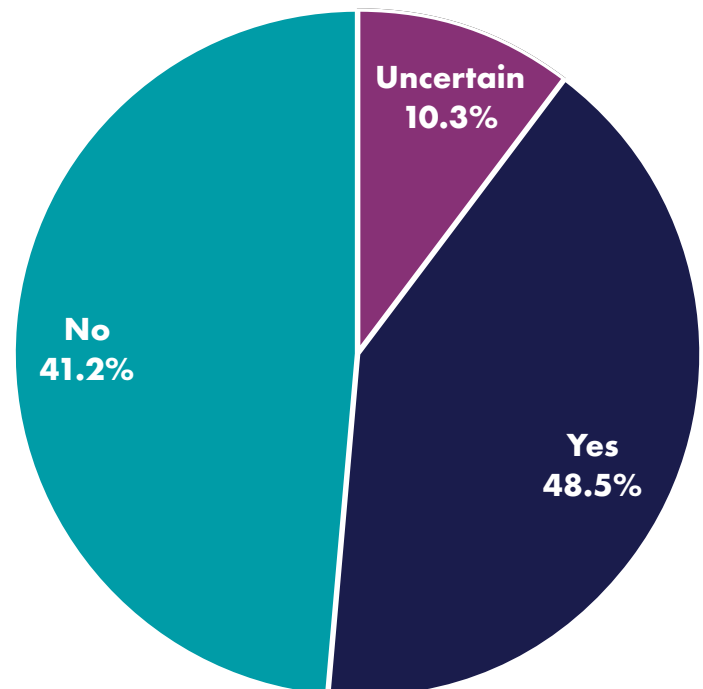
(i) The statement: “The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the [Department of Justice] to provide representation to you before the [United States Citizenship and Immigration Services], the [Department of Homeland Security], the [Executive Office for Immigration Review,] the [Department of Labor], the [Department of State] or any immigration authorities and may not give legal advice or accept fees for legal advice. For a free legal referral call the office for new Americans hotline at (phone number of the office for new Americans), the New York state office of the attorney general at (phone number of the office of the attorney general), or your local district attorney or prosecutor.” The service provider shall be responsible for providing the accurate and up-to-date phone numbers required in such statement.

N.Y. Gen. Bus. Law § 460-c(a).

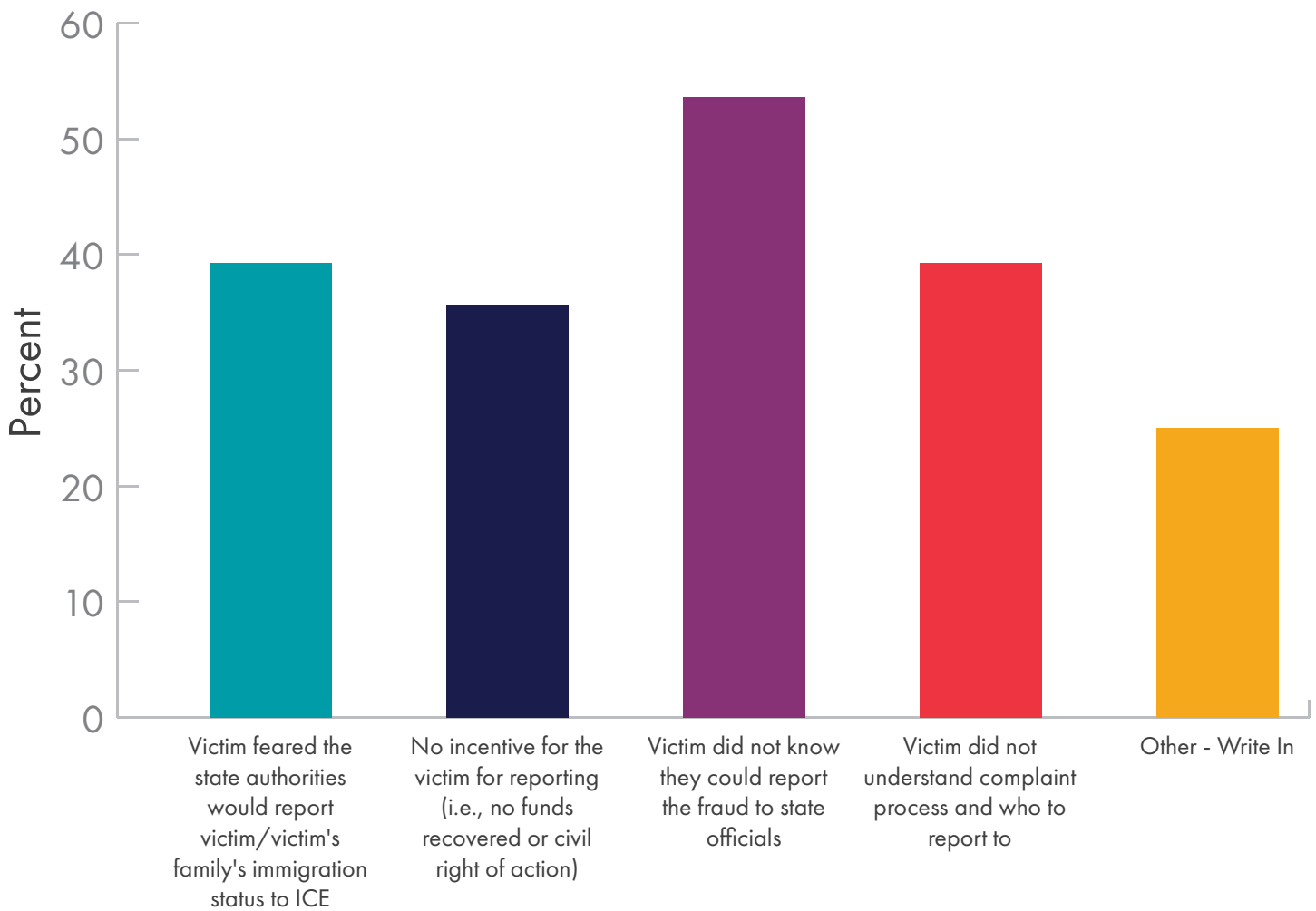
Through New York’s New Americans Hotline, victims may file a complaint against fraudulent immigration assistance providers. Hotline operators, in turn, will forward the complaint to all relevant law enforcement and government agencies. New York’s multilingual hotline also refers calls to immigrant-related public and private programs. Calls to New York’s hotline may be made anonymously and all personal information provided is confidential.

Nearly 70 percent of the practitioners who responded to CLINIC’s UPIL survey reported that they provided services to UPIL victims, and of that number, about 49 percent stated that the victims reported the incidents to the local police,

CLINIC’s UPIL Survey: Did any of the victims you served report the fraud to the police/local state bar/attorney general’s office?



CLINIC's UPIL Survey: Please tell why the client did not report the incident(s). Please check all that apply.



state bar or attorney's general office. Only 28 percent reported their attorney general prosecuted people for providing unauthorized or fraudulent immigration services. Less than half of those cases resulted in convictions.

Conversely, 54 percent of survey respondents said victims did not report the fraud because they were not aware that they could report the incidents to state officials. Other reasons for not reporting include: victims feared that state officials would report their immigration status to federal immigration authorities (39 percent); victims did not understand the complaint process (39 percent); and no incentives exist to encourage victims to report (35 percent).

These results are an indication that states could do more to educate victims of the laws that are designed to protect them from fraud and empower them to report these crimes.



VII. ADVOCACY RECOMMENDATIONS

Sixteen states have not yet adopted legislation explicitly addressing fraud committed by immigration services providers, including those offering non-legal services such as translating and gathering documents. These states should follow the lead of the majority and enact legislation specifically targeting the unauthorized practice of immigration law. Although these 16 states have laws prohibiting unauthorized practice of law generally, such statutes do not address many types of deceptive business practices common in the immigration context, such as misleading uses of the term *notario público*; false promises about the *notarios*' ability to influence immigration officials; or the immigrants' likely chances of obtaining the status they are seeking. Nor do these laws bar such individuals from threatening to disclose confidential information to immigration officials, or otherwise manipulating immigrants into paying high fees for incompetent or unnecessary services.

Assessing eligibility for immigration benefits and completing application forms require specialized training and legal judgement. However, states that allow immigration consultants to provide these services do not require any training and increase the public's exposure to incompetent work. For these reasons, states should enact laws that address these unlawful practices to strengthen protections for vulnerable U.S. citizens and their immigrant relatives who are at risk of exploitation.

Use of the Term “Notary Public” and Prohibition of the Term Notario Público

Although broader UPIL statutes provide some regulation, states should adopt more comprehensive laws to address the misleading use of the term “notary public” in languages other than English. Use and translation of the term “notary public” into languages, particularly Spanish, can lead some immigrants to erroneously assume that the notary is authorized to advise and assist with immigration legal matters. Hence, states should adopt laws that prohibit notaries public from translating their title from English into any other language, and require them to include a statement that they are not licensed to practice law unless they are an attorney.

States should also explicitly prohibit use of the words *notario* and *notario público* as they are often used in Latin America to refer to professionals who are licensed to practice law. Virginia and Washington are two states that strictly prohibit use of the terms.

Immigration Consultants and Immigration Service Providers

Nine states label some non-attorney providers as “immigration consultants” or “immigration service providers” and then regulate their activities. These states do not require them to undergo training on immigration laws and procedures to acquire the knowledge and skills needed to provide assistance with immigration issues. Allowing these individuals to offer assistance on such complex legal matters not only creates a misconception that they are qualified to provide these services, it creates opportunity for them to dispense legal advice beyond what is allowed by the statutes that regulate their activities. States that have these laws in place should repeal them and limit immigration services to only attorneys and DOJ-accredited representatives who have training and expertise to offer these services.

Advertisements and Signage

States should regulate advertisements and signs posted by non-attorneys, such as notaries public, who offer other services to ensure that immigrants are not deceived into paying for incompetent immigration services. In addition, states should enact legislation to avoid the confusion that surrounds the role of notaries public. Signs and advertisements should be in English and in the clientele’s native language, listing the services offered and the fee charged for each service. They should also include a statement that the provider is not a lawyer and may not give legal advice or accept fees for legal services. Additionally, states should require providers to post conspicuous signs in their offices containing similar information in both English and in the clientele’s native language.

Penalties

To be an effective deterrent of UPIL and to ensure justice for victims of fraud, state UPIL laws should include criminal penalties, civil penalties and injunctive relief that can be enforced by the state attorney general. Victims should also be allowed to bring civil lawsuits against perpetrators to recover the money they lost. UPIL legislation should unambiguously include criminal sanctions punishable by fines and/or imprisonment for those who deceitfully represent themselves as attorneys or qualified representatives in immigration matters. In addition, the laws should include civil penalties, fines, attorney fees, actual and treble damages as financial incentives for victims, as well as attorneys and state officials vigorously enforcing the law.

Reporting Mechanisms

States should also establish a hotline where victims or other community members can report fraudulent activities. Those who are not attorneys or accredited representatives should be required to include information about this hotline in contracts with their customers. One major reason why UPIL can go undetected is that victims who lack immigration status do not know that they can report or do not feel comfortable reporting for fear that officials will turn them over to federal officials for deportation. States should implement policies that allow for anonymous reporting or strengthen privacy protections for anyone wanting to report such fraud. This could encourage victims to come forward and assist authorities in identifying perpetrators of this crime.

In addition to hotlines, states should consider other innovative ways to reach out to the immigrant communities to encourage them to report these crimes. The City of Boston¹⁹ and Howard County, Maryland,²⁰ have launched new mobile applications to encourage and make it easier for residents to report non-emergency issues such as potholes and graffiti. These are good examples for states and localities to tailor to their needs and make it convenient and confidential for the public to report immigration service fraud.

Public Education and Outreach

Results from the UPIL survey revealed that many attorneys and accredited representatives are not aware that their states have laws that regulate immigration services by non-attorneys. Immigrants also seem to be unaware that their states have mechanisms in place that allow them to report fraud. Therefore, states should launch a campaign to educate the public about potential immigration services fraud and the laws that punish them.

In addition to implementing comprehensive UPIL policies, states should collaborate with the Department of Justice,²⁰ Federal Trade Commission,²² and USCIS²³ to develop campaigns to ensure that both the legal community and the general public are aware of the laws that protect immigrants from harm and the procedures for reporting UPIL. This interagency coordination will protect the public from deceptive and unethical practices by immigration services providers and strengthen the integrity of the immigration legal profession.

NOTARY
ASSPRO

PHOTO

MIGRAT

WHY STATES SHOULD ENACT COMPREHENSIVE LAWS THAT PROTECT AGAINST THE UNAUTHORIZED PRACTICE OF IMMIGRATION LAW

Policy Option	Recommendation	Reasons for Recommendation
Legislation Specifically Addressing UPIL	Laws that expressly regulate non-attorneys providing immigration services.	State should enact legislation targeting UPIL because broadly worded consumer protection and unauthorized practice of law statutes do not provide sufficient protection from fraud for vulnerable immigrants.
Express Prohibition of the Terms <i>Notario</i> or <i>Notario Público</i>	Laws barring the use of the terms <i>notario</i> or <i>notario público</i> by those offering non-legal services for a fee.	The risk of confusion and the potential for fraud are particularly great when notary public is translated into Spanish as <i>notario público</i> , which is a term used for attorneys in many Latin American countries.
Elimination of Immigration Consultant and Immigration Services Providers	Laws designating non-attorneys as immigration consultants or immigration service providers should be repealed.	Unlike attorneys and DOJ-accredited representatives, immigration consultants and other immigration services providers do not have adequate knowledge and training to evaluate eligibility for immigration benefits, nor properly advise immigrants on complex legal matters.
Signs and Advertisements	Signs and advertisements informing the public that the individual is not an attorney and cannot provide legal advice, and listing services they are permitted to provide in the clientele's language.	Information in signs and advertisements will give immigrants notice that a service provider is not an attorney, and list only the limited services they are permitted to provide.
Criminal Penalties	Penalties imposed on individuals for violating UPIL laws, such as imprisonment, fines and restitution.	Criminal sanctions will deter fraudulent immigration services providers and hold individual perpetrators accountable.
Civil Penalties	Financial penalties imposed on individuals for violating UPIL laws.	Civil remedies, enforceable by state officials and private individuals, will hold UPIL perpetrators accountable for their actions. A private right of action allows victims to recover economic losses in conjunction with official action or independently.
Reporting Mechanisms	Phone number or mobile app that victims of UPIL can use to anonymously report UPIL perpetrators. Where anonymous reporting is not allowed, strengthen privacy protections.	Victimized immigrants often do not report perpetrators of immigration services fraud because they fear bringing their immigration status to the attention of authorities. Anonymous or confidential hotlines allow victims to report fraudulent services without fear of immigration consequences.

CONCLUSION

Immigrants as well as U.S. citizens who wish to sponsor relatives require protection from both the state and federal government against the unauthorized practice of immigration law. As outlined in this report, several factors contribute to consumers' exposure to fraud. Lack of familiarity with the U.S. immigration legal system and language barriers, for example, create opportunities for unscrupulous individuals to prey on people seeking assistance with their immigration matters. They extract high fees for incompetent or worthless legal services and their victims lose their hard-earned money and often permanently lose opportunities for immigration benefits.

States can and should play a leading role in protecting the public from falling victim to fraud through laws that strictly limit immigration legal services to licensed attorneys and accredited representatives. Enacting UPIL laws not only protects vulnerable consumers from predatory and deceptive business practices, it also preserves the integrity of the legal profession and strengthens professional standards. This report provides advocates with the tools necessary to work with their state and local leaders to effectively combat the problem. All immigrants, even naturalized citizens, are susceptible to fraud until all 50 states enact laws that thoroughly regulate the provision of immigration services and vigorously enforce those laws against wrongdoers.

Use this report to analyze your state's protections against fraudulent immigration services and urge your elected officials to enact laws to combat the problem. Encourage immigrants and their families to seek help from an attorney of accredited representative for guidance through the immigration process. Consider working with your local leaders to educate the public through community outreach initiatives about the dangers of getting assistance from the wrong source.



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The Catholic Legal Immigration Network, Inc. would like to thank our Board of Directors for their support of our State and Local Project and this report. Special thanks, as well, to our funders, including the Ford Foundation.

Need resources for preventing notario fraud in your community?

How and Where to File an Immigration Scam Complaint

Federal Trade Commission:

The Federal Trade Commission, through the Consumer Sentinel Network, maintains a free database of complaints of illegal business practices, including notario fraud. The database allows for federal, state, and local law enforcement agencies to track consumer fraud and share information. The FTC investigates each complaint and refers cases for federal prosecution.

You can file a complaint with the Federal Trade Commission either online anonymously or by identifying yourself. File a complaint at: ftc.gov/enforcement/consumer-sentinel-network.

Department of Justice

If you have a matter pending before the immigration court, you can report misconduct by your attorney or BIA representative.

Report a complaint at: justice.gov/eoir/submb-complaint.

State Consumer Protection Agency

Most states have laws to protect innocent immigrants from scammers by criminalizing notario fraud.

Contact your state's consumer protection agency at: usa.gov/state-consumer.

State Bar Association

You may report illegal or unethical conduct by your state's bar association, which is responsible to punish. Contact your state's bar association to find out if an ir or to report attorney misconduct.

Find your state's bar association at: shop.americanbar.org/DivisionforBarServices/BarAssociationDirectories.

This resource provided by the Catholic Legal Society.

Five Ways to Avoid Immigration Scams

- #1**
KNOW THAT IMMIGRATION FORMS ARE FREE! You do not need to pay for immigration forms. They are free and available online or at a local United States Citizenship and Immigration Services field office.
- #2**
Only go to an attorney or a Board of Immigration Appeals (BIA) Accredited Representative to seek advice about your immigration matter. Find out if an individual is a licensed attorney in your state at shop.americanbar.org/abny/ABAGroups/DivisionforBarServices/BarAssociationDirectories. Find current BIA Accredited Representatives at justice.gov/eoir/recognition-accreditation-roster-reports.
- #3**
Do not sign blank forms or forms that contain false information. USCIS cannot adjudicate blank forms and filing applications with false information can lead to bad legal consequences. Always read documents before you sign and demand translation if necessary.
- #4**
Avoid paying your service provider in cash. Pay with check, money order, or credit card to create a payment record.
- #5**
Keep copies of everything you sign, including forms filed with USCIS.

This resource provided by the Catholic Legal Immigration Network, Inc. For more resources, visit clinet.org.

#1

Reporting helps law enforcement investigations and better enables them to crack down on fraud.

#2

Reporting helps prevent other immigrants from being victimized.

#3

Reporting helps save money. Often, victims of immigration services end up paying multiple people with the hope that the next provider will actually get the job done.

#4

Reporting can help prove liability for damages in civil proceedings. Victims may be allowed to sue the wrongdoers lost money.

#5

Reporting helps highlight the problem to government law.

5 Reasons You Should Report Notario Fraud and Immigration Scams!

Finding help with immigration law:

Do you know who your allies are?

Trying to understand immigration law by yourself can be overwhelming. Figuring out who to trust is just as hard. Beware of notarios and other immigration scammers trying to cheat you out of your money and waste your time.

In the United States, only attorneys and Board of Immigration Appeals accredited representatives can provide legal advice and services about immigration. Use this guide to understand the types of organizations and individuals who are allowed to help you and to learn exactly what they can do.

Need to understand why notarios should be avoided in the United States? Find more information at cliniclegal.org/notario.



PARE

PROTÉJASE

LA LEY DE INMIGRACIÓN ES COMPLICADA

Muchas personas le van a ofrecer ayuda – algunos quisieran aprovecharse de Ud., otros con intenciones honestas. Ambos pueden perjudicar su estatus legal en el futuro. Sólo consulte con ayuda legal cualificada.

Asegúrese que la consulta sea con un abogado o representante acreditado por el BIA. Pídale una muestra de sus credenciales. Visite cliniclegal.org/affiliates/directory para encontrar un representante acreditado en su área.

No confíe en personas que aseguran tener contactos o influencias con USCIS o que garantizan resultados ciertos o procesamientos rápidos.

Tenga cuidado con personas que se hacen pasar por notario o notario público y que aseguran tener la capacidad de representarle en procedimientos de inmigración. Estas personas no están autorizadas para dar consejos legales. Para más información, visite stopnotariofraud.org.

Atención:

- No hay una aplicación nueva todavía, manténgase informado. No envíe ninguna aplicación.
- No le pague dinero a nadie que se declare capaz de solicitar legalización en su representación o de solicitarle un permiso para trabajar ahora mediante este nuevo proceso.

Updated 2-20-2015

CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

Visit cliniclegal.org/notario for free flyers and guides.

ENDNOTES

- ¹ See Carolyn L. Carter, Consumer Protection In The States, A 50-State Report on Unfair and Deceptive Acts and Practices Statutes, National Consumer Law Center, Inc. (Feb. 2009), www.nclc.org/images/pdf/car_sales/UDAP_Report_Feb09.pdf (analyzing the strengths and weaknesses of states consumer protection statutes).
- ² Immigration and Citizenship Data, United States Citizenship and Immigration Services, www.uscis.gov/tools/reports-studies/immigration-forms-data (last visited May 9, 2017).
- ³ See generally Emily A. Unger, *Solving Immigration Consultant Fraud through Expanded Federal Accreditation*, 29 *Law & Inequality* 425, 433 (2011); Careen Shannon, *To License or Not to License? A Look at Differing Approaches to Policing the Activities of Nonlawyer Immigration Service Providers*, 33 *Cardozo L. Rev.* 437 (2011).
- ⁴ See, e.g., *Common Forms of Immigration Fraud*, N.Y. Off. Att’y Gen (describing different types of immigration fraud), www.ag.ny.gov/immigration-fraud/dont-be-victim-immigration-fraud.
- ⁵ Suzanne Phan, *Tacoma man ordered to pay for role in “Notario Scam”; experts warn of immigration fraud*, Komo News, (March 24, 2017), komonews.com/news/local/tacoma-man-ordered-to-pay-for-role-in-notario-scam-experts-warn-of-immigration-fraud.
- ⁶ Leticia Miranda, *Phony Lawyer Arrested For Scamming Undocumented Immigrants*, BuzzFeed News (Oct. 3, 2016), www.buzzfeed.com/leticiamiranda/phony-lawyer-arrested-for-scamming-undocumented-immigrants?utm_term=.rioAKx6W#.orQNxKg7
- ⁷ See Charles H. Kuck & Olessia Gorinshteyn, *Unauthorized Practice of Immigration Law in the Context of the Supreme Court’s Decision in Sperry v. Florida*, 35 *William Mitchell L. Rev.* 340 (2008); Alexandra M. Ashbrook, *The Unauthorized Practice of Immigration Law: Examining the Propriety of Non-Lawyer Representation*, 5 *Geo. J. Legal Ethics* 237, 249-51 (1991).
- ⁸ See 81 Fed. Reg. 92346 (Dec. 19, 2016).
- ⁹ U.S. Department of Justice, Recognition & Accreditation (R&A) Program, www.justice.gov/eoir/recognition-and-accreditation-program (last visited May 9, 2017)
- ¹⁰ 8 C.F.R. § 1292.11.
- ¹¹ CFR § 1292.12.
- ¹² 8 C.F.R. § 1003.101 & 1003.102.
- ¹³ Included in this number is every state law that regulates the provision of immigration services specifically. Some states, such as Florida, do not have such a law, but nonetheless do prohibit the unauthorized practice of law generally, and also prohibit misleading translation of the title notary public into another language.
- ¹⁴ See generally Anne E. Langford, Note, *What’s in a Name? Notarios in the United States and the Exploitation of a Vulnerable Latino Immigrant Population*, 7 *Harv. Latino L. Rev.* 115 (2004) (explaining the requirements to obtain the title *notario público*).
- ¹⁵ See Edgar Flores, *Legal Service Awareness of the Latino Population in Southern Nevada*, 19 *Tex. Hisp. J. L. & Pol’y* 33, 43 (2013) (explaining that “to become a notary in Mexico the following requirements must be met: a) be a Mexican by birth, b) between the ages of 25 and 60, c) without previous record of bad conduct, d) be licensed to practice law, e) must have been a legal clerk for eight consecutive months to a practicing notary, f) must not have been sentenced in criminal proceedings, and g) have passed the notary exam”).
- ¹⁶ See Richard Jones, *The Truth About Notarios and their Role in a Murky Immigration System*, EL HISPANIC NEWS (Jan. 5, 2012), www.elhispanicnews.com/2012/01/05/the-truth-about-notarios-and-their-role-in-a-murky-immigration-system/ (explaining the rights of a *notario público* in contrast to the rights of a notary public).
- ¹⁷ See *id.*
- ¹⁸ AB 638 (2017), a bill sponsored by Assembly Member Anna Caballero. Recognizing “that California law has contributed to the widespread misperception that individuals with no training or professional standards are experts who are authorized to provide advice in immigration matters,” the lawmaker proposed the measure to limit the provision of immigration services to attorneys and accredited representative. Bill history available leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB638.
- ¹⁹ City of Boston App Showcase, www.boston.gov/departments/innovation-and-technology/apps (last visited May 9, 2017).
- ²⁰ See Amanda Yeager, *New app encourages residents to ‘Tell HoCo’ about needed repairs*, Howard County Times (Sept. 3, 2014), www.baltimoresun.com/news/maryland/howard/ellcott-city/ph-tell-hoco-story.html.
- ²¹ U.S. Department of Justice prosecutes *notario* fraud and other unlawful immigration practices of law, www.justice.gov/eoir/submit-complaint (last visited May 10, 2017). Misconduct by attorneys and accredited representatives in cases before the immigration court, may also be reported to the DOJ.
- ²² The Federal Trade Commission (FTC) collects complaints about illegal business practices, including *notario* fraud and other immigration services scams and refers to the DOJ for prosecution, www.ftc.gov/enforcement/consumer-sentinel-network (last visited May 10, 2017).
- ²³ The United State Citizenship and Immigration Services (USCIS) provides tools and resources help the public avoid scams and get assistance on pending immigration matters, www.uscis.gov/avoid-scams (last visited May 10, 2017).

ABOUT THE ORGANIZATIONS



Catholic Legal Immigration Network, Inc.

The Catholic Legal Immigration Network, Inc., is the largest charitable immigration legal service network in the U.S. It provides legal expertise and technical assistance to legal practitioners to more than 300 nonprofit organizations in 47 states and the District of Columbia, who represent hundreds of thousands of immigrants and their families each year. CLINIC also provides year-round training to attorneys and DOJ accredited representatives to expand their expertise on substantive immigration laws topics. In addition to legal support, CLINIC conducts national-level administrative advocacy and provides technical support to affiliates.



American University, Washington College of Law, Immigration Justice Clinic

The Immigrant Justice Clinic provides representation on a broad range of cases and projects involving individual immigrants and migrants, and their communities, both in the D.C. metropolitan area and overseas. Student attorneys in IJC regularly appear in immigration court, and may also appear before federal district court, the courts of Maryland and D.C., and before federal and state agencies. Since migration has a transnational dimension, IJC occasionally advocates before regional and international bodies. The matters handled by IJC allow students to develop core lawyering skills, such as interviewing, counseling, negotiation and trial advocacy, while cultivating complementary skills in the areas of policy and legislative advocacy, community organizing and working with the media.

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Many immigrants seek the assistance of professionals to help them navigate the complex U.S. immigration legal system. Unfortunately, some immigrants have fallen prey to unauthorized practitioners of immigration law, sometimes known as *notarios* or *notarios públicos*, who have created a public safety crisis in many communities. Typically these people have little or no training in immigration law and procedures and often charge exorbitant fees for unnecessary or substandard work, refuse to return documents to clients and threaten to report their clients' immigration status to authorities. The U.S. Department of Justice grants licenses to specially trained non-attorneys, known as accredited representatives, who work for non-profit organizations to provide immigration legal services to low income clients. Conversely, some states allow non-attorneys, often referred to as immigration consultants or immigration service providers, to offer limited services such as filling out forms and translating documents. However, like notarios, they lack the legal training and skills to provide quality services to the public. Their actions can cause immigrants to spend thousands of dollars, lose potential opportunities for immigration benefits or even be deported.

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This report, intended to help policymakers and advocates at the state and local levels who wish to create or further strengthen laws to combat the unauthorized practice of immigration law, was produced through a partnership between American University Washington College of Law and the Catholic Legal Immigration Network, Inc.



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